

No. 18-9209

IN THE
Supreme Court of the United States

H.F. on behalf of Minor/Adult son, D.F.,

Petitioner,

v.

THE Board of Education of the Township of Teaneck, et al.,

THE Board of Education of the Township of Cliffside Park, et al.

THE New Jersey Department of Education, et al.

Respondents.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE
SUPREME COURT OF NEW JERSEY*

PETITION FOR REHEARING

Hector D. Ferrer
492-c Cedar Lane, #238
Teaneck, NJ 07666
201.923.6924

Petitioner - Pro Se

Executed on, November 1, 2019

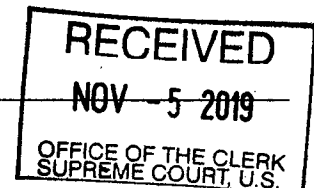


TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES.....	ii
PRELIMINARY STATEMENT.....	1
STANDARDS FOR HEARING.....	2
MOTION FOR REHEARING.....	3
CONCLUSION.....	13
CERTIFICATION OF COUNSEL PURSUANT TO RULE 44.2.....	13

TABLE OF AUTHORITIES

CASES: PAGE(S)

Honig v Doe, 484 U.S. 305, 324 (1988)3

Burlington School Committee
v. Massachusetts Dept. of Education, 471 U.S., at 373.3

OTHER AUTHORITIES:

Individuals with Disabilities Education Act.....3

American with Disabilities Act.....3

McKenny-Vento-Homeless Act.....3

Section 504 of the Rehabilitation Act of 1973.....3

“First” Amendment of the United States Constitution.....3

United States v. Olsen, 737 F.3d 625, 632 (9th Cir. 2013)5

Freeport- McMoRan Oil & Gas Co. v. FERC, 962 F.2d at 47.....5

Reid v. INS, 949 F.2d 287, 288.....5

PRELIMINARY STATEMENT

Pursuant to Supreme Court Rule 44.1, Hector D. Ferrer ("Mr. Ferrer") respectfully petitions for rehearing of the Court's per curiam decision issued on, October 7, 2019.

On, October 7, 2019, this Honorable Court released an order denying, Mr. Ferrer petition for Writ of Certiorari. The accrual of intervening facts and circumstances create an appearance and a reality that "marginalized" (minority, homeless, indigent, multi-handicapped, ill, etc.) students are being denied equal justice under the law, as well as the absence of sound judicial decision making. Mr. Ferrer moves on this Court individually and on behalf of his "special needs" son, D.F. to grant this petition for rehearing and consider his case on the merits and oral argument.

Pursuant to Supreme Court Rule 44.1, this petition for rehearing is filed within 25 days of this Court's decision in this case.

STANDARDS FOR HEARING

Pursuant to Supreme Court Rule 44.2, a Petition for Rehearing is limited to "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented," and that the Petition is presented in good faith and not for delay.

MOTION FOR REHEARING

Here, the “intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented” include, but not limited to, 1) The “irreparable harm,” which student, D.F. has and continues to suffer for the rest of his life caused by ALL RESPONDENTS and ALL COUNSEL OF RECORD if this Honorable Court denies, Mr. Ferrer’s relief.

The alleged “gross miscarriage of justice” is apparent to the point of being undeniable by any measure. At all times relevant, the Defendants and their Counsel of record have not raised any arguments disputing the material fact that student, D.F. was “grossly” deprived of his Constitutional and civil rights in association to his “special education” and related “special services” as a Hispanic, indigent, ill, multi-handicapped, and homeless student.

The two (2) matters before this Honorable Court are as follows:

1) the “irreparable harm” student, D.F. is and will continue to suffer for the rest of his life and 2) Fraud upon this Honorable Court.

On, November 1, 2019, Mr. Ferrer was advised by the United States Supreme Court that it could not confirm whether the Supplemental Brief, which he filed on, September 24, 2019 was received PRIOR to this Honorable Court “dismissing” his writ to certiorari. (Please see Exhibit “A”)

At all times relevant, the two (2) Counsel of record have failed to submit a **WAIVER OF RIGHT** or and all Counsel of record not submitted an **ANSWER** thus not disputing, Mr. Ferrer's factual allegations regarding same.

Student, D.F. is a Hispanic young-man diagnosed with Dubowitz Syndrome, Autism, Post Traumatic Stress Disorder, and suffering from "irreparable harm" as a "homeless" student. The Respondent, Teaneck Board of Education under, Isabel Machado, Esq, Machado Law Group arbitrarily, capriciously, and contrary to law **TERMINATED** his education "special education" and related "special services" for the past three (3) consecutive years while the "Residency" matter remains in litigation and no FINAL decision has been rendered as required by State and Federal laws within this jurisdiction.

This material and central fact, at all times relevant, remains undisputed.

To that end, Mr. Ferrer filed Supplemental Brief wherein several of student, D.F.'s doctors filed letters directly to, Chief Justice John Roberts due to the "urgency" of this matter.

From the conception of this case, to the present, it has NEVER been heard at any level or by any court thus "grossly" depriving student, D.F. of his protected "Due Process" and "Equal Protection" rights.

This material and central fact, at all times relevant, remains undisputed.

I. STUDENT, D.F.'S RIGHT TO A "FAPE" AND RELATED "SPECIAL SERVICES" AS A QUALIFIED "SPECIAL NEEDS" "HOMELESS" STUDENT

There is no genuine dispute of material fact that qualified student, D.F. is entitled to a "Free Appropriate Public Education" and related services under, but not limited to, the following federal laws as a "special needs" and "homeless" student:

- 1) Individuals with Disabilities Education Act ("IDEA");
- 2) American with Disabilities Act ("ADA");
- 3) Section 504 of the Rehabilitation Act ("Section 504"); and
- 4) McKenny-Vento-Homeless Act "McKenny-Vento").

The "First" Amendment of the United States Constitution secures a "special needs" and "homeless" students' right to "Due Process" and "Equal Protection," which reads, in relevant part:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

In, *Honig v Doe* this Honorable Court extended "special needs" students with additional "safe-guard" protections in association with the "stay-put" provisions under the IDEA.

As a condition of federal financial assistance, the IDEA requires States to ensure a "free appropriate public education" for all disabled children within their jurisdictions. In aid of this goal, the IDEA establishes a comprehensive system of procedural safeguards designed to ensure parental participation in decisions concerning the education of their disabled children and to provide administrative and judicial review of any decisions with which those parents disagree. Among these safeguards is the so-called "stay-put" provision, which directs that a disabled child "shall remain in [his or her] then current educational placement" pending completion of any review proceedings, unless the parents and state or local educational agencies otherwise agree. 20 U.S.C. 1415(e)(3).

One of the evils Congress sought to remedy was the unilateral exclusion of disabled children by SCHOOLS, not courts, therefore, it sought to prevent SCHOOL officials from removing a "special needs" student from the regular public school classroom over the parents' objection pending completion of the review proceedings." *Burlington School Committee v. Massachusetts Dept. of Education*, 471 U.S., at 373.

II. "FRAUD UPON THE COURT" BY ALL RESPONDENTS AND ALL COUNSEL OF RECORD

It cannot be "overly" emphasized that the factual allegations of "Fraud upon the Court" were knowingly and willfully executed upon student, D.F. an unusually vulnerable human being who is: Hispanic, indigent, ill, homeless, and multi-handicapped by public officials under the color of law.

Here, the errors warrant granting petition of rehearing and certiorari to protect the integrity and public reputation of this honorable Court by affirming the appropriate standard that is to be in association to fraud on the court claims.).

Mr. Ferrer alleges that, all Respondents and all Counsel of Record had actual knowledge that the judges , attorneys, and government officials submitted falsified and fraudulent evidence and court orders, failed to disclose obviously relevant exculpatory and material evidence, misrepresented key facts, engaged in bribery, conspiracy, perjury, and failed to report same pursuant to the Rules of Professional Conduct. Mr. Ferrer further alleges that said parties defrauded the U.S. Government and State of New Jersey and profited financially from said fraud.

These are serious allegations, which warrant immediate review by this Honorable Court in order to determine the appropriate, totality-of-circumstances, scope of review and help ward against procedural complicity in frauds on the court that threaten the propriety of our legal system.

This Honorable Court should also grant, Mr. Ferrer's relief in order to emphasize the duty government attorneys owe to upholding justice. These alleged errors and/or crimes are particularly troublesome because they form the basis for the courts excusing bad acts by government agents. "When such transgressions are acknowledged yet forgiven by the courts, we endorse and invite their repetition." *United States v. Olsen*, 737 F.3d 625, 632 (9th Cir. 2013) Emphasis Added.

The public trust that amici bear requires that amici and the lawyers in their offices scrupulously adhere to their ethical duties whether engaged in a civil or criminal enforcement action. *See, e.g., Freeport-McMoRan Oil & Gas Co. v. FERC*, 962 F.2d at 47 (duty to do justice applies "with equal force to the government's civil lawyers"); *Reid v. INS*, 949 F.2d 287, 288 (9th Cir. 1991) ("[c]ounsel for the government has an interest only in the law being observed, not in victory or defeat in any particular litigation"). As recognized in *Freeport-McMoRan*, the American

Bar Association's former Model Code of Professional Responsibility expressly held a "government lawyer in a civil action or administrative proceeding" to "the responsibility to seek justice," and said they "should refrain from instituting or continuing litigation that is obviously unfair." ABA Model Code of Professional Responsibility EC 7-14 (1981); *Freeport-McMoRan Oil & Gas Co. v. FERC*, 962

(“the attorney representing the government must be held to a higher standard than that of the ordinary lawyer”).

Whether in civil or criminal contexts, it should be made clear that, as one judge put it, “[t]he duties of a Government lawyer, and in fact of any lawyer, are threefold: (1) tell the truth; (2) do not mislead the Court; and (3) do not allow the Court to be misled.” *Texas v. United States*, 2016 WL 3211803, at *7 (S.D. Tex. May 19, 2016) (citing Model Rules of Prof'l Conduct R. 3.3 cmts. 2 & 3 (2013)).

Moreover, while not barred, Mr. Ferrer has submitted over one-hundred (100) affidavits to Judges, Respondents, and Counsel of record regarding the above allegations, but none have signed said affidavits under penalty of perjury.

Should this Honorable Court grant, Ferrer's relief, it would restore confidence that the United States Supreme Court is the one deliberative body whose incorruptibility is inviolate.

CONCLUSION

For the reasons set forth above, as well as those contained in the petition for *writ of certiorari*, Mr. Ferrer prays that this Honorable Court will decide to request a response and grant Petitioner's petition for rehearing.

**CERTIFICATION OF COUNSEL
PURSUANT TO RULE 44.2**

Mr. Ferrer – *Pro Se* hereby certifies that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2.

Respectfully submitted,



Hector D. Ferrer
Petitioner - Pro Se

Executed on this day, November 1, 2019

No. 18-9209

IN THE
Supreme Court of the United States

H.F. on behalf of Minor/Adult son, D.F., et al.

Petitioner,
v.

THE Board of Education of the Township of Teaneck,

THE Board of Education of the Township of Cliffside Park,

THE New Jersey Department of Education,

Respondents.

PETITION FOR REHEARING ON ORDER DENYING PETITION FOR A
WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE
SUPREME COURT OF NEW JERSEY

CERTIFICATE OF COUNSEL PURSUANT TO RULE 44.2

Undersigned "Pro Se" Petitioner certifies to this Court that the Petition for Rehearing presents the limited ground that there is an intervening circumstance that warrants rehearing. Specifically, this Court's opinion in *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), and the fact that this Court has granted certiorari, vacated the opinions, and remanded for re-consideration several cases with a same or similar issue to Petitioner's, presents the intervening circumstances that warrant rehearing. I further certify that this Petition is brought in good faith and not for delay.

Respectfully submitted,


Hector D. Ferrer

Petitioner - Pro Se

Dated: November 1, 2019