

19-5899

In The

Supreme Court, U.S.
FILED

AUG 17 2019

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

Lorilee House and Willie House, Petitioners,

versus.

The United States Court of Appeals for the Ninth Circuit, Respondent,

on Petition for a Writ of Certiorari to

The United States Court of Appeals for the Ninth Circuit.

PETITION FOR WRIT OF CERTIORARI

ORIGINAL

Lorilee House and Willie House, in Pro Se

106 ½ Judge John Aiso Street, No. 417

Los Angeles, California 90012

QUESTIONS PRESENTED

1. Did the *U.S. Ninth Circuit Court of Appeals* ("*Ninth Circuit*"), by overlooking potential indication of treasonable actions in the Honorable *District Court, Central/Eastern District of California* ("*District Court*") record, condone commission of a multiplying series of misdeeds (void rulings) originally perpetrated by the *District Court*?
2. By not complying with *Rule 72 of the Federal Rules of Civil Procedure* ("*Rule*"), did the *District Court Magistrate* ("*Magistrate*") commit treason in that the *Magistrate* breached his *Oath of Office* by setting aside mandates to discharge laws of the United States?
3. Did the *Magistrate*, in turn, commit *Fraud Upon the Court*?
4. Regarding the *Magistrate's* respectfully purported failure to follow the law, at this juncture in the proceedings (December 18, 2017) should rulings and findings (including those made retroactively to the said date) have been declared void by any Jurist capable of having taken any action after December 18, 2017?
5. Did the *District Court* know, or should it have known, if, by no other means than even cursory review of the document filings in the underlying case, that the *Magistrate* did not comply with this *Rule*?

6. By failure to mandate compliance or other ameliorative measures of adjustment, namely, to simply insert/include the *Recommendation* in the Record for access by the Parties, did the *District Court* violate its *Oath of Office*, and subject itself to perspective scrutiny regarding the issue of *Fraud Upon the Court*?
7. Did the *District Court* know, or should it have known, that the *Recommendation* had not been included in the Record?
8. Given that the *District Court* had knowledge of the *Magistrate's* deficiency to include its *Recommendation* in the Record pursuant to the *Rule*, did the *District Court* know the *Magistrate* violated his *Oath of Office*, that this violation was possibly treasonous, and that the *District Court's* failure to take judicial notice regarding this matter possibly promulgated violation 18 *United States Code* § 2382, *Misprision of Treason*?
9. Did the aforesaid claims run askance of 18 *United States Code* § 4 – *Misprision of a Felony*?
10. Do these claims, if determined to be of merit by the *U.S. Supreme Court* (“*Supreme Court*”), run askance of 8 *United States Code* § 1512(b)(2)(A)(3)?
11. If the *Supreme Court* determines the aforesaid claims to be of any merit whatsoever, did the *U.S. Ninth Circuit Court of Appeals* subsequently generate a sequential chain of void rulings?

12. Were the aforesaid actions committed outside judicial capacity?
13. Were the aforesaid actions collaboratively implemented by way of communications done via internet (interstate) correspondence, done individually and collectively, and done at variance with activity prohibited by *Title 18 United States Code §§ 1961–1968*?
14. Do the patterns of activity alleged herein present a distinct threat of long-term problematic activity, expose an arguable pattern in all jurisdictions, menace future questionable similar conduct, or, pose a serious threat of repetition?
15. Is this conduct a regular way of conducting ongoing transactions in all Circuit Courts?

LIST OF PARTIES

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

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106 ½ Judge John Aiso Street, No. 417

Los Angeles, California 90012

- (1) The Appellants respectfully request that a writ of certiorari issue to review the judgment referenced herein.

OPINIONS BELOW

- (2) The opinion of the U.S. Ninth Circuit Court of Appeals appears in APPENDIX A to this petition and is unpublished.
- (3) The opinion of the United States District Court appears in APPENDIX B to this petition and is unpublished.

JURISDICTION

- (4) The date on which the United States Court of Appeals for the 9th Circuit decided this case was January 28, 2019.
- (5) A timely petition for rehearing was denied by the United States Court of Appeals for the 9th Circuit on January 18, 2019, and a copy of the order denying rehearing appears at APPENDIX C.
- (6) The jurisdiction of this Court is invoked under *28 U.S.C. § 1254(1)*.
- (7) This is not a capital case.

STATEMENT OF THE CASE

- (8) TO WHOM IT MAY CONCERN: Appellants, petitioning in *Pro Se*, request this and any subsequent pleadings and filings, if any, to be liberally construed.
- (9) EXTRINSIC FRAUD (withholding a Magistrate Judge's Recommendation from the Record) IS THE GRAVAMEN OF THIS PETITION.
- (10) All other issues, subtopics, and laws raised herein are ancillary, given with amicus intent to the benefit of this Court, and, as this Court may deem appropriate, if necessary, to present a basis for enforcement scrutiny, as this Court may deem appropriate. Appellants allege:
- (11) The Appellants lodged a *Petition for Writ of Certiorari* on April 17, 2019.
- (12) Thereafter, the Appellants received a much-appreciated letter dated April 22, 2019 from the Honorable Clerk of this Court, said letter listing adjustments needing to be made, giving a deadline of sixty days from the date of said letter (June 21, 2019) for an adjusted Petition to be lodged.
- (13) The Appellants timely lodged a second Petition.
- (14) Thereafter, the Appellants received a much-appreciated letter dated June 26, 2019 from the Honorable Clerk of this Court, said letter listing adjustments needing to be made, giving a deadline of sixty days

from the date of said letter (August 25, 2019) for an adjusted Petition to be lodged.

Appellants

- (15) The disabled, elderly Appellants are filing *Pro Se* and in *Forma Pauperis*, with intent to pay the filing fee as soon, later, as possible, pursuant, of course, to this Court's discretion. In addition to the maladies described herein, the Appellants are recovering from spinal injury.
- (16) Lorilee House is 66 years of age. Since the year 1999, she was medically classified as disabled by the U.S. Social Security Administration. After reaching age 66 (April 2019), her status was officially changed to full retirement. She suffers from scoliosis, multiple serious eyesight issues, bipolar disorder, and extreme pain. She has had a skin cancer tumor excised and is being monitored for melanoma relapse. She has seven screws embedded in one leg. She is recovering from spinal cord injury due to a motor vehicle accident (rear ended; whiplash).
- (17) Willie House is 66 years of age and is clinically classified as hearing disabled. *Inter alia*, he endures arthritis in his pedal extremities, hand atrophy with extreme pain and numbness, exacerbated neurological damage in the left arm, left hand, and C7 cervical spine region due to a

motor vehicle accident (rear ended; whiplash). Willie House is presently undergoing physical therapy.

- (18) Lorilee House and Willie House are hereafter collectively referred to as "*Appellants*."
- (19) *Appellants* are not attorneys.
- (20) *Appellants* declare under penalty of perjury under the laws of the United States that, to the best of knowledge, recollection, and belief, the allegations presented herein are true.

Treason Against the United States

- (21) Pursuant to *Title 18 United States Code § 4 – Misprision of Felony*, *Appellants* believe they (and anyone familiar with this lodging) are, and were, required to report the treason alleged herein to a Court or other authoritative entities.
- (22) The Honorable Steve Kim (hereinafter respectfully referred to as "*Magistrate*") did preside, and/or presently presides, in the U.S. District Court, Eastern or Central District of California.
- (23) In or about April 11, 2016, the *Magistrate* took his Oath of Office.
- (24) The Honorable Dale S. Fischer (hereinafter respectfully referred to as "*District Court*") did preside, and/or presently presides, in the U.S. District Court, Eastern or Central District of California.

- (25) Attached hereto as **APPENDIX D** is a copy of the Civil Docket for Case No. 5:17-cv-01085-DSF-SK (hereinafter referred to as “*Record*”).
- (26) The “*Record*” displays the existence of a RECOMMENDATION issued by the *Magistrate* (hereinafter referred to as “*Recommendation*”) filed on December 18, 2017.
- (27) There is no document containing the text of the *Recommendation* in the *Record*.
- (28) Based upon information and belief, *Appellants* declare that the statement in paragraph 27, supra is a ***FACT IN EVIDENCE*** in the underlying court proceedings.
- (29) Based upon information and belief, *Appellants* declare that the statement in paragraph 27, supra, is ***EXTRINSIC EVIDENCE*** which directly applies to the underlying court proceedings.
- (30) On June 5, 2018, Lorilee House sent an email to Ms. Connie Lee, Courtroom Deputy to the *Magistrate*, a most courteous Lady, requesting a copy of the *Recommendation*.
- (31) Ms. Lee responded, “. . . There is no PDF document attached to that docket entry, so there is nothing for me to provide to you. . .”

[APPENDIX E]

- (32) The absence of the *Recommendation* does not comply with the law mandated by *Rule 72 of the Federal Rules of Civil Procedure* (hereinafter referred to as “*Rule*”) which states:

“Rule: Magistrate Judges: Pretrial Order

(a) Nondispositive Matters. When a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, the magistrate judge must promptly conduct the required proceedings and, when appropriate, issue a written order stating the decision. A party may serve and file objections to the order within 14 days after being served with a copy. A party may not assign as error a defect in the order not timely objected to. The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.

(b) Dispositive Motions and Prisoner Petitions.

(1) Findings and Recommendations. A magistrate judge must promptly conduct the required proceedings when assigned, without the parties' consent, to hear a pretrial matter dispositive of a claim or defense or a prisoner petition challenging the conditions of confinement. A record must be made of all evidentiary proceedings and may, at the magistrate judge's discretion, be made of any other proceedings. The magistrate judge must enter a recommended disposition, including, if appropriate, proposed findings of fact. The clerk must promptly mail a copy to each party.

(2) Objections. Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. A party may respond to another party's objections within 14 days after being served with a copy. Unless the district judge orders otherwise, the objecting party must promptly arrange for transcribing the record, or whatever portions of it the parties agree to or the magistrate judge considers sufficient.”

(33) By not complying with the *Rule*, the *Magistrate* committed treason

(*Hanauer v. Doane*, 79 U.S. 342, 347, 20 L. Ed. 439, 1870 U.S. LEXIS 1197, 12 Wall. 342: “No crime is greater than treason.”).

(34) The *Magistrate* violated his Oath of Office by failing to discharge a law of the United States.

Fraud Upon the Court

“Fraud Upon the Court” is fraud which is directed to the judicial machinery itself. It is where the Judge has not performed his judicial function. (Courts have repeatedly ruled that judges have no immunity for their criminal acts.)” *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Circuit 1985)

- (35) The *Magistrate* committed a Fraud Upon the Court.
- (36) Regarding this non-compliance to follow the law at this juncture in the proceedings, December 18, 2017, rulings and findings, including those made retroactive to this date, should have been declared VOID by any Jurist procedurally capable of taking any action after December 18, 2017.
- (37) *Elliott v. Lessee of Peirsol*, 26 U.S. 328, 340, 7 L. Ed. 164, 1828 U.S. LEXIS 412, in pertinent part:

“But, if it [a Judge or Court] act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought . . . They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers.”
- (38) By failure to mandate compliance or other measures of adjustment, namely, to insert/include the *Recommendation* in the Record, the *District Court* violated its Oath of Office, and subjected itself to perspective scrutiny, also, regarding Fraud Upon the Court.

Misprision of Treason

- (39) The *District Court* had knowledge of the *Magistrate's* failure to include the *Recommendation* pursuant to the *Rule*.
- (40) The *District Court* knew the *Magistrate* violated his Oath of Office, that this violation was (and is) treasonous, and that the *District Court's* failure to take judicial notice regarding this matter promulgated violation of *18 United States Code § 2382, Misprision of Treason*:

“Misprision - In criminal law. A term used to signify every considerable misdemeanor which has not a certain name given to it by law. 3 Inst. 30. But more particularly and properly the term denotes either (1) a contempt against the sovereign, the government, or the courts of justice, including not only contempts of court, properly so called, but also all forms of seditious or disloyal conduct and leze-majesty; (2) **maladministration of high public office**, including peculation of the public funds; (3) **neglect or light account made of a crime**, that is, failure in the duty of a citizen to endeavor to prevent the commission of a crime, or, having knowledge of its commission, to reveal it to the proper authorities.”

(<https://thelawdictionary.org/misprision/>) [Emphasis Added]

“18 United States Code § 2382 – Misprision of Treason: Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and SHALL be fined under this title or imprisoned not more than seven years, or both.” [Emphasis Added]

See also, *U.S. v. Wiltberger*, 18 U.S. 76,97, 5 L.Ed. 37; U.S. LEXIS 245 (1820): “Treason is a breach of allegiance and can be committed by him only who owes allegiance either perpetual or temporary.”

Misprision of a Felony

- (41) The *District Court*’s actions run askance of *Title 18 United States Code § 4 - Misprision of a Felony*?

“*Title 18 United States Code § 4 - Misprision of a Felony*: Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.”

- (42) The actions of the *Magistrate* and *District Court* (et. al.) violate *Title 18 United States Code § 1512(b)(2)(A)(3)*, listed as follows, in pertinent part:

“Whoever . . . engages in misleading conduct toward another person, with intent to . . . withhold a record, document . . . from an official proceeding . . . shall be fined under this title or imprisoned not more than 20 years, or both.” [Emphasis Added]

The U.S. Ninth Circuit Court of Appeals

Sequence of Void Rulings

- (43) Ninth Circuit Jurists in this matter are the Honorable Edward Leavy, the Honorable Michael Daly Hawkins, and the Honorable Richard C.

Tallman (hereinafter collectively and respectfully referred to as “Court”).

(44) The *Magistrate*, the *District Court*, and the *Court* are hereinafter collectively referred to as “*Participants*.”

(45) The Appeal to the *Court* regarding the underlying action was denied.

The *Court* stated, in a document dated September 19, 2018, that it conducted a “. . . review of the record . . .” in this case. (See APPENDIX F, Second Paragraph) [Emphasis Added]

(46) The *Court’s* actions do not comply with the laws referenced herein, and possibly other laws and constitutional violations.

(47) As such, the *Court*, by rendering ANY ruling in this matter, ratified and promoted a succession of VOID rulings. (*U.S. v. Throckmorton*, 98 U.S. 61, 64, 25 L.Ed. 93, 1878 U.S. LEXIS 1362: “There is no question of the general doctrine that FRAUD vitiates the most solemn contracts, documents, and even judgments.” [Emphasis Added])

REASONS FOR GRANTING THE PETITION

Evidence of Extrinsic Fraud

(48) Again, **Extrinsic Fraud is the Gravamen of this Petition.**

(49) The Extrinsic Fraud (Extrinsic Evidence) is a Fact in Evidence.

- (50) The Extrinsic Fraud is directly applied to the underlying court proceedings, in general (Fraud Upon the Court).
- (51) This Fact in Evidence is overwhelming.
- (52) The *Participants* worked in concert and collusion.
- (53) The fraud was done intentionally and deceitfully.
- (54) The carefully planned omission of the *Recommendation* was perpetrated in bad faith, and not as gross negligence.
- (55) Any and all other lower court rulings related to this appeal are but an attempt to raise a cloud of litigation and rulings, a means of diverting attention from the said Extrinsic Fraud.

Evidence of Conspiracy

- (56) The *Participants*' actions triggered additional federal law and constitutional infringements including, but not limited to

"Title 18 United States Code § 3: Accessory After the Fact:

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact." [Emphasis Added]

Title 18 United States Code § 1505, in pertinent part:

"Whoever corruptly ... influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States ... **shall** be fined not more than \$5,000 or imprisoned not more than five years, or both."
[Emphasis Added]

Evidence of RICO Violations

- (57) The *Participants* preside in different States within the U.S. Ninth Circuit Court.
- (58) The members of the *Court*, respectively, preside in Seattle Washington, Portland Oregon, and San Francisco California. The *Magistrate* and *District Court* preside in Los Angeles, California.
- (59) Calculating forward from the dates the *Participants* were admitted to their respective State Bars, *Appellants* most respectfully purport the *Participants* to command a cumulative and collective total of approximately two centuries of experience in the field of law.
- (60) It is respectfully alleged that, by creating, ignoring, and promulgating VOID rulings, the *Participants* agreed, implicitly, among and between themselves, to facilitate the aforesaid breaches of Federal Law and constitutional violations.
- (61) Further, the actions and dearth of corrective actions were done collaboratively and implemented by way of communications conducted via phone, mail, messenger, internet, informal vis-à-vis discussion(s), or other interstate correspondence methods, committed jointly and severally, done in concert and collusion, and done at variance with activity prohibited by, *inter alia*, Title 18 United States Code §§ 1961–1968.

- (62) In *O'Shea v. Littleton*, 404 U.S. 488, 503, 94 S.Ct. 669, 38 L.Ed.2d 674, 1974 U.S. LEXIS 41, this Honorable Court ruled, in pertinent part:

“Whatever may be the case with respect to . . . willful corruption, we have never held that the performance of the duties of judicial . . . officers, requires or contemplates the immunization of . . . criminal deprivations of constitutional rights On the contrary, **the judicially fashioned doctrine of official immunity does not reach ‘so far as to immunize criminal conduct proscribed by an Act of Congress . . . ’**” (Citations Omitted) [Emphasis Added]

- (63) In *United States v. Lee*, 106 U.S. 196, 1 S. Ct. 240, 261, 27 L. Ed. 171, 1882 U.S. LEXIS 1534, 16 Otto 196, this Honorable Court ruled:

“No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it.” [Emphasis Added]

Disruption of Informal Precedent: Menace of Repetitive Transgressive Activity in other Federal and State Jurisdictions

- (64) *Appellants* humbly, respectfully, and with care, recommend that the patterns of activity alleged herein are done customarily, have presented, and do present, a distinct threat of long-term questionable activity, menace future transgressive conduct, and pose a serious threat of repetition, including the practice of similar activities in State and Local Courts.
- (65) This conduct is a regular way, in part, of conducting transactions in the Ninth Circuit and other Circuits.

(66) For the disabled *Appellants*,¹ again, Extrinsic Fraud is the gravamen of this petition.

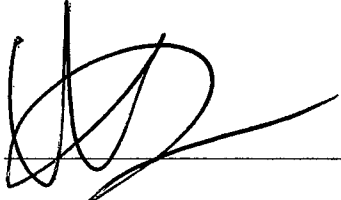
(67) *Appellants' Safety*: Concerning all *Participants* (including in their individual capacities) named in this and the underlying action, their personal and/or institutional affiliates, in any jurisdiction, and in their individual capacities, the *Appellants* are concerned, and shall be perpetually concerned, for their personal security and safety.²

CONCLUSION

(68) **WHEREFORE**, this petition should be granted.

Most Humbly and Respectfully Presented this twenty-first day of August 2019.

Lorilee House Willie House

Willie House 

¹ Respectfully stating the obvious, ANYONE can become disabled, especially physically disabled, in as little time as a fraction of a second. (**APPENDIX G**). The variety of ways these tragedies have occurred, do occur, and will occur, are mindboggling – and infinite. Many, too many, mock and trammel the disabled, especially the disabled elderly. We frequently contend with occasionally horrific maltreatment (crimes), verbal displays of impatience and mockery. these incidents can be vicious – and frightening. Please consider remembering all of us, even if this Court's prospective disposition of this matter might be denial and only a (welcomed) cursory gesture of cheerful condolence.

² On Saturday, July 17, 2019, efficient Law Enforcement Officers of the *Beverly Hills Police Department* generated a felony Arson/Fire Incident Case Report, Case Number 2019-00035742, committed against Appellant Lorilee L. House's automobile which was parked on a public street.