

18-9148

No. _____

Supreme Court, U.S.
FILED

APR 23 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

(Ibeabuchi, Ikemefula Charles) PETITIONER
(Your Name)

vs.

James T. Blomo — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(IN THE ARIZONA COURT OF APPEALS DIVISION ONE)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

(Ibeabuchi, Ikemefula Charles)
(Your Name)

(ADC NO. 177007, P.O. Box 8400)
(Address)

(Florence, Arizona, 85132-8400)
(City, State, Zip Code)

(N/A)
(Phone Number)

ORIGINAL

Cover-Page

QUESTION(S) PRESENTED

1. Whether or not, the Honorable Margaret Mahoney should have issued a Court Order to Plaintiff/Appellant, pursuant to, Arizona Rules of Civil Procedure, Rule 7, to reply to Defendant/Appellee's Motion to Dismiss, as a minimal level of due process, required for the Pro-Se litigant, before signing, as the Maricopa County Superior Court?
2. Whether or not, Judge Mahoney, committed a reversible error, when she ordered Judgment entered in favor of Defendant Judge Blomo, pursuant to Rule 54(b), when there were only the Defendant and the Plaintiff as Parties in the Case?
3. Whether or not, Judge Mahoney, acted in excess of her Jurisdiction and abuse of discretion by receiving and signing a pre-filed Exhibit A, of the Defendant's Proposed Judgment of OCT 25 2017, as Order signed on, NOV 13 2017?

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Supreme Court of Arizona court appears at Appendix C to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was FEB 05 2019. A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: FILED 02/20/2019, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL AMENDMENT I, FREEDOM TO PETITION
THE GOVERNMENT, ACCESS TO THE COURT

CONSTITUTIONAL AMENDMENTS, IV, DUE PROCESS
PRO SE, INDIGENT LITIGANTS, V. PROCEDURAL DUE PROCESS
PRISONER'S LIBERTY INTEREST

CONSTITUTIONAL AMENDMENT XIV EQUAL PROTECTION
DISMISSALS FOR FAILURE TO STATE A CLAIM

STATEMENT OF THE CASE

On, February 5, 2019, the Discretionary Court, Ordered, the Petitioner's, Petition For Review, "Denied". (Citing, in Appendix C,) that, Justice Gould did not participate in the determination of the Matter, Which is in-referenced, Cause, IKEMEFLA IBEABUCHI V JAMES BLOND

On, February 15, 2019, Petitioner filed a Motion for Reconsideration Arizona Rules of Civil Appellate Procedure, Rule 22, Rule 24 (b)(3) (Citing, in Appendix, D). But, the Motion was denied on, February 20, 2019, Pursuant to Rule 22(F), therein. Which, Denial, then timely, transferred, Jurisdiction to this Court, 28 U.S.C. § 1257(a).

On, September, 20, 2018, the Arizona Court of Appeals, Division One, as Ministerial Court, ruled, the, Judgment of Dismissal with Prejudice, issued by Judge Mahoney, was judicious, because, Judge Blomo's allegedly tortious actions are protected by judicial immunity. (Citing, in Appendix, A). That, "his judicial acts are protected by absolute judicial immunity and there is no interpretation of the alleged facts that would result in an alternate outcome."

Though, in the paragraph 10, of the Court of Appeals, Order, it appeared as if, the Petitioner was challenged to provide a Citation to authority for the Respondent's Act, when construed, in "Ministerial Acts". (See. in, Ex parte Virginia, 1880, 100 U.S. 339, 35 L.Ed. 676)

1 The Court of Appeals, also, unduly, victimized
2
3 the Petitioner, in his, Reversible Error - Ground or Issue,
4
5 Number, two (2), as presented in this Petition, by iss-
6
7 uing an, ORDER STAYING APPEAL, after, four (4) days
8
9 of the Petitioner's Transmission, of his Issues to the Co-
10
11 urt, and pursuant to, Filings by Incarcerated Parties' Provision.
12

13 In other words, the Petitioner, presented his Questions
14
15 in his CASE MANAGEMENT STATEMENT, as, required, on,
16
17 January 12, 2018, and his, Questions, opposed the Judge
18
19 Mahoney's Ruling, (See, Ariz. R. Civ. Proc. Rul. 54(b)),
20
21 where, she erroneously concluded, finality, therein.
22

23 On, January 16, 2018, the Court of Appeals, opted to
24
25 issue an, ORDER STAYING APPEAL, at the jeopardy of
26
27 the Petitioner's, Viable Questions, which Act, prejudiced
28

1 the Petitioner's, Appeal, on its' reversibility, at-law.

2
3 Further, the Petitioner, presented a Question, in, Num-
4
5 ber three (3), herein, for, "in-excess of Jurisdiction"
6
7 and, "Abuse of Discretion", when, Judge Mahoney,
8
9 received and signed the Respondent's, Proposed Jud-
10
11 gment of OCT 25 2017, as, Order, signed on, NOV 13
12
13 2017. (See, Appendix, B.)

14
15 However, the Court of Appeals, Division One, failed
16
17 to grant the Petitioner's, Question, which categorically,
18
19 pointed-out, the Judge Mahoney's, Reversible Errors
20
21 on, Appeal, pursuant to the Respondent's erroneous,
22
23 Proposed Judgment.

24
25 Accordingly, the Court of Appeals, did not review, the
26
27 Judge Mahoney's Ruling, as a matter of right, at-law.

REASONS FOR GRANTING THE PETITION

1. The Court of Appeals, State of Arizona, Division One, did not review the Petitioner's Appeal, which was pursuant to the Constitutional Violations by the Judge of the Case, in, Mahoney, rather, it reviewed the Respondent's Party, Merit, which is the reason for granting the Petition, herein.
2. This Court should grant the Petition, because, the trial Court Judge granted the Respondent's Motion To Dismiss With Prejudice, which was a Judgment on the Pleading, Under Rule 12(c), but, failed to accept all allegations in the Complaint as true and draw all inferences in the non-moving party's favor. Patel v. Contemporary classics of Beverly Hills, 259 F.3d 123, 126-27 (2d Cir. 2001)
3. The Petition should be granted, because, this Court had ruled that, "a failure to state a claim does not invariably mean that the Claim is without arguable merit, see, in Brower V County of Inyo, 489 U.S. 593, 109 S.Ct. 1378, 103 L.Ed.2d 628 (1989)
4. See Hoffman V. Halden, 268 F.2d 280 2 Fed. R. Serv. 2d 241 (1959), Matters deemed admitted; acceptance as true of allegations in Complaint.

On a Motion to dismiss Complaint, facts alleged therein, must be presumed to be true.

No immunity from liability is granted to state officials under Civil Rights Act for willfully disobeying an Order of the Court
42 U.S.C.A. ss 1981 et seq; 7

1 Therefore, the Petition should be granted.

2
3 5. The Court should grant this Petition for its re-
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5 view regarding Dismissal of Pro se Complaints, in, its
6
7 opinion in, Haines V. Kerner, 404 U.S. 519 92 S.Ct. 594,
8
9 30 L.Ed.2d 652 (1972), that, "the Petitioner is entitled to
10
11 an opportunity to offer proof".

12
13 Judge Mahoney, did not afford the Petitioner, the
14
15 opportunity to offer Proof, pursuant to Haines Supra, nor
16
17 Construe the allegations in the Complaint, in light most
18
19 favorable for the Petitioner, which formed the basis
20
21 for Abuse of Discretion, and a reason to grant this
22
23 Petition, at-law.

24
25 6. Arizona Rules of Civil Procedure, Rule 7.
26
27 Pleadings Allowed, mandated that a Complaint must
28

1 be answered. And, a Judge may rule, in-favor, for
2
3 the non-moving Party, if a Demurrer is presented
4
5 in place of the Answer. Accordingly, this Court should
6
7 grant the Petition, herein, for that, reason, and be-
8
9 cause, the Judge's Judgment on the Pleading, applies
10
11 after and not before an Answer is filed. (See,
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13 Patel, Supra (2d Cir. 2001) and Arizona Rules of
14
15 Civil Procedure Rule 12(C)) This Court should grant
16
17 the Petition for an Answer, required of the Respon-
18
19 dent, at-law.

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21 7. Finally, this Court should grant the Petition, be-
22
23 cause, the Court of Appeals State of Arizona, Division
24
25

26 See JUDGMENT OF DISMISSAL WITH PREJUDICE, Dated this
27 13th day of November, 2017. (Appendix B)
28

One, Opinion, at paragraph 5, stated that, "Because we find the issue of judicial immunity dispositive, we need not address other assertions raised by the parties." Which Opinion is refuted, hereinafter.

Judges are not absolutely immune in their performance of administrative and executive functions, or for actions completely outside their judicial role. See *LeClerc v. Webb*, 419 F.3d 405, 414 (5th Cir. 2005) (Judge not absolutely immune when acting in enforcement rather than judicial capacity, where plaintiffs sought declaratory relief against enforcement of a Court rule)

Archie v. Lanier, 95 F.3d 438, 441 (6th Cir. 1996) (Judge not absolutely immune when stalking subordinate

1 and potential employee); *Kurowski v. Krajewski*, 848
2
3 F.2d 767, 775 (7th Cir. 1988) (Judge not absolutely immune
4
5 ne for termination of former public defenders who did
6
7 not share judge's political beliefs); *Meek v. Cty. of Riv-*
8
9 *erside*, 183 F.3d 962, 966 (9th Cir. 1999) (municipal judge
10
11 not absolutely immune for administrative actions,
12
13 when voting to terminate Court Commissioner, because
14
15 of Commissioner's Campaign for judicial office.)
16
17 45 GEO. L.J. ANN. REV. CRIM. PROC. 1196-97 (2016)
18

19 So, whether it be the review of the Appeal on the
20
21 Conduct of the Trial Judge Mahoney, or, of the App-
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23 eal, as reviewed by the Court of Appeals for the Res-
24
25 pondent, Judge Blomo, the failures of both Judges to
26
27 perform a Judicial Role, consisting of (1), Judge Ma-
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1 honey, failed to establish the rudimentary due process
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3 as applied to final Judgments, when she signed
4
5 the November 13, 2017, Judgment Proposed by the
6
7 Respondent, which raised an issue on Appeal,
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9 and caused the Court of Appeals, abhorrent, disre-
10
11 gard of the Petitioner's, Appeal, when it issued the,
12
13 ORDER STAYING APPEAL, or (2), Judge Blomo, failed
14
15 and Contumaciously refused to sign an Order
16
17 which discharges the Petitioner's, Attorney-in-fact,
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19 Sabinus Megwa, (See, Supreme Court of the United Sta-
20
21 tes, No. 15-9306, Docketed May 13, 2016, Jun 30 2016 DIS-
22
23 TRIBUTED for Conference of September 26, 2016, Oct 3
24
25 2016 Petition DENIED), They were not absolutely immune
26
27 in their performances of administrative and executive
28

functions, which scenario compares to the Leclerc Supra (5th Cir. 2005).

Accordingly, this Court should grant the foregoing Petition to establish what function(s) were of those reflected by the Judges, Acts, as mentioned, herein. Which, Act(s) denied the Court of Appeals, inherent, Ruling, in its' supposed, finality, at-law.

Because, the Petitioner's Declaratory Relief, like in Leclerc's Supra, was partially submerged in his Request for a Court Order to discharge of his Attorney-in-fact, and which the Respondent, denied. Therefore, this Court should grant the Petition, for that reason, at-law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ceula Abeabuchi

Date: 4/22/19