

ORIGINAL

19-5364

No. _____

FILED
MAR 08 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

*** MANDAMUS WRIT PETITION ***

Carl Albert Courtright III PETITIONER

(Your Name)

VS.

United States Court of Appeals RESPONDENT(S)
for the Seventh Circuit

ON PETITION FOR A WRIT OF [REDACTED]

United States Court of Appeals for the Seventh Circuit

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

PETITION FOR WRIT OF [REDACTED]

Carl Albert Courtright III

(Your Name)

Reg. No. 07860-025

United States Penitentiary Tucson
P.O. Box 24550

(Address)

Tucson, AZ 85734-4550

(City, State, Zip Code)

Prison (520) 663-5000

(Phone Number)

QUESTIONS PRESENTED

- 1) Absent statutory authority nor provision in the Federal Rules, Did the Seventh Circuit Court of Appeals clearly abuse its discretion when it ORDERED a \$500 Sanction against the pro se indigent Petitioner which effectively denied the Petitioner access to the Courts of the Seventh Circuit?
- 2) Does ANY Federal Court possess the authority to prevent ANY pro se litigant from filing ANY document in a totality of courts within ANY circuit?
- 3) Is it a Violation of the First Amendment's Right to redress grievances when the Seventh Circuit effectively barred the instant Petitioner access to the Courts in the Seventh Circuit?
- 4) Does it violate the Eight Amendment's "excessive fines" prohibition when any Federal Court "fines" through an order to pay Sanction, a KNOWN indigent pro se Federal Prisoner whom is attempting to be relieved of a 'mandatory-life' sentence of imprisonment?

LIST OF PARTIES

XXX 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:

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Johnson v. United States</u> , 135 S.Ct.2551	4
<u>Whatley v Zatecky</u> , 833 F.3d 762(7th Cir 2015)	4

STATUTES AND RULES

Fed.R.Civ.P. Rule 60(b)	4
18 U.S.C.S. §3559(e)	4
Fed.R.Civ.P. Rule 11	5
Fed.R.App.P. Rule 38	
28 U.S.C.S. §1927	5

OTHER

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	7
CONCLUSION.....	8

INDEX TO APPENDICES

APPENDIX A SANCTION ORDER

APPENDIX B RULE 60(b) MOTION

APPENDIX C Docket Entry showing Payment

APPENDIX D

APPENDIX E

APPENDIX F

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 is unpublished.

N/A 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 _____ 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 Sanction Ordered July 18, 2016
Sanction Collected December 6, 2018

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 _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied 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. § 1257(a).

IN THE
SUPREME COURT
OF THE
UNITED STATES OF AMERICA

In Re: Carl Albert Courtright III

PETITIONER'S STATEMENT PURUSANT TO SUPREME COURT RULE 20.1

COMES NOW, the Petitioner, in pro per, to comply, as is the edict of the Clerk (see enclosed letter from Clerk), with the Rules of the Supreme Court, Rule 20.1.

"the petition must show that the writ is in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form of relief."

The Petitioner avers the following information:

- 1) The ONLY Federal Court with the discretionary powers to review any Federal Court of Appeals use of 'their' discretionary powers is the Supreme Court of the United States.
- 2) When any Court of Appeals creates its own "powers" which are not supported by any Federal Rule or Statute, and such a "power" is designed to intentionally deny any possibility of justice in any case, such "powers" cause injustice to the party involved.
- 3) Such non-rule/statute "power" further serves to thwart any confidence of the public in judicial proceedings.

"extraordinary circumstances are present... including the risk of injustice to the parties and the risk of undermining the public's confidence in the judicial process." Buck v. Davis, 137 S.Ct. 759,778

- 4) The Supreme Court MUST, exercising its appellate jurisdiction over the Federal Courts of Appeals, deter such courts from acting in an unchecked/unilateral exercise of its "believed" powers.

- 5) When "discretionary powers" are imposed against the most unfortunate of litigant (pro se), this Honorable Court MUST act with greater diligence to protect the most sensitive appearance of justice and prevent any discrimination of litigants merely on their pro se status.
- 6) When the Seventh Circuit Court of Appeals, with FULL knowledge of the indigent status of the pro se Petitioner, placed a \$500 price tag on the Petitioner's ability to mount any attack on his Federal case, the Seventh Circuit acted as a debt creater for the sole purpose of keeping the Petitioner "in prison" (by denying the ability to file any attack on his sentence), until such time as the bounty (sanction) of \$500 was paid.
- 7) To add 'insult-to-injury', the Seventh Circuit ORDERED all the Clerks of Court for all the courts within its circuit to "return as unfiled" any civil motion or collateral attack on his criminal case. Such an ORDER is a direct and constructive DENIAL of the Petitioner's First Amendment Rights to have his grievances redressed by the government.
- 8) The Petitioner is UNABLE to obtain relief through any other avenue. As is attached to this Petition, the Petitioner sought to cause the Seventh Circuit Court of Appeals to Rescind its own order and refund the monies collected. As of date, this Motion has gone wholly unanswered by the Seventh Circuit. The ONLY recourse is to Petition the Supreme Court to 'Mandate' the Seventh Circuit to answer and remedy the issue.
- 9) A Comity of Federal Courts agree that none of the Rules or Statutes which identify the power to sanction apply to pro se litigants.

10) Discriminatory practices by the Seventh Circuit Court of Appeals against pro se litigants, (See "Helping the Helpless: Justice for Pro Se's" ® by: Richard A. Posner (retired Seventh Circuit Judge)), cannot be allowed by this Court to continue. There already 'appears' to be a "dual-justice" system between the powerful and the weak, rich and poor. To allow a dual justice system to exist for pro se and those represented by counsel, would be to seek injustice.

11) The Seventh Circuit never explained how it could apply "Johnson" to state statutes, yet the Petitioner could not apply it to his own Federal Statute. Instead, the Seventh Circuit made conclusionary and unsupported remarks that the "vagueness" definitions of Johnson did not apply to the Petitioner. This is dual justice against pro se litigants..

12) On October 20, 2015 (see Exhibit 1), the Seventh Circuit, in its "wisdom", dogmatically stated that neither §3559(e)(1) and 2260A were "in any way vague". Not even courts can 'rest' on some dogmatic statement. Although the Seventh Circuit might be correct about §2260A (it seems to be one of the most plainly worded statutes), §3559(e)(1) requires judicial interpretation and is therefore subject to vagueness challenge.

13) Instead of evaluating the Petitioner's legitimate claims, in an apparent action to prevent a just result, the Seventh Circuit chose to deny the Petitioner a hearing on the matter and then the Circuit prohibited the Petitioner from having the ability to argue the issue in the Seventh Circuit (see Attachment 1 of Mandamus).

14) This is an EXCEPTIONAL circumstance. When U.S. Courts of Appeals/Circuit Courts, intentionally discriminate against PRO SE litigants by exercising a power outside of the Rules and Statutes,

and "invokes" an illdefined/undefined 'inherent power' as a way to "punish" a pro se litigant whom is merely fighting for his life and liberty.

13) Because there is absolutely no other avenue for relief of the damage and prejudice caused against this Pro Se Litigant, it is ONLY through this Court of Review.

Whereby, the Petitioner humbly and sincerely prays that this most Honorable Court of the United States exercise its valuable time and power and MANDATE that the Seventh Circuit Court of Appeals Rescind/Refund/Review the Sanction (See Mandamus Attachment B), as the Petitioner requested of the Seventh Circuit after a generous person paid the \$500.

It also appears as if the Seventh Circuit has not lifted its ban on allowing the Petitioner to file documents although the Sanction has been paid.

Therefore, in the interests of Justice, this Mandamus should be GRANTED.

Respectfully Submitted,


March 28, 2019

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

N/A- The United States Court of Appeals acted outside its Rules and Statutory Authority

Eight Amendment- Excessive Fines

First Amendment- Access to the Courts (redress grievances)

STATEMENT OF THE CASE

The Petitioner was Sentenced to Mandatory Life after a Jury Trial at the United States District Court for the Southern District of Illinois on July 17, 2009 (SEE case# 07-cr-30179, SDIL). This sentence was given under the recidivism statute 18 U.S.C. §3559(e), allegedly because the Petitioner's prior conviction was "relating to" 18 U.S.C. §2241 or 2242, (see Judge's words on the Sentencing Transcript). However, the judge NEVER used the categorical nor other test to accurately determine if the Petitioner's prior actually compared to any Federal Offense. The Petitioner posits that this lack of categorical or other approach was due to the vague standards of the term "relating to" found in the Statute itself. This Honorable Court subsequently published its own "void for vagueness doctrine" in Johnson v. United States, 135 S.Ct. 2551. In an effort to be relieved of this injury of a Mandatory Life Sentence, the Petitioner filed for permission for a 2nd §2255 Motion under the premise that §3559(e) was "void for vagueness". Because ALL Federal Courts use legal principles as decided in other cases (also called precedents), such as Strickland governs ineffective counsel claims, Houston v. Lack governs the mailbox rule, ect... and the Seventh Circuit Court of Appeals itself used the "void-for-vagueness" doctrine found in this Court's Opinion under Johnson, in Whatley v. Zatecky, 833 F.3d 762 (7th Cir 2015) to challenge a State Statute as "void", the Petitioner sought to challenge §3559(e) under the same standards. As the Indiana Statute is not the "residual clause", yet the "void-for-vagueness" standard/test can be applied, then, as the pro se Petitioner reasoned, this "void..." standard/test can be

applied to any statute which 'fits' within the criterion set forth in Johnson. The Seventh Circuit, without explanation, did not see how the Petitioner should be "allowed" to challenge his recidivism statute under this same standard/test. Instead of ensuring the equal application/protection/due process under the law, the Seventh Circuit, based only on the prejudicial effect of the Petitioner's Crime of Conviction, DENIED the Petitioner's right to be heard and in an effort to permanently ban the Petitioner from bringing legitimate claims of law before the courts, the Seventh Circuit ORDERED a SANCTION of \$500 against an indigent pro se Petitioner inmate. Fed.R.Civ.P. Rule 11, Fed.R.App.P. Rule 38, nor 28 U.S.C. §1927, permit ANY court to issue a SANCTION ORDER against pro se litigants applying for §2255 relief. The ONLY exception is frivolous direct appeals, and only if the appeal is "vexatious" or "unreasonable". Even if this applied to §2255 action, the court NEVER claim such. To further indicate the capriciousness, arbitrariness, abusiveness of its discretion and acting NOT in accordance with the law, the Seventh Circuit merely made the dogmatic and unsupported statement that Johnson did not apply to the Petitioner. This PREJUDICES a pro se litigant in that he can have no clue as to why one person can use Johnson to challenge an Indiana Statute that is NOT the "residual clause", yet the pro se litigant cannot apply the same challenge to a Federal Statute that is not the "residual clause". Either the Seventh Circuit is exercising 'judicial gymnastics' to intentionally avoid JUSTICE to the Petitioner, or that court believes the pro se litigant should be a statutory and rules 'gymnast' before the court would GRANT relief. On November 29, 2018 the Petitioner filed to have the Seventh Circuit rescind/refund the \$500 SANCTION. On December 6, 2018 the SANCTION was paid in order to compel the court to [REDACTED]

"hear" the Rule 60 (b) motion which moves the court to rescind/refund. This Motion, Document 14 is the Motion the pro se litigan is filing the instant petition to "Mandate" that the Seventh Circuit rule upon, and if the Seventh Circuit DENIES the motion, the Petitioner prays this Honorable Court "Mandate" the Seventh Circuit publish its legal reasoning as to how the Seventh Circuit obtained the power to SANCTION a pro se litigant, publish the reasons the pro se litigant cannot apply the vagueness doctrine towards a Federal Statute, yet the Seventh Circuit can apply it towards a State Statute, publish the reasons the pro se litigant's motion was "vexatious or unreasonable", and publish how such a steep SANCTION is appropriate against a pro se indigent federal litigant based upon the Seventh Circuit's own dogmatic denials. Furthermore, the banning of the pro se litigant's access to the courts of the Seventh Circuit until such \$500 SANCTION is paid, CANNOT at any level "protect the public confidence in judicial proceedings, be in the interests of justice, be in support of the Constitution as the claim is an unconstitutional deprivation of liberty for Mandatory Life based on a vague statute, nor serve to protect the courts own docket". The Seventh Circuit can only be acting with malice against the Petitioner based upon the nature of the crimes of conviction.

REASONS FOR GRANTING THE PETITION

When a United States Court of Appeals acts *sua sponte* to issue any ORDER absent a lower case prior ruling being reviewed, the ONLY court which can review such an ORDER is the Supreme Court of the United States. The Seventh Circuit Court of Appeals is NOT accountable to any other body. The SCOTUS is the only "body" that can insure that such courts do not act outside the Constitution's limitations of its powers. This is, by definition, "in aid of" the SCOTUS's appellate jurisdiction. This is MORE IMPORTANT when a lower court ABUSES a pro se litigant. It amplifies in necessity when the ABUSE is an intentional action to DENY the pro se Petitioner open access to the courts. To add insult to the ABUSE, the Seventh Circuit placed the Petitioner in an analogous 'debtors prison' by demanding \$500 before the indigent pro se Petitioner could argue for release from prison. The injury became COMPLETE when the Petitioner, begging others, managed to pay the illegal SANCTION just to have his motion to rescind/refund SANCTION heard by the court. To further DEMAND intercession by the SCOTUS, the illegal SANCTION was ordered absent any Rule or Statute which would confer the authority to enter such an order. Absent such Rule or Statute, there exist no standard or guidance to issue such a debilitating order to pro se litigants. The SCOTUS cannot promote the USCA to be a "law upon itself". Such action would defy the Three Branch System of the Constitutional Government. Only Congress can create laws and only the Executive can choose to implement the created laws. The Judicial is a limited Branch in that it is empowered to ensure the executed law is constitutional in its language and execution. The Judicial cannot

"out of thin air" create punitive punishments. Indigent pro se litigants are "supposed to" be given a wider latitude in their presentation of their arguments. Because a pro se litigant is not understanding some nuance of law that the Court of Appeals has yet to explain, CANNOT be a justifiable reason to creat some type of Sanction to prohibit the pro se litigant from his First Amendment access to the Courts. Nor can it be an arbitrary reason to cause an indigent person to have to pay a price in which he is known by the Court to be unable to do. It seems this would and is a Violation of the Eighth Amendment:prohibition against excessive Fines. In any instance, the interests of equity, justice, and to deter arbitrary capricious Sanctions against pro se inmates whom are indigent and obviously are not understanding one-line reaons of denial by the Appeals Court.

CONCLUSION

The pro se Petitioner Humbly prays the Honorable Justice(s) of the Supreme Court of the United States GRANT this Petition for a Writ of Mandamus. Furthermore, the Petitioner prays for relief in the form of MANDATING the Seventh Circuit Court of Appeals be ORDERED to Rescind the Sanction Order (USCA7 Doc.7). Furthermore, the Petitioner prays this Honorable Court cause the SANCTION to be refunded to the Petitioner as there was no lawful authority to collect it.

Humbly Submitted.

Carl Albert Courtright III
pro se indigent Petitioner