

No. 19-215

In The
Supreme Court of the United States

DARREL CONELL NEVELS,

Petitioner,

vs.

PIGGLY WIGGLY CORPORATION
and NASEEM JR. AJLOUNY,

Respondents.

**On Petition For A Writ Of Certiorari
To The Court of Civil Appeals Of Alabama**

PETITION FOR REHEARING

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PETITION FOR REHEARING

Federal Rules of Civil Procedure Rule 33, 40, 44 (B), (c) – Proving an Official record this matter comes before this court, Darrel Conell Nevels Respectfully Motion for Reconsideration of the Court's hereby acknowledge the court Granting Respondent(s) per curiam decision issued a denial of the Rule 35 undisputed petition supporting facts and burden of Proof DARREL CONELL NEVELS V. PIGGLY WIGGLY ALABAMA DISTRIBUTION CORPORATION INC. On October 21, 2019 case No. 19-215. Mr. Nevels moves this court to grant this Petition for Rehearing and consider his case with merits briefing and oral argument also request for Examination of questions about being the injured party in this case Rights as a Noble Citizen granted entitled to Due Process as guaranteed by the 4th, 5th, 6th 7th, 9th & 14th Amend. (1873 decision, the court effectively nullified a more straightforward – and capacious – guarantee (1868, protection of Americans' "Privileges or immunities of the Constitution was written during the Southern suppression of the economic liberties and other rights of freed slaves. The clause was intended to protect the full panoply of national rights a process without a discernible principle – distinguishing protection from under serving lesser rights, encompassing those In Anglo-American legal traditions and state constitutions, and not ignoring the 9th Amend: "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others restrained by the people." As the petitioner in this court of record actually have rights that are

promised to us or not holds that substantive in this clause acting as a safeguard from arbitrary denial of life, liberty, or property by the government outside the sanction of law. The Petition for Rehearing is properly filed within 25 days of this court's decision in this case.

REASON FOR GRANTING PETITION

The Constitutional law plays an important role in keeping government transparent and accountable, and has been used to expose a wide range of government misconduct and waste, along with threats to public's health safety. And up until the issuance of its opinion in this case, without briefing or argument, reversing a lower appellate court's grant of a judgment to the injured party or Respondent(s) Rule 33, 34, 35, 37, and 41 Settlement out of court where the Constitutional claim received no state appellate court review. Rule 47 and 48(a)(b) Courts have issued numerous rulings about what this means in particular cases.

I. RELEVANT CASES

1. Board of Regents v. Roth, 408 U.S. 564, 69 (1972) protected under the Due Process Clause Kentucky Dept of Corrections v. Thompson, 490 U.S. 424, 461 (1989), (see In re Oliver, 333 U.S. 257, 273 (1948), (James v. Borg, 24 F. 3d 20, 24 (9th Cir.), cert. denied, 115 S. Ct. 333 (1994) The small number of cases in which a full bench can rehear a case decided by an equal division probably amounts to the

largest class of cases in which a Motion for Reconsideration after a decision on the merits has any chance of success. *Id.* at 839. An abuse of discretion was being demonstrated in the denial under oath of office. (See *Carlson v. Town of Smithfield*, 723 A 2d. 1129, 1131 (R.I. 1999).

2. The state trial judge's factual and legal determination were not subject to review by state appellate court. Constitution is indeed this is the principle of comity that undergrid the statutory laws do not carry the same force where has declined to provide "full and fair" procedures for reviewing a constitutional law. (See *O Sullivan v. Boerekel*, 526 U.S. 838, 845 (1999) (This rule of comity reduce the friction between the state and federal court systems, by avoiding the (1944) ((W)here resort to the state court remedies has failed to afford a full and fair adjudication of federal contentions raised, either because the state affords no remedy . . . or because in the particular case the remedy afforded by state law proved in practice unavailable or seriously inadequate. . . . a federal court should entertain Mr. Nevels petition.
3. Mr. Nevels rights to Due Process by a court of law, consistent with this view, circuit courts have recognized that "full and fair Reconsideration" of petitioner's rights claim in state court includes at feast one evidentiary hearing in a trial court and availability of meaningful appellate review when there are facts in disputes, and full Reconsideration by an appellate court when the facts are not In dispute or undisputable. Rules 27 & 28

4. The appellate court upon receiving Mr. Nevels petition "must conduct" a review of the entire record, regardless of whether Respondent(s) counsel filed a response brief. The Supreme Court nor the lower court's has not approve this injury case for review only the record for potentially meritorious appellate issues. Mr. Nevels Motion for Reconsideration Alabama's decision to deny his petition insulate an arguably unconstitutional decision about whether this case should be reviewed both because It results in the inconsistent application of the law.

STATEMENTS OF FACTS

Petitioner Due Process rights as guaranteed by 6th & 7th Amend, Of the Constitution protect us, The opinion conflicts under the oath of office with U.S Supreme Court precedent because they denied my petition Mr. Nevels interlocutory hearing en Banc Rule 35 of qualified rights to Due Process based on Whether Respondent(s) which under disclosure it was unknown who owns the PIGGLY WIGGLY ALABAMA DISTRIBUTION CORPORATION originally from or in the beginning in the first place and the courts actions violated clearly established law let the record reflect all information was disclosed, which is a legal question for which all courts has jurisdiction. Rule 26.1(a)(b)(c)

1. This court has repeatedly recognized that state appellate review is necessary to protect against arbitrariness, capriciousness, and error. What was plain from that petition form of meaningful appellate review is an essential safeguard against error

under the Constitution. The lower court proceeded based on a trial court determination un-reviewed by any state appellate court. Mr. Nevels believes this is untenable under the rights of Due Process, at a minimum it should be resolved by this court of record after Mr. Nevels injury on April 15, 2016 he had financial hardship, pain, suffering, lost wages and recurring injuries from the left hand, left knee, and left foot swelling can barely move around.

2. This was caused by the Respondent(s) gross negligence duty of care the Appellee(s) has been going back and forth with this injury case and insurance claim for settlement negotiations from Nationwide Insurance Company agent Mrs. Rose Smith last contact with her on September 20, & 28, 2018 they all should be held accountable and liable for damages to the injured party in this case because their store has a duty of care policy to all visitors. Petitioner has the burden of proof and preponderance of evidence to support in making a "Prima Face" as a man. Rule 19
3. Issue is not whether Petitioner was injured but whether his Constitutional Rights were violated. Petitioner hopes with this honorable court review the record that it will clearly see Rights to review a legal determination under oath of the Constitution so that It may have the benefit of full merit briefing and argument moreover, this is appropriate in light of the federal determinations made in this court's summary opinion. Courts in the District have construed inherent reconsider interlocutory orders as arising under Rule 54(b) in addition to the Court's inherent authority and

common law. See e.g. *Goldman v. Gaguard*, No. 11 C 8843, 2012 Wt. 2397053,*2 (N.D. Ill. Jun. 21, 2012) Rule 20

4. In addressing a motion to reconsider an interlocutory order, court in this district have also applied the standard established in *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir. 1990) A motion for reconsideration brought pursuant to Rule 54(b) may be granted where the court has obviously misunderstood a party, where the court's decision rests on grounds outside the adversarial issues presented to the court by the parties, where the court has made an error not of reasoning but of apprehension, where there has been a controlling or significant change in the facts of the case. Rule 16 & 17
5. There was "un-rebutted evidence that Mr. Nevels suffered from a slip and fall injury to his left hand cause of Respondent(s) negligence duty of care and understand the connection between lack of any appellate court review or testimony in a court of records in this case related to unconstitutional acts. Nor was the opinion based solely on Preponderance of evidence this court has Mr. Nevels consent to subpoena all medical records for treatment and numerous test treatments the Doctor(s) reason professional opinion of his injury based on medical evaluation the review of significant medical records of the injury.
6. Dr. Woody treatment at Chiractique, Halo, laser light therapy, and magnesphere relaxation. The N.P.(s) and M.D. for medicines and a brace to keep my left hand straight to recover in line. Dr.

Christopher instructed him on how to take the medicine Esomeprazole DR. 40mg. cap on 8-12-2016 for his bleeding stomach and left hand injury to help his stomach recover and asked the nurse to pump out the medicines in his stomach to remove the poisons, a stool sample, ERG-scan, more medicines prescribed for the bleeding stomach.

7. He was hurting worse this pain and suffering everyday fingers tingling and blood Pressure stays up. The Rule 59 and Rule 56 under Federal Rules of Civil Procedure for the Supreme Court to review in the name of justice also under Rule 53(a)(20)(c) does not apply when the order of Judgment resulted from misapplication of law to the facts" The Ore Tenus as "corollary has no application where the facts are indisputable fact.
8. Mr. Nevels was not at fault and competent on April 15, 2016 a slip and fall injury occurred on the Respondent(s) Property and this is material the two parties do not disagree on it He is the injured party in this case the Respondent(s) are the owners of this Commercial property under customer-friendly premises liability laws. They are the direct cause of the injury, interfering with his rights to Due Process, and to settle this case. This opinion conflicts with the court precedents because it denied a man's petition without state appellate review without identifying a case that showed it was dearly established court of law and record. No court case has addressed whether a Due Process under similar circumstance violated clearly established law in this case Mr. Nevels does not understand the act that he's being denied and punished for nor the reason behind the

current, proceeding applies to him In this case.
Rule 16, 17, 18, & 19

CONCLUSION

This court should not resolve the substantial and important factual issues in this case without Full Briefing and Argument. Rules 4 & 5

There is un-rebutted evidence presented in the state trial court established that on April 15, 2016, Petitioner suffered an Injury, while shopping on Respondent(s) property. April 18, 2016 he was admitted in for treatment and service at Princeton Emergency Dept. with left hand laceration, cut open, skin, fat muscle – injured the tendons, blood vessels, and severe nerve damage. Mr. Nevels left hand was numb he can no longer work with his injury due to muscle cramps, wounds, swelling, stiffness, aches, spasms, a deep cut with severe irreversible nerve damage, permanent injury, scars, weakness, loss of mobility, and emotion stress.

April 18, 2016 an injury report was filled out in the Respondent(s) Store property in front of manager TOMMY LANDEY HIS STAFF, and EMPLOYEES, no copy was given at this anytime the court has to subpoena these documents. He works with his hands along with other projects unable at this time due to the injury. On basis of facts and evidence, each judge on the Eleventh Circuit Panel found that as a matter of law he is competent and his injury claim and complaint is

therefore prohibited by law his rights to Due Process (Satink v. Holland Township, 31 F. Supp. 229 (D.N.J. 1940) he therefore does not think that Alabama can, consistent with the Constitution, denying his Rights as a man. Though this court explicitly declined to express a view "on the merits of underlying question under oath of office the court has denied a petition date October 21, 2019. Asserting that "there are no further Impediments to the violation of his rights under bill of rights. These are precisely the type of factual issues that need to be resolved in Full briefing and argument and for that reason, a Petition for Rehearing is appropriate. (Summary disposition only appropriate in case where law is settled and stable, the facts are not In dispute and the decision is clearly in error (an issue is "contestable" for purpose of 1292(b) if there is a "difficult central question of law which Is not settled by controlling authority "and a substantial likelihood exists that the district court's ruling will be reversed on appeal") (quoting In re Brand Name Drugs, 878 F. Supp. 1078, 1081(N.D. 1995) (Pursuant to 1291) Rule 1, 3, & 3.1

Aforementioned the damage include but not limited to: Medical Expense, lost wages, punitive damages, has, may, and probably will for an indefinite time in the further be deprived of ordinary, pleasures of life, loss of well being, and equanimity his overall health, strength, and rituality have been greatly impaired family time and no price anyone can put on health. He request at the court discretion that Respondent(s) be held accountable and liable for all cost past, present, and further cost, all legal, mailing postal fees, he has

incurred in the settling of this case. Collection on a Judgment on all counts of violations of Rights amount leave open ended at the amounts of damages multiplied by the highest number. Rule 19 &20

Mr. Nevels respectfully request that this Court grants the Petition for Rehearing and order Full briefing and Argument on the merits of this Right to Due Process case it should be put in prayer and granted.

Respectfully submitted,

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CERTIFICATE OF GOOD FAITH

The undersigned hereby certifies that this Petition for Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay.

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