No. _____

In The
Supreme Court of the United States

EDWARD RONNY ARNOLD, Pro Se,

Petitioner;

v.

HERBERT SLATERY, III, State of Tennessee
Attorney General and Reporter,

Respondent.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Sixth Circuit**

PETITION FOR A WRIT OF CERTIORARI

Edward R. Arnold
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June 10, 2020

QUESTIONS PRESENTED

This is a case to recover monies earned from working the substituted office closings of the federal and state holiday of Columbus Day. The plaintiff is pro se and Tennessee law has held a pro se litigant is not entitled to legal fees. The Plaintiff cannot recover monies or fees for time spent in this civil action.

The damages in this civil action are limited to one day's pay in the amount of $180.00, minus withholding, plus filing fees. It is reasonable to conclude the defendant, representing the State of Tennessee, has expended more than $50,000 in judicial cost and time expenditure affecting the following state and federal courts: General Sessions Davidson County, Tennessee; Sixth Circuit Court Davidson County, Tennessee; Tennessee Court of Appeals for the Middle District at Nashville; Tennessee Supreme Court; United States District Court for the Middle District of Tennessee; United States Court of Appeals for the Sixth Circuit; United States Supreme Court.

The questions presented are:

1. Whether the United States Court of Appeals for the Sixth Circuit misapplied the *Rooker v. Feldman* doctrine in dismissing the civil action.

2. Whether the United States Court of Appeals for the Sixth Circuit incorrectly determined the plaintiff's last working day was November 24, 2015 not November 25, 2015

3. Whether the United States Court of Appeals for the Sixth Circuit incorrectly determined the plaintiff's source of injury.

4. Whether the United States Court of Appeals for the Sixth Circuit erred in understanding the legal opinion of the State of Tennessee Attorney General and Reporter denied the Plaintiff / Appellant earned wages and this legal opinion affects all employees of the State of Tennessee to which wages for full-time employees are reduced one day. This legal issue affects the following twenty-five (25) states: California, Colorado, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Montana, North Carolina, Nebraska, New Hampshire, Nevada, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas. Virginia, Washington, and West Virginia.

PARTIES TO THE PROCEEDING

The party to this proceeding is identified in this petitions caption.

Tenn. R. Civ. P. 4.04(6) requires the Defendant, Herbert Slatery, III Attorney General and Reporter State of Tennessee to be served through the State of Tennessee Office of the Attorney General and Reporter.

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Edward Ronny Arnold, Pro Se, respectfully petitions for a writ of certiorari to review the judgment of the Sixth Circuit in this case.

OPINION AND ORDERS BELOW

The Sixth Circuit's 03/17/2020 panel opinion for 19-6017 filed 10/19/2019 mandated 06/14/2020 is not published and reproduced at App. 1-11. ORDER LIST: 589 U. S. filed 03/19/2020, extends the deadline to file any petition for a writ of certiorari due on or after the date of ORDER LIST: 589 U. S. extended 150 days from the date of the lower court order to which this case is mandated from 06/14/2020 to 08/12/2020 App. 12.

JURISDICTION

This Court has jurisdiction under Rule 10 - Considerations Governing Review on Certiorari compelling reason (a), (c).

> (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a

departure by a lower court, as to call for an exercise of this Court's supervisory power.

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important question in a way that conflicts with relevant decisions of this Court.

In this case, the United States District Court for the Sixth Circuit dismissed a civil action in misapplying the *Booker v. Feldman* doctrine and incorrectly identified the Plaintiff / Appellant's cause of injury.

Case 19-6017 was dismissed March 17, 2020 and this Petition On Writ of Certiorari in the Supreme Court of the United States was filed within the time period of ninety (90) days before the judgment of the United States District Court for the Sixth Circuit was mandated on June 14, 2020.

STATUTORY PROVISIONS INVOLVED

28 U.S.C § 1291 provides, in part, courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court.

(June 25, 1948, ch. 646, 62 Stat. 929; Oct. 31, 1951, ch. 655, § 48, 65 Stat. 726; July 7, 1958, Pub. L. 85-508, § 12(e), 72 Stat. 348.)

In addition to the jurisdiction conferred by this chapter, the courts of appeals also have appellate jurisdiction in proceedings under Title 11, Bankruptcy, and jurisdiction to review.

STATUTORY STANDARD OF 28 U.S.C. § 1331

This civil action meets the statutory standard of 28 U.S.C. § 1331 (a), the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. TITLE V OF THE UNITED STATES CODE (5 U.S.C. § 6103) created Tenn. Code. Ann. § 4.4.105 in an effort to coordinate Federal holiday office closures with the State of Tennessee Federal holiday office closures which includes: New Year's Day, January 1; Independence Day, July 4; and Christmas Day, December 25.

Both Federal and State statutes provide directions to the celebration of Federal holidays if the calendar date falls on a Saturday or a Sunday.

STATEMENT

The main issue before the court is if exempt employees of the State of Tennessee will continue to receive compensation for the federal and state holiday of Columbus Day, second Monday in October, for the substituted state holiday the Friday after Thanksgiving, the fourth Thursday in November as codified in Title V of the United States Code (5 U.S.C. § 6103) and Tenn. Code. Ann. § 4-4-105(a) (1)?

This case involves a legal opinion provided by the Defendant / Appellee Herbert Slatery, III, State of Tennessee Attorney General and Reporter in a brief to the State of Tennessee Court of Appeals for the Middle District of Nashville in the case of *Edward Ronny Arnold v. Bob Oglesby, et al.,* M2017-00808-COA-R3-CV (Tenn. Ct. App. 2017).

In this brief, the Defendant / Appellee stated the Defendant / Appellee, Bob Oglesby, et al., did not violate, in not paying earned wages, Title V of the United States Code (5 U.S.C. § 6103) and Tenn. Code. Ann. § 4-4-105(a) (1) as they do not address compensation. In essence, the Defendant / Appellee, Bob Oglesby, et al., did not violate Tenn. Code. Ann. § 20-13-02 (a) as the State of Tennessee is not required to compensate exempt State employees for the Friday after Thanksgiving, the fourth Thursday in November, if the State of Tennessee Governor exercised their discretion to open state offices on the second Monday of October, and close state offices on the Friday after Thanksgiving, the fourth Thursday in November.

This legal issue affects the following twenty-five (25) states: California, Colorado, Delaware,

Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Montana, North Carolina, Nebraska, New Hampshire, Nevada, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas. Virginia, Washington, and West Virginia.

Tenn. Code. Ann. § 4-4-105(a) (1) (3), first enacted in the year 1996, gives the sitting Tennessee governor discretion to open state offices and close state offices in relationship to Title V of the United States Code (5 U.S.C. § 6103); which established the second Monday in October, Columbus Day, as a federal holiday to which federal offices are closed.

For a period of twenty-three (23) years, 1996 – 2019, exempt employees of the State of Tennessee have enjoyed the Friday after Thanksgiving as a paid holiday.

For a period of 18 years, 1996 – 2014, the Plaintiff / Appellant, Arnold, enjoyed the exchanged State and Federal holiday of Columbus Day, the Friday after Thanksgiving, the fourth Thursday in November as a paid holiday.

Modifications to Tennessee State Law by the Tennessee General Assembly were based on Title V of the United States Code (5 U.S.C. § 6103) and complies with § 541.602 (a) (1) in that State employees are paid, or their salary is not altered (reduced), for the day off of the State of Tennessee substituted Federal holiday of Columbus Day, the Friday after Thanksgiving, the fourth Thursday in November.

The issue before the court is the authority of Title V of the United States Code (5 U.S.C. § 6103) to direct Tenn. Code. Ann. 4-4-105 in compensation for

a substituted holiday, related to State of Tennessee employee positions of exempt and non-exempt.

DEFENDENT'S VIOLATION OF PROCEDURE

The basics of the United States judicial system is the fundamental right to due process as codified in U.S. Const. Amend. 1 and U.S. Const. Amend. 14. Due process is necessary for the administration and implementation of laws passed by elected officials local, state, and federal. Due process cannot be accommodated without providing the Plaintiff and Defendant opportunities to present evidence before the court and/or jury to support their claims.

DEFENDANT'S LEGAL OPINION CAUSED THE PLAINTIFF"S INJURY

In this case, the Defendant / Appellee used their authority, as the State of Tennessee Attorney General and Reporter, to intervene in the civil action of *Edward Ronny Arnold v. Bob Oglesby, Et. Al.* M2017-00808-COA-R3- CV (Tenn. Ct. App. 2017) when the Defendant / Appellee's defense of sovereign immunity was failing.

The issue before the trial court and the Tennessee Court of Appeals for the Middle District at Nashville was the Defendant / Appellee Bob Oglesby et al., violated Title V of the United States Code (5 U.S.C. § 6103) and Tenn. Code. Ann. § 4-4-105(a) (1) (3) in refusing to pay the Plaintiff / Appellant wages

earned for the federal and state holiday of Columbus Day in the amount of $180.00, minus withholding.

In refusing to pay earned wages, the Defendant / Appellee Bob Oglesby et al., violated Tenn. Code. Ann. § 20-13-02 (a), official misconduct.

HISTORY

This case *Edward Ronny Arnold v. Herbert Slatery III,* 19:6017 (2019) began when the defense of sovereign immunity based on Tenn. Code. Ann. § 20-13-102 (a) began failing in the case of *Edward Ronny Arnold v. Bob Oglesby, Et Al.,* M2017-00808-COA-R3-CV (Tenn. Ct. App. 2017) due to the opinion of the State of Tennessee Supreme Court in the case of *Redwing v. Catholic Bishop for Diocese of Memphis* 363 S.W.3d 436, 445 (Tenn. 2012) .

The Defendant, Herbert Slatery III, as State of Tennessee Attorney General and Reporter, representing Bob Oglesby, et al., issued a legal opinion in a brief to the Tennessee Court of Appeals for the Middle District at Nashville. The legal opinion was intended to replace the failing defense of sovereign immunity. In this case, the court issued its opinion after the Defendant issued his opinion - the Defendant, Bob Oglesby, et al., was not acting on the authority of the state and could not use the defense of sovereign immunity as codified in Tenn. Code. Ann. § 20-13-102 (a).

The legal opinion of the Defendant / Appellee, Herbert Slatery III, State of Tennessee Attorney General and Reporter, was expressed to which the Defendant / Appellee's client, Bob Oglesby, et al., did not violate Tenn. Code. Ann. § 39-16-401 (a) (3) because the statutes do not address compensation and the Plaintiff / Appellant is not entitled to wages for the substituted federal holiday of Columbus Day the Friday after Thanksgiving, the fourth Thursday in November. The legal opinion was intended to address the issue of earned wages in the case of *Edward Ronny Arnold v. Bob Oglesby, Et Al.,* M2017-00808-COA-R3-CV (Tenn. Ct. App. 2017) .

It is reasonable to conclude the Defendant / Appellee, either in person or through the attorney of record, advised his client Bob Oglesby, et al., not to pay the earned wages to the Plaintiff / Appellant.

JUDICIAL LABOR AND FINALITY

Judicial Labor is the concept of the finality of a case to which the determining finality of an order ends the judicial process. The decision of the lower court in this case merely follows the established standards for determining whether an order is final for purposes of appeal.

The general rule for determining whether an order on appeal is final is whether the order constitutes an end to the judicial labor in the cause and nothing further remains to be done by the court to effectuate a termination of the cause as between

the parties directly affected. *S.L.T. Warehouse Company v. Webb*, 304 So. 2d 97 (Fla 1974).

In this case, the use of the court's discretion to not address basic aspects of law leaves many positions of the Defendant / Appellee accepted without question. These statements should not be accepted, without question, for their statement alone but must be shown to be accurate before the court. These issues, introduced by the State of Tennessee Office of the Attorney General and Reporter:

1. Tenn. Rule of Civil Procedure 4.04(6). Proper service on a state official;

2. Willful non-response to citizen and resident complaints, issues, and concerns may violate Tenn. Code. Ann. § 39-16-402 (a) (3);

3. The use of personal e-mail to conduct court business;

4. The legality of Title V of the United States Code (5 U.S.C. § 6103) and Tenn. Code. Ann. § 4-4-105 (a) (1) (3);

have not been addressed by the courts.

The prior Courts' use of discretion to not address these issues, concerns of law, leaves them unanswered presenting a situation of accuracy, by the State of Tennessee Office of the Attorney General and Reporter, without legal authority, to confirm or deny the accuracy.

FUNDAMENTAL FAIRNESS DOCTRINE

Fundamental fairness doctrine is a rule that applies the principles of due process to a judicial proceeding.

Fundamental-Fairness is considered synonymous with due process. The due process guarantees under the Fifth and Fourteenth Amendments to the U.S. Constitution Clause provide that the government shall not take a person's life, liberty, or property without due process of law.

While the Fundamental Fairness Doctrine is applied mainly in criminal cases before the court, the Defendant / Appellee, as represented by the State of Tennessee Office of the Attorney General and Reporter, introduced into the civil action the Plaintiff / Appellee may have violated Tenn. Code. Ann. § 39-16-402 (a) (3), official misconduct, in knowingly not responding to the Plaintiff / Appellant's request for payment for earned wages and the statement of the attorney or record, the Defendant / Appellee refused to pay the earned wages because the Plaintiff / Appellant filed an appeal.

The West Virginia Supreme Court of Appeals explained:

> The fundamental tenet that the rules of procedure should work to do substantial justice, ...commands that judges painstakingly strive to insure that no person's cause or defense is defeated solely by reason of their unfamiliarity with procedural or

> evidentiary rules. . . . Cases should be decided on the merits, and to that end, justice is served by reasonably accommodating all parties, whether represented by counsel or not. This "reasonable accommodation" is purposed upon protecting the meaningful exercise of a litigant's constitutional right of access to the courts. *Blair v. Maynard*, 324 S.E.2d 391 (West Virginia 1984).

In this case, the use of the court's discretion not to address the notification of violation of Tenn. Rule Civ. P. 11 can be argued as a violation of Fundamental Fairness for both the Plaintiff / Appellant and the Defendant / Appellee and a misuse of authority by the Defendant / Appellee Herbert Slatery, III, State of Tennessee Attorney General and Reporter.

PRO SE LITIGANTS

Pro se legal representation comes from Latin pro se, meaning "for oneself" or "on behalf of". This status is sometimes known as *propria persona* (abbreviated to "pro per"). In the country of England, the comparable status is that of "litigant in person".

Although Federal statute, 28 U.S.C. 1654, states:

> In all courts of the United States *the parties may plead and conduct their own cases personally* or by counsel as, by the rules of

> such courts, respectively, are permitted to manage and conduct causes therein.

In the year 2013, the United States Supreme Court adopted Rule 28.8 that all persons arguing orally must be attorneys. Oral arguments may be presented only by members of the Bar of this Court. Attorneys who are not members of the Bar of this Court may make a motion to argue pro hac vice under the provisions of Rule 6. Pro hac vice is a legal term for adding an attorney to a case in a jurisdiction in which he or she is not licensed to practice in such a way that the attorney does not commit unauthorized practice of law.

It has been perceived Pro Se litigants are not allowed to argue orally before United States' Courts of Appeal. As stated in *Case management procedures in the federal courts of appeal*, Second Edition [1].

> "In general, staff attorneys assist the courts of appeals by screening appeals and preparing cases for disposition without argument. In some courts, they concentrate on pro se cases, and in others they work on most civil and criminal appeals, if only to make a preliminary determination about whether the case should be set for oral argument. In the Sixth Circuit, the primary function of the staff attorneys' office is to assist the court in processing all pro se

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[1] Hooper, Miletich & Levy (2011). *Case Management Procedures in the Federal Courts of Appeals. Federal Judicial Center*, 2nd edition (2011).

> appeals that do not require oral argument. In the Fifth Circuit, staff attorneys perform initial screening, placing cases into categories ranging from "Class I" to "Class IV." The class designation affects whether a case is placed on the oral argument calendar. For example, the court has designated Class I cases as so lacking in merit as to be deemed frivolous and subject to dismissal. Class III and IV cases make up the court's oral argument calendars" (p. 12).

In essence, it is perceived that "all" Pro Se appeals are Class I.

The role of staff attorneys, in the decision of Pro Se litigation, screen appeals and prepare cases for disposition without argument to make a preliminary determination whether the case should be set for oral argument. [2]

The last non-attorney to argue orally before the United States Supreme Court was Samuel Sloan in 1978. *SEC vs. Samuel* H. *Sloan*, 436 US 103 (*1978*). The United States Supreme Court has also held that where a statute permits attorney's fees to be awarded to the prevailing party, the attorney who prevails in a case brought under a federal statute as

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[2] See generally Penelope Pether, Sorcerers, Not Apprentices: How Judicial Clerks and Staff Attorneys Impoverish U.S. Law, 39 Ariz. St. L.J. 1 (2007) (discussing the role of staff attorneys and the impact of their work—memoranda and draft dispositions—on the decision-making process).

a pro se litigant is not entitled to an award of attorney's fees.

In this case, the Pro Se litigant is only entitled to one day's pay, $180.00 minus withholding, and the cost of the appeal, $505.00. In difference, it is reasonable to conclude the Defendant / Appellant has expended more than $50,000 in labor cost to defend the civil action. If the case of *Edward Ronny Arnold v. Jeff McCord* 19-5737 is included, it is reasonable to conclude the Defendant / Appellee has expended more than $ 100,000 in labor costs and Judicial Labor of the following courts: General Sessions Davidson County, Tennessee; Sixth Circuit Court Davidson County, Tennessee; Davidson County Chancery Court Part IV in Nashville, Tennessee; Tennessee Court of Appeals for the Middle District at Nashville; Tennessee Supreme Court; United States District Court for the Middle District of Tennessee; United States Court of Appeals for the Sixth Circuit; United States Supreme Court, to defend civil actions of unpaid wages and unpaid unemployment benefits to which the total amount is considered at $730.00.

As stated in the introduction to the pending research work *Oral argument denied - the demise of pro se litigation in United States' courts,-*

> "The crime of Pro Se litigants is not that they do not know the law, it is they refuse to roll over. The opposing legal strategy is to render the Pro Se litigant, and their civil / criminal action, as irrelevant or opportunist before the court with a stereotype Pro Se litigants are crazy... It cannot be determined the exact

> filings and positions as the court's use of its discretion to not publish Pro Se briefs marginalizes low-income, fixed-income minorities by their judicial exclusion." [3]

The opinion of the Tennessee Court of Appeals for the Middle District at Nashville in the case of *Edward Ronny Arnold v. Bob Oglesby, Et Al.,* M2017-00808-COA-R3-CV (Tenn. Ct. App. 2017) redefined Tenn. Code. Ann. §20-13-02 (a) relevant to *Redwing v. Catholic Bishop for Diocese of Memphis,* 363 S.W.3d 436, 445 (Tenn. 2012) the concept of Sovereign Immunity as the Defendant / Appellee was required to be acting on the authority of the state to withhold earned wages.

The decisions made by the Defendant / Appellant, during civil actions, which began October 26, 2015, may have contributed to a joint resolution filed in the Tennessee General Assembly December 19, 2019, which would change the attorney general and reporter post from an appointed position to an elected position. HJR 0657 seeks to amend the Tennessee Constitution by making the position an elected one. The bill states beginning with the November 2024 general election and every 4 years

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[3] Arnold, E. R. (2020) *Oral argument denied – the demise of pro se litigation in United States' courts* (research work in progress).

after, the post will be one selected by popular vote and the term would be shortened to just 4 years.[4]

While there is no evidence to support a relationship it is reasonable to conclude the estimated expenditure of $100,000 tax payer dollars to not settle civil actions, unpaid wages of one day and errors in the implementation of the on-line systems JOBS4TN.GOV and At.newappeals@tn.gov., total estimated at $670-.00, is a misuse of authority and presents a question of motive to not act in good faith to resolve the civil actions.

REASONS TO GRANT THE PETITION

I. The United States Court of Appeals for the Sixth Circuit misapplied the *Rooker v. Feldman* doctrine in dismissing the civil action.

A. The *Rooker-Feldman* Doctrine does not apply in this case.

The *Rooker-Feldman* Doctrine does not apply in this case as the Defendant / Appellee has not

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[4] A resolution to propose an amendment to Article VI, Section 5 of the Constitution of Tennessee, to provide for popular election of the Attorney General and Reporter for the State. HJR 0657. 111 Tennessee General Assembly. 2019 Reg. Sess. (Tenn. 2019).

denied, as representing Bob Oglesby, Et. Al., in the case of *Edward Ronny Arnold v. Bob Oglesby,* Et. Al. No. M2017-00808-COA-R3-CV (Tenn. Ct. App. 2017) as remanded to the Sixth Circuit Court for Davidson County, wrote the order to the court over the objections of the Plaintiff / Appellant with the specific intent to prevent the introduction of the proceedings from the Tennessee Court of Appeals for the Middle District at Nashville from being introduced into the trial court.

The Defendant / Appellee has not denied the case was on a 120 day stay to which someone hand wrote the word "NON-JURY" on the court order (see Appendix A).

The Defendant / Appellee has not denied the evidence presented in the trial court, Defendant's Motion to Dismiss, does not deny the Plaintiff / Appellant's claim of unpaid wages and the Defendant / Appellee, as represented by the State of Tennessee Office of the Attorney General and Reporter, did not deny the statement before the court the Defendant / Appellee refused to pay the earned wages of $180.00 minus withholding because the Plaintiff / Appellant filed an appeal. At the time of the filing of a civil action to recover the earned wages on November 24, 2016, the only appeal filed by the Plaintiff / Appellant was 15-13932AA on November 24, 2015 to which the Appeals Tribunal of the State of Tennessee Department of Labor and Workforce Development overturned a denial of unemployment benefits to which Administrative Leave with Pay is not wages as defined by Tenn. Code. Ann. § 50-7-211.

The *Rooker-Feldman* doctrine rests on the principle that district courts only have original jurisdiction. [7] *Rooker-Feldman* is a jurisdictional bar. [8]

II. The United States Court of Appeals for the Sixth Circuit incorrectly determined the plaintiff's last working day was November 24, 2015 not November 25, 2015

A. The United States Court of Appeals for the Sixth Circuit erred in accepting the Defendant / Appellee's narrative the Plaintiff / Appellant's last working day was November 24, 2015 not November 25, 2015.

A WARN notice issued October 26, 2015 by the Defendant / Appellee in the case of *Edward Ronny Arnold v. Bob Oglesby, et al.,* M2017-00808-COV-R3-CV (Tenn. Ct. App. 2017) recorded the Plaintiff's last working day as Wednesday November 25, 2015,

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opportunity to litigate, and the Feldman 'inextricably intertwined' barrier to federal jurisdiction as two sides of the same coin."); *Wood v. Orange County*, 715 F.2d 1543, 1547 (11th Cir. 1983) ("[W]e hold that the Rooker bar can apply only to issues that the plaintiff had a reasonable opportunity to raise.").

[7] *GASH Assocs. v. Vill. of Rosemont,* 995 F.2d 726, 728 (7th Cir. 1993). Indeed, ever since Rooker was decided, courts have conflated its jurisdictional principle with preclusion. See Thompson, supra note 31, at 866 & n.27 (citing cases in which Rooker was used as a principle of res judicata, not a doctrine of federal jurisdiction).

[8] See supra Part II.

the Wednesday before Thanksgiving, the fourth Thursday in November.

On the same date, October 26, 2015, the Defendant / Appellee Bob Oglesby et al., issued a thirty day (30) notice of the Plaintiff / Appellant being placed on Administrative Leave with Pay to which the thirty days (30) ended at November 24, 2015.

The Defendant / Appellee has presented a false narrative that a thirty day (30) notice of Administrative Leave with Pay supersede the federal mandated WARN notice in that the thirty day (30) notification of administrative leave with pay violated Tennessee Rules of Administration: Tenn. Code Ann. §§ 8-23-101, 8-30-406, 8-50-801, 8-50-803, 8-50-807, 8-50-110, 8-50-1101 and the Rules of the Tennessee Department of Human Resources 1120-06-.10 and 1120-06-.11 in that the Defendant / Appellee Bob Oglesby et al., was not acting on the authority of the state to extend Administrative Leave with Pay beyond ten (10) working days.

In this case, the Plaintiff / Appellant's Administrative Leave with Pay ended Friday November 6, 2015 to which the Plaintiff / Appellant reverted to full-time status to which the WARN notice presented the last work day as November 25, 2015.

III. The United States Court of Appeals for the Sixth Circuit incorrectly determined the plaintiff's source of injury.

A. The United States Court of Appeals incorrectly determined the Plaintiff / Appellant's source of injury was the court order filed.

The source of the Plaintiff / Appellant's injury is the legal opinion given by the Defendant / Appellee, as the State of Tennessee Attorney General and Reporter, in the civil action of *Edward Ronny Arnold v. Bob Oglesby et al.,* M2017-00808-COA-R3-CV (Tenn. Ct. App, 2017) to which the Defendant / Appellee was the legal representative of Bob Oglesby et al., and the legal opinion altered the civil action also affected every employee of the State of Tennessee and the following twenty-five (25) states: California, Colorado, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Montana, North Carolina, Nebraska, New Hampshire, Nevada, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas. Virginia, Washington, and West Virginia.

In a Case Management Conference Friday April 26, 2019 Special Master Mary Ashley Nichols moved to "Set for Trial" *Edward Ronny Arnold v. Bob Oglesby et al M2017-00808-COA-R3-CV (Tenn. Ct. App. 2017)* as remanded to the Sixth Circuit Court for Davidson County November 23, 2017 in deference to a civil action filed in the United States District Court for the Middle District of Tennessee *Edward Ronny Arnold v. Herbert Slatery III 3-18-1350* to which the Defendant / Appellee, as represented by

the State of Tennessee Office of the Attorney General and Reporter, denied the Plaintiff / Appellant the right to a trial by jury in violation of 28 U.S.C. § 1869 (Suppl. 3 1982), and sought to prevent the introduction of evidence submitted to the Trial Court and the State of Tennessee Court of Appeals for the Middle District at Nashville.

In this case, the court order was altered by the inclusion of the hand-written word "NON-JURY". It is not known, at this time, if the word was written before or after the judge's signature. It has been proposed the word was written by a clerk of the court.

The inadmissibility of the Defendant / Appellee's Motion to Dismiss, as submitted by the State of Tennessee Office of the Attorney General and Reporter, does not deny the Plaintiff / Appellant is owed wages, in the amount of $180.00 minus withholding, for the federal holiday of Columbus Day, the second Monday in October, substituted by the State of Tennessee holiday the Friday after Thanksgiving, the fourth Thursday in November as codified in Title V (5 U.S.C. § 6103) and Tenn. Code. Ann. § 4-4-105 (a) (1) (3). The Defendant / Appellee further chose not to respond to seven (7) attempts to collect the earned wages. One attempt included a certified letter to the Commissioner of Human Resources Rebecca Hunter, gives the Defendant / Appellee, as represented by the State of Tennessee Office of the Attorney General Reporter, a clear tactical advantage as the Defendant / Appellee did not deny the civil action of unpaid wages.

The inadmissibility of the opinion of the Tennessee Court of Appeals in the case of *Edward Ronny Arnold v. Bob Oglesby, et al.* M2017-00808-COA-R3-CV.(Tenn. Ct. App. 2017) to which the opinion was the Defendant / Appellant was not acting on the authority of the State in withholding earned wages and the case was remanded back to the trial court (see Opinion Page 4), gives the Defendant / Appellee, as represented by the State of Tennessee Office of the Attorney General and Reporter, a clear tactical advantage as the Defendant / Appellee was denied the defense of sovereign immunity as codified in Tenn. Code. Ann. § 20-13-102 (a).

IV. The United States Court of Appeals for the Sixth Circuit erred in understanding the legal opinion of the State of Tennessee Attorney General and Reporter denied the Plaintiff / Appellant earned wages and this legal opinion affects employees of the State of Tennessee to which wages for full-time employees are reduced one day.

A. This civil action meets the statutory standard of 28 U.S.C. § 1331 (a).

This civil action meets the statutory standard of 28 U.S.C. § 1331 (a) as TITLE V OF THE UNITED STATES CODE (5 U.S.C. § 6103) created Tenn. Code. Ann. § 4-4-105 in an effort to coordinate Federal holiday office closures with the State of Tennessee Federal holiday office closures which includes: New Year's Day, January 1; Independence Day, July 4; and Christmas Day, December 25. Both

Federal and State statutes provide directions to the celebration of Federal holidays if the calendar date falls on a Saturday or a Sunday.

Recently, 45th United States President Donald John Trump (2017 – present), by executive order, declared December 24, 2018 and December 24, 2019, Christmas Eve, a Federal holiday.

In the year 2014, 44th United States President Barack Hussein Obama (2009 – 2017) signed an executive order giving federal employees the day off on Friday, December 26 (when Christmas Eve fell on a Wednesday). In the year 2012, he gave workers the day off on Monday, December 24, 2012.

43rd United States President George Walker Bush (2001 – 2009) gave federal workers Monday, December. 24 off in the years 2001 and 2007.

In this case, for a period of twenty-three (23) years, since the year 1996, the sitting governors of Tennessee have exercised their right to open state offices on the second Monday of October and close state offices the Friday after Thanksgiving, the fourth Thursday in November as per Tenn. Code. Ann. § 4-4-105 (3).

The issuance of executive orders by the current and former presidents of the United States and the current and former governors of the State of Tennessee are based on TITLE V OF THE UNITED STATES CODE (5 U.S.C. § 6103).

The legal opinion by the Defendant / Appellee, Herbert Slatery III, State of Tennessee Attorney General and Reporter, is in violation of TITLE V OF THE UNITED STATES CODE (5 U.S.C. § 6103) and denied earned wages by the Plaintiff / Appellant in the year 2015 in violation of 29 CFR § 541.602, to which a fulltime, exempt, employee's wages cannot be decreased due to the closing of federal or state offices.

B. This civil action meets the Mottley Rule.

This civil action meets the Mottley Rule, *Louisville & Nashville R. Co. v. Mottley,* 211 U.S. 149 (1908) in that the interpretation / legal opinion of federal law, 5 U.S.C. § 6103, by the Defendant / Appellee, Herbert Slatery, III, State of Tennessee Attorney General and Reporter, affects state law, and creates a federal question of jurisdiction.

This civil action meets the statutory component of 28 USC 1331 and the Constitutional requirement of US Const. Art III, Sec 2.

C. Statutory Component

For federal question jurisdiction to exist, the requirements of 28 USC 1331 must be met. This statute gives federal courts jurisdiction only to those cases which "aris[e] under" federal law. 28 USC 1331.

The Supreme Court has found that a "suit arises under the law that creates the cause of action," *American Well Works v. Layne,* 241 US 257 (1916), and therefore, only suits based on federal law,

not state law suits, create federal question jurisdiction, *Louisville & Nashville R. Co. v. Mottley,* 211 U.S. 149 (1908). The plaintiff / Appellant's initial complaint contained references to the federal question and the federal issue evoked.

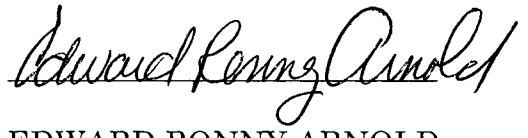
D. Constitutional Requirement

Under Article III of the Constitution, federal courts can hear "all cases, in law and equity, arising under this Constitution, [and] the laws of the United States..." US Const. Art III, Sec 2. The Supreme Court has interpreted this clause broadly, finding that it allows federal courts to hear any case in which there is a federal ingredient. *Osborn v. Bank of the United States,* 9 Wheat. (22 U.S.) 738 (1824).

CONCLUSION

To protect and preserve the right of low-income, fixed-income, minority Pro Se litigants to continue to participate in the United States legal system, as guaranteed in U.S. Const. Amend. 1 and U.S. Const. Amend. 14, the petition should be granted.

Respectfully submitted,



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