

No. 19-1397

Supreme Court, U.S.
FILED

JUN 11 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Michele Gray, M.G {minor} — PETITIONER
(Your Name)

vs.

United States Department of Justice — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court of Nevada
County Clark

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michele Gray, Makai Gray {minor}

(Your Name)

165A Vandenburg Place

(Address)

Troy New York 12180

(City, State, Zip Code)

929-318-5589

518-326-0487

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- 1) Can a party request extended time to file a petition for Writ of Certiorari within 60 days of the lower court decision.
- 2) Can a party request to extend the time to file a petition for Writ of Certiorari within 60 days of the lower court decision if a case has been appealed to the Ninth Circuit Court, when no decision has been made in the Forma Pauperis, Motion to Stay and Reconsideration
- 3) Can the judge ignore the Motion to Quash a "Motion to Dismiss" for improper service?
- 4) Can the judge denied Entry of the Default without final decision?
- 5) Can a judge denied 3rd Entry of Default after an improper service?
- 6) Can a judge dismiss a case on cognizable claim?
- 7) Can the judge dismissed a case on cognizable claim before deciding on an improper service (quash)?
- 8) Can the judge dismiss before deciding a Motion requesting for attorney and Motion requesting change of venue (moot)?
- 9) Can the judge dismissed the case without answering timeline filed by the defendant on a Motion to Dismiss?
- 10) Can Deputy Clerk Order Statement Of Case before Forma Pauperis is decided in the Court of Appeal, Ninth Circuit?
- 11) Can appeal court Deputy Clerk dismiss before Forma Pauperis is decided
- 12) Can appeal court denied case on frivolous claim if party addressed the case isn't frivolous.

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Michele Gray, M. G {minor } v. DOJ, No, A-19-792907-W, Eighth Judicial District Court of Nevada, Las Vegas. Judgement entered May 14, 2019

Michele Gray, M. G {minor } v. DOJ, No, 20-15026, U.S. Court of Appeals for the Ninth Circuit. Judgement entered January 24, 2020.

Michele Gray, M. G {minor } v. DOJ, No, 2:19-cv-00854-APG-BNW, U.S. District Court of Nevada, Las Vegas. Judgement entered April 17, 2020

Michele Gray, M. G {minor} v. DOJ, No, 20-15728, US Court of Appeals for the Ninth Circuit. Judgement entered May 22, 2020 Waiting for decision On Motion to Stay and Reconsideration

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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 A to the petition and is

☒ reported at 584 Fed Appx. 140; 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 F to the petition and is

☒ reported at 998 So. 2d 1102; 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 _____ 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 _____ 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.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was May 22, 2020

☐ 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 April 17, 2020
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: April 17, 2020, and a copy of the order denying rehearing appears at Appendix B _____.

☐ 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

The Constitution's 5th Amendment Under Due Process

It's commands that no person may be "deprived of life, liberty or property without "Due Process" of Law by any act of the federal government and legal proceedings carried out regularly and in accordance with established rules and principles called "Procedural Due Process "

A basic threshold issue respecting whether Due Process is satisfied is and whether the government conduct being examined is a part of a criminal or Civil proceeding and having to litigant with full benefit of fair trial and law applicable to all those in like condition, and not deprived of property by an adverse result

STATEMENT OF THE CASE

This case filed in U.S. District Court of Nevada Las Vegas on May 20, 2019 against the Defendant US Department of Justice Assistant Attorney General Of Civil Right Division, received the Complaint in August 2019 and haven't answered the Plaintiffs Complaint. The Judge denied Plaintiff's "3rd Entry of Default" served on the Defendant by Processor and by Certified mail on April 4th, 2020 Order by the judge. The Defendant haven't met the deadline date of April 3rd, 2020 to answer the Plaintiff's' Complaint. The Defendants' "Motion to Dismiss" served on the Plaintiff was improper-not mailing the Motion to the last known address, not meeting the deadline and answering the complaint which was over 8 months.

The judge didn't consider all available information in reaching its final decision.

- 1) The judge denied Plaintiffs "Oppose Motion to Dismiss" to quash
- 2) The judge denied serving the Defendant Assistant Attorney General of Civil Rights Division as improper twice and both Entry of Default denied by the judge.
- 3) The Judge assist and request serving the Attorney General of Las Vegas as proper and waiting for them to answer, missing the deadline ordered by the judge.
- 4) The judge annoyed the Attorney General of Las Vegas "Motion to Dismiss" improper served on the Plaintiff
- 5) The judge didn't consider the Plaintiffs' 145 Exhibits
- 6) The judge dismissed the case on the Defendant "Motion to Dismiss" on April 17, 2020.
- 7) Magistrate judge close case on April 17, 2020, with no notice to appeal.
- 8) The Plaintiff file an appeal with Ninth Circuit Appeal Court
- 9) Appeal Court dismissed as frivolous claim before Forma Pauperia was decided on May 22, 2020.
- 10) The Plaintiffs is awaiting a decision for Motion to Stay and Reconsideration file on May 25, 2020 in Appeal Court

REASONS FOR GRANTING THE PETITION

The process of basic litigations, the basic rules to bring a lawsuit and the right to "Due Process " Under the Fifth Amendment was disregarded.

The Defendant disregard complaint and the Judge agree to just dismiss the case without pursuant to Federal Rules Of Civil Procedures, by denying the Plaintiffs "Entry Of Default" 3 times and "Default Judgement" the foundation of litigations.

The Constitution's Fifth Amendment adamantly commands that no person may be "deprived of life, liberty or property without due process of law" by any act of the federal government and legal proceedings carried out regularly and in accordance with established rules and principles called procedural due process. A basic threshold issue respecting whether due process is satisfied is whether the government conduct being examined is a part of a criminal or civil proceeding, see *Medina v. California* 505 U.S. 437, 443 (1992), and having to litigant with full benefit of fair trial and the law applicable to all those in like condition, and not deprived of property without due process of law, even if regarded as deprived of property by an adverse result, see *Marchant v. Pennsylvania R.R.*, 153 U.S. 380, 386 (1894).

Under the Federal Regulation 5 CFR § 732.301 regarding due process on decision made unfavorable decision, 5 CFR § 732.301(b) comply with all applicable administrative due process requirements, as provided by law, rule, or regulation, 5 CFR § 732.301(c (1) reason for decision, 5 CFR § 732.301(c (2) opportunity to respond, 5 CFR § 732.301(c (3) notice if appeal rights, 5 CFR § 732.301 (d) consider all available information in reaching its final decision, 5 CFR § 732.301(e) keep record of action, [56 FR 18654, Apr. 23, 1991, as amended at 66 FR 66711, Dec. 27, 2001]

The Defendants' attorney has no Jurisdiction to serve the Plaintiffs "Motion to Dismiss" on the Rule 5(b)(2)(c)..
"mailing it to the person's last known address—in which event service is complete upon mailing"; The Defendant Motion to Dismiss wasn't served by Certified Mail to the Plaintiffs' last known address.

U.S Supreme court has stated under Rule 12 (b)(6): "The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence in support of the claim only appear to be the case but not definite" 416 US.232,236,236 (1974). Rather, "a complaint should not be dismissed for failure to state a claim: *Conley v. Gibson*, 355 U.S. 41, 45-46 (1975). "Dismissal without leave to amend is improper as if, no amendment can save the complaint" *Wright and Miller, Federal Practice and Procedure*, vol 5A 1357.

Under FRAP 27(b). The U.S. Supreme Court had defined when federal judges can dismiss as "frivolous" certain lawsuits brought by convicts and others who cannot afford to pay normal court costs. The District Court didn't conclude the Plaintiffs case was frivolous.

The court, in a 7-2 ruling, said it is largely up to a federal judge to determine when a lawsuit is legally frivolous and thus need not be litigated.

The ruling reversed a decision of the Ninth Circuit Court of Appeals, which had said a federal judge could dismiss a lawsuit against the government as frivolous only if the allegations "conflicted with judicially noticeable facts."

The Ninth Circuit said, in effect, a judge could invoke the frivolous standard only if he had factual evidence that an allegation could not be true. The judges in this case can't prove the Plaintiffs Appellant's complaint isn't true.

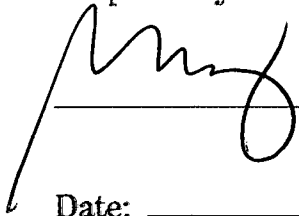
"A court is not bound, as it usually is when making a determination based solely on the pleadings, to accept without question the truth of the plaintiff's allegations," justice Sandra O'Connor wrote for the court. While on this first glance, charges "must be weighted in favor of the plaintiff," judges are left largely to their common sense in deciding whether to dismiss a case, the court said. But O'Connor wrote such a complaint cannot be dismissed "simply because the court finds the plaintiff's allegations unlikely," noting the "age-old insight that many allegations might be 'strange, but true.'"

The ruling further defined the court's 1989 *Neitzke v. Williams* ruling. The issue was important to prisoners because they often cannot afford the normal court filing fees. In a one-paragraph dissent, Justice John Paul Stevens, joined by Justice Harry Blackmun, wrote that while he agreed with the court's standard announced in this opinion, it is "entirely consistent" with the Ninth Circuit's ruling and Hernandez should be allowed to pursue his case. See *Denton v. Hernandez*, ___ S.Ct. ___ (1992).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: _____