

IN THE UNITED STATES SUPREME COURT

<p><i>Velasquez</i></p> <p><i>v.</i></p> <p><i>State of Utah,</i></p> <p><i>Utah Dept. of Human Services,</i></p> <p><i>Utah Division of Aging and Adult</i></p> <p><i>Services/APS,</i></p> <p><i>Utah Office of Legislative Research and</i></p> <p><i>General Counsel</i></p>	<p>Supreme Court Case: Unassigned</p> <p>Court of Appeals Case: 19-4041</p> <p>District Court Case: 2:18-cv-00728-DN</p> <p>(D. Utah)</p>
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MOTION

TO EXTEND TIME TO FILE PETITION FOR WRIT OF CERTIORARI

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JURISDICTION AND GROUNDS

The motion is addressed respectfully to Justice Sotomayor as directly presiding over the Tenth Circuit of United States courts, an application to an individual justice by Sup. Ct. Rs. 21 (1) and 22; the case is presently the subject of a Judicial Misconduct complaint in the United States Court of Appeals for the Tenth Circuit; it is requested a general extension of time to file a petition for *Writ of Certiorari* pending resolution of five judicial misconduct complaints.

Extension is sought *in re Carlos Velasquez*, Appellant. Jurisdiction is available by 28 U.S. § 2101(c) and Sup. Ct. R. 13.1, a petition for rehearing was denied on 6/13/19.¹ Petitioner notes no specific rule governing the length of this motion, the document does not exceed 2,500 words, is not construed as a standard brief of any kind.

State of Utah has been obstructed after an intake clerk refused to read a motion for summons, and a magistrate in chambers refused to timely evaluate the same motion thereafter. Court of Appeals did not summon the State of Utah at the

¹ Appendix, Page 026.

presentation of the constitutional question. All original papers were comprehensively served.

The general complaint is that judges in the lower courts failed to read the petitioner generally, fabricated causes for termination, are in contempt against his First Amendment right to petition redress, and may have committed conspiracy, where the initial failure at action was to the Magistrate who failed to comply with Fed. R. Civ. P. 72 quite generally, and at a motion to vacate, the District Court fabricated a *Rooker-Feldman* bar to original case precedence and had plainly misread that Opening Brief (a petition for *Writ of Certiorari* to United District Court by the Administrative Procedures Act and the Civil Rights Act), misrepresented *stare decisis* regarding said procedural bar, and failed to state authentic problems a judge might have encountered with the petition to the extent that it was a new grievance against the petitioner's right to represent the matter; that these actions were made to *cover up* the failure to act by the magistrate and all related parties.

Complaint against Court of Appeals, at contempt and conspiracy, holds that court of appeals failed to evaluate Fraud on the Court, and produced the same statement in the same dispositive order, without affirming whether Civil Rights Act may define a preliminary and permanent injunction and sustain the original jurisdiction of United States District Court.

Motion demonstrates authenticity of the complaint,² and also demonstrates issues pending appeal, but does not penetrate to merits of the case and provides District Court opinions to the extent the matter is joined to the appeal.

Because the Court of Appeals has not yet correctly evaluated a *mandamus* brief,³ as by Fed. R. App. P. 21, that the matter was proceeded by Fed. R. App. P. 4 on the late motion (which was complained at by the First amendment, the treatment thereby lacked substance), failed to arraign the State of Utah to the matter, held the statute implicit thereby, and overall continued to damage the case process while it was pre-trial, that the Chief Judge may find either a motion to recall a mandate, or the *mandamus* brief in general, as precedented already in the Court of Appeals, that no superior brief should be produced in this instant question, remand to United States District Court for continuance of pre-trial process, than *In re Carlos Velasquez* be properly reviewed by and before the court for remand and notice at issue of the *Writ of Certiorari* to the District Court, or properly held pre-trial responses by the State of Utah, either end in view by Fed. R. Civ. P. 52(c), partial judgment on Fed. R. App. P. 21.

Essentially, because the Court of Appeals did not properly review the case as presented, that the panel selected merely misplaced a restatement of *Rooker-Feldman* doctrine without deposing the petitioner or summoning the respondents

² *Id.*, Page 044.

³ *Id.*, COA Docket No. 10647555 (filed 5/9/19), Page 004.

served, that the very material could be evaluated as on an instance of recollection of mandate against injusticiability, Fraud on the Court, the matter on the Judicial Misconduct complaint, as already filed and served and merely unlawfully suppressed.

STATEMENT OF THE CASE

At present, five Judicial Misconduct Complaints are pendant against Judges in United States District Court and United States Court of Appeals for the Tenth Circuit.

The case challenges Utah Statutes under Utah DAAS/APS, that an administrative censure is proceeded *under color* of protective order, that it rather requires a more complex civil treatment as to recommend it were due by a *strict scrutiny* process.

Case further challenges, there is precedent in the State of Utah to have considered the *strict scrutiny* question by several qualified standards therein, primarily discussing the measure of the precedent surrounding sex offender registration laws, and the Utah District case, *Devlin v. Smalley* (4.F.Supp.2d 1315 (1998)(D. Utah), which proceeded the question of amend of Utah Sex Offender Registration laws.

Case also demonstrates the Amended Older Americans Act indeed prohibits coerced civil participation in agency programs; there are particular and general *Supremacy* conflicts.

Case further finds grounds to present that a conspiracy in Utah Legislature may be observable as by *preterition*, that the authors of the bill which defined the censure, an Attorney of General Counsel in the State of Utah and the original legislative sponsor cannot be without knowledge of the complexity of the expression of law, that the sponsor withheld such knowledge on presentation of the bill in 2008 (Utah Senate Bill 63, 2008), and that the Utah Legislature was negligent/complicit to it.

Case demonstrates grounds to issue a *Writ of Prohibition* at partial judgment to preliminary injunction; to overturn a claim made against the petitioner; to issue a punitive/exemplary fine against the State of Utah; the latter being the general subject of trial. A tort of defamation is cited, and also a restatement of conventional abuse is formulated: *abuse is any made or deliberate casualty of bias*.

Also founded are several supplementary questions involving the authenticity of the measure of sedition from conspiracy in terms of political *apophasis*, that article VI indeed broadly protects the uniformity of the Public Standing interest and any other determination is broad defamation of the citizen to define a terminology of *iconoclastic* and *tautological defamation*.

Such interests are held also as supplementary questions, biased of rational providence, United States Constitution is controversied at privation of the government interest, as by definition, and/or by defamation.

That such elements are *demonstrated* in the case provides the broad supplementary interest; the case itself proves independently that conspiracy against rights is both defamatory to the citizen as to alter his original standing, provides consequently that a conspiracy to disposition government agency from efficient public standing as a political ethics (late or pragmatic anti-Federalism) is seditious, and there is lacking proper Article VI review of the present convention.

The matter here is isolated and defined to be a methodological identity; expressed as *Civil and Bureaucratic Federalism*, that article VI is orderly to protect the equity and authenticity of matters of government issue, as provided its original jurisdiction and proper representation, and equity, etc.⁴

The case on appeal demonstrates that a *Rooker-Feldman* procedural bar does not prohibit claims withstanding by the Civil Rights Act, as jurisdiction extended by 28 U.S. § 1343. That is, an unconstitutional statute demonstrated any measure of deliberation to its enactment does not sustain *Rooker-Feldman* procedural bar, and should have sustained such interest only when the State Appellate Courts had in fact ruled on the constitutional question. A thorough reading of Judicial opinions will find

⁴ See Notes at end of document.

demonstrated that the *Rooker-Feldman* position lacks substantive interest to the standing of the Utah DAAS/APS censure, that it merely obstructs the petitioner than properly advises any original jurisdiction.

Extension of time is due presently to afford that the Chief Judge has been presented several recommendations by which to treat not merely the problem of the violation of the First Amendment right to petition redress before the Judicial Agency, properly restated as a First and Fourteenth Amendment entanglement which did not support the Judicial Canon, and which was identifiable on Rules for assessing Judicial Misconduct, but also with which to correct the judgments which are void for sustained Fraud on the Court.

FACTS OF THE CASE

Case Filed in District Court: 9/18/18.⁵

Final Case termination: 3/12/19.⁶

Final Appeal Termination: 6/13/19.⁷

Appeal term end date: 9/10/19 (90 days).

⁵ Appendix, Page 010.

⁶ *Id.*, Page 012.

⁷ *Id.*, Page 005.

Motion for summons at hearing filed: 10/24/18.⁸ (No response was received to that motion and was thereby violated Fed. R. Civ. P. 72 on the petitioner's First Amendment claims.

Motion to Vacate filed: 1/28/19.⁹

Numerous correspondences were attempted before the Motion to Vacate.¹⁰

The court underwent a reorganization whereby the Chief Judge presiding was deprecated from the chair and moved from the Central Division to the Southern Division, while the Chief Magistrate Judge assigned retained his position. Petitioner permitted some protraction of time in view of the court's reorganization, controversial confirmation hearing in Washington D.C., that the court's attention could be plausibly diverted, and/or the Magistrate was permitted as much as six weeks to evaluate the petition.

A Motion to Reconsider was filed: 3/8/19.¹¹

The Motion was the central subject of appellate review by Fed. R. App. P. 4(4), the motion on termination; however the judicial opinion does not demonstrate deposition of the motion's substance before there are made broad and ungrounded

⁸ *Id.*, DC Docket No. 11, Page 011.

⁹ *Id.*, DC Docket No. 22, Page 012.

¹⁰ *Id.*, DC Docket Nos. 8, 9, 12, 16, 17, 19.

¹¹ *Id.*, DC Docket No. 29, Page 012.

claims at the lack of merit to the petitioner's process. The petitioner has complained it is merely abuse which does not meet rational basis, was an unqualified attack.

The District Court Judge originally declined to read the motion, that it was overlength¹² but made merits biased statements about the case anyway, and may have been antagonizing the petitioner. The District Court judge's opinion demonstrated herein only after the Motion for Reconsideration,¹³ specifically item 3,¹⁴ does not depose any particular argument than makes groundless statements which cannot be interpreted for any practical purpose than representation of violation of the First Amendment.

A motion to conclude abatement was filed: 4/8/19.¹⁵

An IFP Motion was filed: 4/18/19.¹⁶

The Office of the Circuit Executive cannot guarantee a date by which the Judicial Complaint will be resolved. This was advised by telephone.

¹² *Id.*, DC Docket No. 31, Page 016.

¹³ *Id.*, Page 010.

¹⁴ *Id.*, DC Docket No. 31, Page 017.

¹⁵ *Id.*, COA Docket No. 10639695, Page 004.

¹⁶ *Id.*, COA Docket No. 10642330.

Complaint was filed after the clerk declined or refused to file any Second motion for Rehearing, Motion to Recall the Mandate,¹⁷ or stay the court's mandate. A complaint against the clerk is yet evaluated by the petitioner.

The State of Utah is mailed notice of Judicial Misconduct complaints,¹⁸ as well served all original process at significant expense to the independent petitioner.

ARGUMENT

Generally, an Opening Brief is yet as lodged in Court of Appeals where it was avoided for unstated reasoning, that the Court of Appeals has not evaluated alleged Fraud on the Court, not deposed it, but echoed the groundless claims from the District Court without having recognized any particular argument as thereon refuted.

Statements affirmative to a procedural bar by *Rooker-Feldman* doctrine are evaluated presently for Fraud on the Court, contempt, and conspiracy.

Utah Appellate Courts are controlled at summary of decline, by Ut. R. App. P. 51, that regarding judgments *not on the merits*; this was not the direct complaint on review, and the Judge appears to have misplaced this interest. A judge should properly have cited, at *sua sponte* interest, the withstanding opinion of Utah

¹⁷ *Id.*, Pages 028-038.

¹⁸ *Id.*, Page 040.

Appellate Courts which could only be proceeded in United States Supreme Court by 28 U.S. § 1257, that neither *Columbia Court of Appeals v. Feldman* (460 U.S. 462 (1983)) nor *Rooker v. Fidelity Trust Co.* (263 U.S. 413 (1923)) actively prohibit a case wherein the refutation of a statute from withstanding expression is the central subject, than the standing of less general and more particular claims are prohibited from lateral, as transgressive, appeal.

Because the matter of the appeal finding a failure to depose the petitioner properly comparing the fraud on the court claim is originally withstanding as to define a First Amendment violation before the Judicial Agency of United States government;

and because the result of the investigation may significantly aid the consideration of the appeal;

and because the Court of Appeals may find remedy and pre-empt the necessity for the appeal, that merits were not in view than a prejudicial disposition was manifested unduly, that the question is pendant, that it is not in any way a merits case before it may be reconsidered at the withstandingness of the Judicial Misconduct complaint;

The petitioner finds orderly the question to the Justice presiding, the time for petitioning extended by 60 days from the date of its original termination, to extend

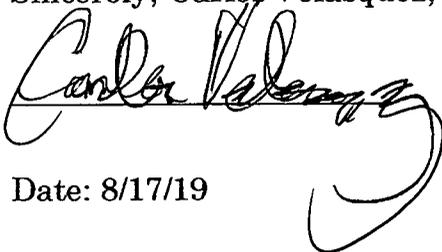
time to file any petition for *Writ of Certiorari* to United States Supreme Court to 11/9/19.

NOTES

A methodological identity is suppressed: Civil and Bureaucratic Federalism (CBF) is expressed by the petitioner as a methodology expressing conditions of *Supremacy* at authenticity withstanding between *material priorities* and *statutory priorities*, the discussion of any legal issue at the purview of the petitioner, were indeed as genuine interest, status and equity, the expressed Public Standing of the genuine issue, the matter as wholly by and for the people; the *supreme argument* is, by Article VI, material authentication of *Supreme law* against *confederation* notwithstanding. United States pre-empts any Federationism to represent the people before the state.

SIGNATURE

Sincerely, Carlos Velasquez, *Pro Se* and Civil Bureaucrat

A handwritten signature in black ink, appearing to read 'Carlos Velasquez', with a large, stylized flourish extending from the end of the name.

Date: 8/17/19

PARTIES SERVED

Per Sup. Ct. R. 30.4(c), and 28 U.S. § 2403(b), a signed copy of the motion is served to all original parties:

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Utah Office of Administrative
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The State of Utah Legislature
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COURTS

United States Court of Appeals for the Tenth Circuit

ATTN Case 19-4041 (2:18-cv-00728-DN, D. UT)

1823 Stout St.

Denver CO

80257

United States Courts for the Tenth Circuit

Office of the Circuit Executive

Deputy Circuit Executive, Leslee Fathallah

ATTN Judicial Complaint Nos. 10-19-90025 through 10-19-90029, *In re Carlos Velasquez v. Circuit Judges Paul J. Kelly, Jr., Carolyn B. McHugh and Nancy L. Moritz, District Judge David Nuffer and Magistrate Judge Paul M. Warner*

1823 Stout St.

Denver CO 80257

84101

United States District Court for the District of Utah, Central Division

Hon. David Nuffer

ATTN Case 2:18-cv-00728-DN

351 S. West Temple

Room 10.220

Salt Lake City, UT 84101

APPENDIX

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**General Docket
Tenth Circuit Court of Appeals**

Court of Appeals Docket #: 19-4041 Nature of Suit: 3899 Other Statutes - APA Review/Appeal Velasquez v. State of Utah, et al Appeal From: United States District Court for the District of Utah - Salt Lake City Fee Status: fee due	Docketed: 03/22/2019 Termed: 06/11/2019
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Case Type Information:

- 1) civil
- 2) private
- 3) -

Originating Court Information:

District: 1088-2 : 2:18-CV-00728-DN
Trial Judge: David O. Nuffer, -, U.S. District Judge
Date Filed: 09/13/2018
Date NOA Filed: 03/20/2019

Date Rec'd COA:
03/21/2019

Prior Cases:

None

Current Cases:

None

Panel Assignment: Not available

CARLOS VELASQUEZ
Plaintiff - Appellant

Carlos Velasquez
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1848 Ramona Avenue
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v.

STATE OF UTAH
Defendant - Appellee

UTAH DEPARTMENT OF HUMAN SERVICES AND AGENCIES
Defendant - Appellee

UTAH OFFICE OF ADMINISTRATIVE HEARINGS
Defendant - Appellee

DIVISION OF AGING AND ADULT SERVICES, ADULT
PROTECTIVE SERVICES
Defendant - Appellee

CARLOS VELASQUEZ,

Plaintiff - Appellant,

v.

STATE OF UTAH; UTAH DEPARTMENT OF HUMAN SERVICES AND AGENCIES; UTAH OFFICE OF ADMINISTRATIVE HEARINGS;
DIVISION OF AGING AND ADULT SERVICES, ADULT PROTECTIVE SERVICES,

Defendants - Appellees.

- 03/22/2019   [10635098] Civil case docketed. Preliminary record filed. DATE RECEIVED: 03/21/2019. Ruling on IFP motion in district court due 04/22/2019. Notice of appearance due on 04/22/2019 for Carlos Velasquez. [19-4041] [Entered: 03/22/2019 08:38 AM]
20 pg, 535.52 KB
- 03/22/2019   [10635265] Order filed by Clerk of the Court abating case and suspending briefing on the merits pending the district court's disposition of the motion docketed as ECF No. 32. Status report due 04/22/2019 by Carlos Velasquez. If the district court rules before that time, Mr. Velasquez shall promptly notify this court. The district court shall supplement the preliminary record once the district court rules. Please see attached order for additional information. Served on 03/22/2019. [19-4041] [Entered: 03/22/2019 02:28 PM]
3 pg, 224 KB
- 03/29/2019   [10636997] District court order denying leave to proceed in forma pauperis filed. [19-4041] [Entered: 03/29/2019 09:41 AM]
1 pg, 37.09 KB
- 04/03/2019   [10638369] Amended notice of appeal filed by Mr. Carlos Velasquez. Served on 03/29/2019. Manner of Service: US mail. [19-4041] [Entered: 04/03/2019 01:53 PM]
29 pg, 642.93 KB
- 04/03/2019   [10638426] Entry of appearance filed by Mr. Carlos Velasquez. CERT. OF INTERESTED PARTIES: y. Served on 03/29/2019. Manner of Service: US mail. [19-4041] [Entered: 04/03/2019 04:03 PM]
7 pg, 119.2 KB
- 04/03/2019   [10638431] Status report filed by Mr. Carlos Velasquez. Served on 04/01/2019. Manner of Service: US mail. [19-4041] [Entered: 04/03/2019 04:07 PM]
2 pg, 36.39 KB
- 04/03/2019   [10638435] Order filed by Clerk of the Court continuing the abatement of this appeal. The district court clerk shall supplement the preliminary record once the court has ruled on [ECF No. 32]. Served on 04/03/2019. [19-4041] [Entered: 04/03/2019 04:15 PM]
2 pg, 120.42 KB
- 04/05/2019   [10639183] Objections to a ruling that an appeal was made in bad faith received from Carlos Velasquez but not filed. Served on 04/03/2019. Manner of Service: US mail. [19-4041]--[Edited 04/08/2019 by JM: The court sent a response and an IFP application non PLRA to appellant on 4/8/19.] [Entered: 04/05/2019 02:10 PM]
14 pg, 545.08 KB
- 04/08/2019   [10639540] Supplemental preliminary record filed. Contents: Pleadings including Doc. 40 - 04/08/2019 Memorandum Decision and Order Overruling Objection (Doc. 32). [19-4041] [Entered: 04/08/2019 12:57 PM]
108 pg, 3.09 MB
- 04/08/2019   [10639672] Appellant's motion filed by Mr. Carlos Velasquez for permission to file electronically. Manner of Service: US mail. [19-4041] [Entered: 04/08/2019 04:17 PM]
5 pg, 124.33 KB
- 04/08/2019   [10639695] Appellant's motion filed by Mr. Carlos Velasquez to conclude abatement of appeal. Served on 04/04/2019. Manner of Service: US mail. [19-4041] [Entered: 04/08/2019 04:47 PM]
21 pg, 578.5 KB
- 04/09/2019   [10639740] Order filed by Clerk of the Court lifting the abatement of this appeal. Appellant's brief and the fee or IFP forms are due by 05/20/2019 for Carlos Velasquez. Served on 04/09/2019. [19-4041] [Entered: 04/09/2019 08:23 AM]
2 pg, 133.69 KB
- 04/09/2019   [10639741] Jurisdictional review complete. Record on appeal due for 10th circuit 04/30/2019. [19-4041] [Entered: 04/09/2019 08:24 AM]
1 pg, 106.22 KB
- 04/09/2019   [10639771] Record on appeal filed. No. of Volumes: 2 - Pleadings. Volume II includes a SEALED attachment. [19-4041] [Entered: 04/09/2019 09:01 AM]
833 pg, 22.47 MB
- 04/09/2019   [10639958] Order filed by Clerk of the Court denying as unnecessary Appellant's motion to conclude abatement of appeal filed by Mr. Carlos Velasquez. Served on 04/09/2019. [19-4041] [Entered: 04/09/2019 02:29 PM]
1 pg, 117.33 KB
- 04/09/2019   [10639960] Order filed by Clerk of the Court granting Appellant's motion for permission to file electronically. Served on 04/09/2019. [19-4041] [Entered: 04/09/2019 02:33 PM]
3 pg, 126.57 KB
- 04/15/2019   [10641271] Notice of deficient motion received from Appellant Carlos Velasquez but not filed (motion was not on court approved form). IFP motion/ fee remains due on 05/20/19. Served on 04/10/2019. Manner of Service: US mail. [19-4041] [Entered: 04/15/2019 01:10 PM]
14 pg, 535.91 KB
- 04/18/2019   [10642330] Appellant's motion filed by Mr. Carlos Velasquez for leave to proceed in forma pauperis. (The court's form starts on Page 15.) [19-4041] [Entered: 04/18/2019 12:00 PM]
25 pg, 338.73 KB
- 04/19/2019   [10642811] Motion filed by Appellant Mr. Carlos Velasquez to defer filing the appendix until 04/19/2019. Served on: 04/19/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 04/19/2019 09:17 PM]
6 pg, 185.21 KB
- 04/22/2019   [10642926] Order filed by Clerk of the Court denying as unnecessary Appellant's motion to defer filing of the appendix filed by Mr. Carlos Velasquez. Served on 04/22/2019. [19-4041] [Entered: 04/22/2019 10:59 AM]
1 pg, 112.14 KB
- 05/09/2019   [10647555] Appellant/Petitioner's brief filed by Mr. Carlos Velasquez. 4 (Pro se) paper copies to be provided to the court. Served on 05/09/2019 by. Oral argument requested? No. This pleading complies
75 pg, 426.99 KB

with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 05/09/2019 01:02 PM]

- 05/09/2019   [10647562] Certificate of service filed by Mr. Carlos Velasquez. Document served: The Appellant's Opening brief, In Re, Carlos Velasquez; served in person and 25 copies mailed to 10th. Cir. Court.. Served on 05/09/2019. Manner of Service: hand delivery, US mail. [19-4041] CV [Entered: 05/09/2019 01:12 PM]
8 pg, 1.43 MB
- 05/21/2019   [10650217] Motion filed by Appellant Mr. Carlos Velasquez to expedite case. Served on: 05/21/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 05/21/2019 11:03 AM]
27 pg, 1.15 MB
- 05/21/2019   [10650344] Order filed by Clerk of the Court referring appellant's Motion to Expedite Case to the panel of judges that will later be assigned to consider this case on the merits (no ruling will issue at this time). [10650217-2] Served on 05/21/2019. [19-4041] [Entered: 05/21/2019 02:48 PM]
1 pg, 95.88 KB
- 05/24/2019   [10651231] Supplement filed by Mr. Carlos Velasquez to [10650217] Motion filed by Appellant Mr. Carlos Velasquez to expedite case.. Served on 05/24/2019. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 05/24/2019 11:41 AM]
34 pg, 365.95 KB
- 05/24/2019  [10651293] Order filed by Clerk of the Court referring appellant's supplement to motion to expedite case [10651231-2] to the panel of judges that will later be assigned to consider this case on the merits (no ruling will issue at this time). Served on 05/24/2019. Text only entry - no attachment. [19-4041] [Entered: 05/24/2019 01:43 PM]
- 05/28/2019   [10651428] Motion filed by Appellant Mr. Carlos Velasquez. Plaintiff's Motion to Amend a Proposed Order. Served on 05/24/2019. Manner of Service: email. This pleading complies with all required (privacy, paper copy. Served on: 05/28/2019. [19-4041]--[Edited 05/28/2019 by JM to edit docket text.] CV [Entered: 05/28/2019 06:58 AM]
14 pg, 369.42 KB
- 05/28/2019   [10651575] Order filed by Clerk of the Court referring Plaintiff's Motion to Amend a Proposed Order to the panel of judges that will later be assigned to consider this case on the merits (no ruling will issue at this time). [10651428-2] Served on 05/28/2019. [19-4041] [Entered: 05/28/2019 12:32 PM]
1 pg, 95.39 KB
- 05/29/2019   [10651835] Supplement filed by Mr. Carlos Velasquez to [10650217] Motion filed by Appellant Mr. Carlos Velasquez to expedite case. Served on: 05/21/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV. Served on 05/29/2019. Manner of Service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 05/29/2019 09:19 AM]
5 pg, 192.01 KB
- 05/29/2019   [10651884] Order filed by Clerk of the Court referring Appellant's Request to Submit for Decision [10651835-2] to the panel of judges that will later be assigned to consider this case on the merits (no ruling will issue at this time). Served on 05/29/2019. [19-4041] [Entered: 05/29/2019 10:37 AM]
1 pg, 117.83 KB
- 05/30/2019   [10652185] Motion filed by Appellant Mr. Carlos Velasquez to expedite case. Served on: 05/30/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 05/30/2019 08:25 AM]
36 pg, 1.31 MB
- 06/11/2019  [10654815] Order filed by Judges McHugh, Kelly and Moritz denying appellant's motion for leave to proceed in forma pauperis; denying all pending motions. Served on 06/11/2019. Text only entry - no attachment. [19-4041] [Entered: 06/11/2019 07:42 AM]
- 06/11/2019   [10654847] Affirmed; Terminated on the merits after submissions without oral hearing; Written, signed, unpublished; Judges McHugh, Kelly (authoring) and Moritz. Mandate to issue. [19-4041] [Entered: 06/11/2019 08:19 AM]
6 pg, 217.58 KB
- 06/12/2019   [10655300] Letter from Office of Legislative Research and General Counsel received but not filed. Original. [19-4041] [Entered: 06/12/2019 11:28 AM]
1 pg, 22.2 KB
- 06/13/2019   [10655506] Petition for rehearing filed by Appellant Mr. Carlos Velasquez. Served on: 06/13/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. --[Edited 06/13/2019 by MLB to correct event code and docket text][19-4041] CV [Entered: 06/13/2019 07:37 AM]
8 pg, 155.61 KB
- 06/13/2019   [10655739] Order filed by Judges McHugh, Kelly and Moritz denying appellant's petition for rehearing filed by Mr. Carlos Velasquez. [19-4041] [Entered: 06/13/2019 03:46 PM]
1 pg, 94.33 KB
- 06/14/2019   [10655843] Second Motion for Reconsideration received only not filed by Appellant Mr. Carlos Velasquez. Served on: 06/14/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041]--[Edited 06/14/2019 by JM to change event and edit the docket text.]--[Edited 06/14/2019 by JM: The court has sent a response to Mr. Velazquez on 6/14/19.] CV [Entered: 06/14/2019 08:53 AM]
35 pg, 1.07 MB
- 06/14/2019   [10656031] "Plaintiff's Motion Objection to Denial, Request to Suspend Rule 40.3 in this Instance to Find a Second Petition for Rehearing is Merited" received, but not filed. Served on: 06/14/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes.
19 pg, 523.27 KB

[19-4041]--[Edited 06/17/2019 by KLP to change the event code and docket text and attach a response letter.] CV [Entered: 06/14/2019 03:59 PM]

- 06/17/2019  
73 pg, 1.68 MB [10656388] Motion received from Appellant Mr. Carlos Velasquez Objection and Renewed Motion to Suspend Rule 40.3 by Rule 2.1, Because the Panel Must Reconsider [10656031]. Served on: 06/17/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041]--[Edited docket text 06/18/2019 by SLS.] CV [Entered: 06/17/2019 04:34 PM]
- 06/20/2019  
101 pg, 1.82 MB [10657011] Motion filed by Appellant Mr. Carlos Velasquez to stay execution of the mandate, to waive Rule 40.3 and grant the Court a Second Opportunity for Rehearing. The Chief Judge is invoked 28 U.S.C. 352 on a disciplinary interest, to pre-empt frivolous and adversarial appeal. Document must be distributed per 28 U.S.C. 351(c)., for rehearing. Served on: 06/20/2019. Manner of service: email, hand delivery. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 06/20/2019 09:10 AM]
- 06/20/2019  
7 pg, 2.76 MB [10657237] Certificate of service filed by Mr. Carlos Velasquez. Document served: [10657011] Motion filed by Appellant Mr. Carlos Velasquez to stay execution of the mandate (Filed 6/20/19). State of Utah Respondents are served. The District Court Judge is delivered a single copy.. Served on 06/20/2019. Manner of Service: email, hand delivery. [19-4041] CV [Entered: 06/20/2019 02:37 PM]
- 06/21/2019  
1 pg, 121.17 KB [10657411] Order filed by Judges McHugh, Kelly and Moritz denying Appellant's Motion for Stay of Mandate with Interest the Panel Must Recuse. The mandate will not be stayed and this panel will not recuse itself from this matter. Served on 06/21/2019. [19-4041] [Entered: 06/21/2019 09:32 AM]
- 06/21/2019  
12 pg, 392.16 KB [10657466] Plaintiff's Complaint and Motion for Expeditious Review received from Appellant Mr. Carlos Velasquez. Served on: 06/21/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041]--[Edited docket text 06/24/2019 by SLS to reflect title of pleading and to attach Response.] CV [Entered: 06/21/2019 11:40 AM]
- 06/22/2019  
52 pg, 1.22 MB [10657584] Motion received but not filed by Appellant Mr. Carlos Velasquez to reconsider Panel has denied rehearing due by Rule 21, than 4; denied Suspension Rule 40.3; and denied Recusal, Stay of Mandate; Plaintiff's original claims are not resolved, judiciary prejudiced only to terminate case; Case Requires comprehensive reconsideration... Served on: 06/22/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041]--[Edited 06/24/2019 by DD to note document as received and attach Clerk's response letter] CV [Entered: 06/22/2019 04:34 PM]
- 06/24/2019  
53 pg, 1.1 MB [10657913] Motion filed by Appellant Mr. Carlos Velasquez to reconsider Motion for Reconsideration is to Recall Mandate to prevent injustice. Reconsideration may be due on all relevant motions, or upon the Appellant's Opening Brief., to recall the mandate. Served on: 06/24/2019. Manner of service: email. This pleading complies with all required (privacy, paper copy and virus) certifications: Yes. [19-4041] CV [Entered: 06/24/2019 05:15 PM]
- 06/25/2019  
2 pg, 104.44 KB [10658137] Order filed by Judges McHugh, Kelly and Moritz - This matter is before us on "Plaintiff's Motion for Reconsideration at all Recent Motions, Including That to Stay Mandate, That to Suspend Recuse, That to Suspend Rule 40.3, That to Reconvene a Panel by the Court of Appeals and Discern if There Were Not Errors in the Lower Court Decision...." The motion is denied, and Appellant's electronic filing privileges are revoked. The Clerk shall issue the mandate forthwith. Served on 06/25/2019. [19-4041] [Entered: 06/25/2019 01:54 PM]
- 06/25/2019  
1 pg, 114.53 KB [10658138] Mandate issued. [19-4041] [Entered: 06/25/2019 01:54 PM]
- 06/28/2019  
76 pg, 1.64 MB [10659435] Miscellaneous correspondence received from Mr. Carlos Velasquez but not filed. (Attached response sent on 07/01/2019.) [19-4041] [Entered: 07/01/2019 12:20 PM]
- 07/03/2019  
13 pg, 476.73 KB [10660596] Miscellaneous document received from Mr. Carlos Velasquez but not filed. [19-4041] [Entered: 07/03/2019 02:54 PM]

- Documents and Docket Summary
- Documents Only

- Include Page Numbers

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US District Court Electronic Case Filing System
District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:18-cv-00728-DN

Velasquez v. State of Utah et al
Assigned to: Judge David Nuffer
Demand: \$78,417,000
Case in other court: Tenth, 19-04041
Cause: 05:0702 Administrative Procedure Act

Date Filed: 09/13/2018
Date Terminated: 02/25/2019
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review or
Appeal of Agency Decision
Jurisdiction: Federal Question

Plaintiff**Carlos Velasquez**

represented by **Carlos Velasquez**
1848 RAMONA AVE
SALT LAKE CITY, UT 84108
(801)671-0361
PRO SE

V.

Defendant**State of Utah****Defendant****Utah Department of Human Services****Defendant****Utah Office of Administrative Hearings****Defendant****Division of Aging and Adult Services***Adult Protective Services*

Date Filed	#	Docket Text
09/13/2018	<u>1</u>	**SEALED DOCUMENT** MOTION for Leave to Proceed in forma pauperis filed and Memorandum in Support by Plaintiff Carlos Velasquez. Assigned to Magistrate Judge Brooke C. Wells for review, case file forwarded to Magistrate Judge. (Received by the court on: 09/13/2018) (tlh) (Entered: 09/14/2018)
09/18/2018	<u>2</u>	ORDER granting <u>1</u> Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Brooke C. Wells on 09/18/2018. (tlh) (Entered: 09/18/2018)
09/18/2018	<u>3</u>	COMPLAINT against All Defendants filed by Carlos Velasquez. (Originally received by the court on 09/13/2018) . (Fee Status: IFP) (Attachments: # <u>1</u> Evidence and Disclosures, # <u>2</u> Writ of Certiorari, # <u>3</u> Table of Contents of Evidence, # <u>4</u> Exhibit J10, # <u>5</u> Exhibit 4D, # <u>6</u> Exhibit 6F, # <u>7</u> Exhibit 5E, # <u>8</u> Exhibit 7G, # <u>9</u> Exhibit 1A, # <u>10</u> Exhibit 3C, # <u>11</u>

		Exhibit 8H, # <u>12</u> Exhibit 2B, # <u>13</u> Exhibit 19, # <u>14</u> Civil Cover Sheet) Assigned to Judge David Nuffer (tlh) (Entered: 09/19/2018)
09/18/2018	<u>4</u>	MOTION for [Unknown] Relief and Memorandum in Support filed by Plaintiff Carlos Velasquez. (tlh) Modified on 9/20/2018: document image ends midsentence with no signature as that is how it was received (alt) (Entered: 09/19/2018)
09/18/2018	<u>5</u>	CERTIFICATE OF SERVICE filed by Carlos Velasquez. (tlh) (Entered: 09/19/2018)
09/20/2018	<u>6</u>	DOCKET TEXT ORDER REFERRING CASE to Magistrate Judge Paul M. Warner under 28:636 (b)(1)(B), Magistrate to handle case up to and including R&R on all dispositive matters. Motion referred to Paul M. Warner. So ordered by Judge David Nuffer on 9/20/18 (docket text only - no attached document) (alt) (Entered: 09/20/2018)
09/25/2018	<u>7</u>	MOTION to Amend/Correct <u>4</u> MOTION for [Unknown] Relief filed by Plaintiff Carlos Velasquez (Attachments: # <u>1</u> Corrected Version of Motion, # <u>2</u> Sealed Appendix of Documents) Motion referred to Paul M. Warner (alt) (Entered: 09/27/2018)
09/25/2018	<u>8</u>	NOTICE OF FILING of document styled as Request to Submit filed by Plaintiff Carlos Velasquez (alt) (Entered: 09/27/2018)
10/10/2018	<u>9</u>	REQUEST to Submit for Decision filed by Plaintiff Carlos Velasquez (alt) (Entered: 10/10/2018)
10/24/2018	<u>10</u>	MOTION for Hearing filed by Plaintiff Carlos Velasquez. Motion referred to Paul M. Warner (alt) (Entered: 10/24/2018)
10/24/2018	<u>11</u>	MOTION for Clerk to Issue Non-Standard Summons filed by Plaintiff Carlos Velasquez. Motion referred to Paul M. Warner (alt) (Entered: 10/26/2018)
11/13/2018	<u>12</u>	DOCUMENT LODGED consisting of correspondence from Plaintiff. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 11/14/2018)
11/20/2018	<u>13</u>	MOTION to Amend/Correct Docket filed by Plaintiff Carlos Velasquez (Attachments: # <u>1</u> Letter and envelope) Motion referred to Paul M. Warner (alt) (Entered: 11/20/2018)
11/26/2018	<u>14</u>	DOCUMENT LODGED consisting of "Proposed Order". Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 11/26/2018)
11/27/2018	<u>15</u>	DOCUMENT LODGED consisting of Proposed Order. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 11/29/2018)
12/10/2018	<u>16</u>	DOCUMENTS LODGED consisting of 2018 Email and letter from plaintiff re: notice & copy of signed complaint. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (Attachments: # <u>1</u> Exhibit 12/5/2018 Letter from plaintiff)(asb) (Entered: 12/10/2018)
12/17/2018	<u>17</u>	DOCUMENT LODGED consisting of correspondence from Plaintiff. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 12/18/2018)
12/17/2018	<u>18</u>	MOTION to Amend/Correct filed by Plaintiff Carlos Velasquez. Motion referred to Paul M. Warner (alt) (Entered: 12/18/2018)
01/03/2019	<u>19</u>	DOCUMENT LODGED consisting of Notice of Financial Status. Note: attached document lodged for reference purposes only; no response required unless

		specifically ordered by the court. (alt) (Additional attachment(s) added on 1/3/2019: # <u>1</u> Envelope) (alt). (Main Document 19 replaced on 1/14/2019) (jwt). (Entered: 01/03/2019)
01/11/2019	<u>20</u>	DOCUMENT LODGED consisting of "Proof of Service" Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 01/11/2019)
01/14/2019	<u>21</u>	Modification of Docket re <u>19</u> Lodged Document. Error: page 8 was missing from original filing image. Correction: document image was replaced with complete document. (jwt) (Entered: 01/14/2019)
01/28/2019	<u>22</u>	MOTION to Vacate 6 Order Referring Case to Magistrate Judge, filed by Plaintiff Carlos Velasquez (Attachments: # <u>1</u> Supplement "Addenda") Motion referred to Paul M. Warner (alt) (Entered: 01/28/2019)
01/29/2019	<u>23</u>	MOTION to Amend/Correct a Proposed Order filed by Plaintiff Carlos Velasquez (Attachments: # <u>1</u> Envelope) Motion referred to Paul M. Warner (alt) (Entered: 01/29/2019)
01/30/2019	<u>24</u>	CERTIFICATE OF SERVICE by Carlos Velasquez (alt) (Entered: 01/31/2019)
02/04/2019	<u>25</u>	REQUEST to Submit for Decision filed by Plaintiff Carlos Velasquez (alt) (Entered: 02/04/2019)
02/15/2019	<u>26</u>	MOTION for Hearing filed by Plaintiff Carlos Velasquez (Attachments: # <u>1</u> Appendix) Motion referred to Paul M. Warner (alt) (Entered: 02/15/2019)
02/25/2019	<u>27</u>	MEMORANDUM DECISION AND ORDER OF DISMISSAL denying as moot all motions filed (<u>4</u> Motion, <u>7</u> Motion to Amend/Correct, <u>10</u> Motion for Hearing, <u>11</u> Motion for Issuance of Non-Standard Summons, <u>13</u> Motion to Amend/Correct, <u>18</u> Motion to Amend/Correct, <u>22</u> Motion to Vacate, <u>23</u> Motion to Amend/Correct, <u>26</u> Motion for Hearing). Action to be dismissed with prejudice under authority of the IFP Statute. Signed by Judge David Nuffer on 2/25/19 (alt) (Entered: 02/25/2019)
02/25/2019	<u>28</u>	JUDGMENT that this action is dismissed with prejudice under the authority of 28 USC sec. 1915(e)(2)(B)(ii) - CASE CLOSED. Magistrate Judge Paul M. Warner no longer assigned to case. Signed by Judge David Nuffer on 2/25/19 (alt) (Entered: 02/25/2019)
03/08/2019	<u>29</u>	MOTION for Reconsideration re <u>27</u> Memorandum Decision for Dismissal, and Memorandum in Support filed by Plaintiff Carlos Velasquez (Attachments: # <u>1</u> Bookmarked Attachments) (alt) Modified on 3/11/2019: corrected entry text (alt) (Entered: 03/11/2019)
03/11/2019	<u>30</u>	CERTIFICATE OF SERVICE by Carlos Velasquez re <u>29</u> MOTION for Reconsideration re <u>27</u> Memorandum Decision for Dismissal (document also references a "Notice of Appeal", but no such notice has been filed in this case) (alt) (Entered: 03/11/2019)
03/12/2019	<u>31</u>	MEMORANDUM DECISION AND ORDER denying <u>29</u> Motion for Reconsideration. Signed by Judge David Nuffer on 3/12/19 (alt) (Entered: 03/12/2019)
03/14/2019	<u>32</u>	OBJECTIONS to <u>31</u> Memorandum Decision/Order on Motion to Reconsider, filed by Carlos Velasquez (alt) (Entered: 03/14/2019)
03/20/2019	<u>33</u>	NOTICE OF APPEAL as to <u>27</u> Memorandum Decision/Order on Motions, <u>28</u> Judgment, filed by Carlos Velasquez. Appeals to the USCA for the 10th Circuit. Fee Status: Not Paid. Filing fee \$ 505. (alt) (Entered: 03/21/2019)
03/21/2019	<u>34</u>	**SEALED DOCUMENT** MOTION for Leave to Appeal in forma pauperis, filed by Plaintiff Carlos Velasquez (alt) (Entered: 03/21/2019)

03/21/2019	<u>35</u>	Transmission of Preliminary Record to USCA re <u>33</u> Notice of Appeal (Attachments: # <u>1</u> Appendix) (alt) (Entered: 03/21/2019)
03/22/2019	<u>36</u>	USCA Case Number Case Appealed to Tenth Case Number 19-4041 for <u>33</u> Notice of Appeal filed by Carlos Velasquez. (jmr) (Entered: 03/22/2019)
03/22/2019	<u>37</u>	ORDER of USCA 10th Circuit as to <u>33</u> Notice of Appeal: Appeal is abated (alt) (Entered: 03/25/2019)
03/29/2019	<u>38</u>	MEMORANDUM DECISION AND ORDER denying <u>34</u> Motion for Leave to Appeal in Forma Pauperis. Signed by Judge David Nuffer on 3/28/19. (dla) (Entered: 03/29/2019)
04/03/2019	<u>39</u>	ORDER of USCA 10th Circuit as to <u>33</u> Notice of Appeal: appeal remains abated (alt) (Entered: 04/04/2019)
04/08/2019	<u>40</u>	MEMORANDUM DECISION AND ORDER overruling <u>32</u> Objections and denying "motion to permit a prior motion overlength". Signed by Judge David Nuffer on 4/8/19 (alt) (Entered: 04/08/2019)
04/08/2019	<u>41</u>	Transmission of Supplemental Preliminary Record to USCA re <u>33</u> Notice of Appeal (Attachments: # <u>1</u> Appendix) (alt) (Entered: 04/08/2019)
04/09/2019	<u>42</u>	ORDER of USCA 10th Circuit as to <u>33</u> Notice of Appeal: abatement is lifted (alt) (Entered: 04/09/2019)
04/09/2019	<u>43</u>	DOCUMENT LODGED consisting of copy of USCA Document mailed to Chambers. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 04/09/2019)
06/13/2019	<u>44</u>	ORDER of USCA 10th Circuit as to <u>33</u> Notice of Appeal: petition for rehearing denied (alt) (Entered: 06/13/2019)
06/21/2019	<u>45</u>	ORDER of USCA 10th Circuit denying Motion to Stay Mandate as to <u>33</u> Notice of Appeal (alt) (Entered: 06/21/2019)
06/25/2019	<u>46</u>	MANDATE of USCA as to <u>33</u> Notice of Appeal. According to the USCA the decision of the USDC for the Dist of UT is Affirmed. Judgment included with mandate: Yes. (Attachments: # <u>1</u> Mandate Cover Letter) (alt) (Entered: 06/26/2019)
07/05/2019	<u>47</u>	DOCUMENTS LODGED consisting of Copy of document sent to Tenth Curcuit. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (jlh) (Entered: 07/05/2019)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

CARLOS VELASQUEZ,
Plaintiff,

v.

STATE OF UTAH, et al.,
Defendants.

**MEMORANDUM DECISION AND
ORDER DENYING MOTION
FOR RECONSIDERATION**

Case No. 2:18-cv-00728-DN

District Judge David Nuffer

Plaintiff Carlos Velasquez filed a motion (the “Motion”)¹ under Fed. R. Civ. P. 60(a)² for reconsideration of the Memorandum Decision and Order of Dismissal (“Dismissal Order”)³ and resulting judgment.⁴ The Motion is impermissibly and excessively overlength⁵ and generally difficult to follow. In essence, its principal arguments are:

1. The Dismissal Order “misrepresent[s] the standards presented” and “the proceeding,”⁶ lacks “credibility,”⁷ and is otherwise inaccurate,⁸ “misleading,” and an “abuse [of] authentic power.”⁹

¹ Request for Reconsideration of a Memorandum of Dismissal, and Order of Cloture (“Motion”), docket no. 29, filed March 8, 2019.

² *See id.* at 2:8-9.

³ Docket no. 27, filed February 25, 2019.

⁴ Judgment in a Civil Case, docket no. 28, filed February 25, 2019.

⁵ *See* DUCivR 7-1(a)(3)(C).

⁶ Motion, *supra* note 1, at 3:9-11, 4:7-8; *see id.* at 22-23, 34:15-19; *see* Letter from Velasquez, docket no. 29-1, filed March 8, 2019.

⁷ Motion, *supra* note 1, at 22:7-9.

⁸ *Id.* at 22:5-6.

⁹ *Id.* at 5:16-6:2; *see id.* at 35.

2. The Dismissal Order and resulting judgment are erroneous as a matter of law and an abuse of discretion.¹⁰

3. The court is prejudiced¹¹ and did not exercise “procedural diligence.”¹²

Each of these arguments is incorrect and without merit—as is the Motion also.

THEREFORE, IT IS HEREBY ORDERED that the Motion¹³ is DENIED.

Signed March 12, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

¹⁰ See *id.* at 5-8, 14, 18-32, 35-39, 42-43, 45.

¹¹ See *id.* at 22:15-23:1, 23:8-10, 35:4-7.

¹² *Id.* at 4:13-14; see *id.* at 13 ¶ 32, 23:6-10, 33-34, 46:12-15.

¹³ Docket no. 29, filed March 8, 2019.

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

June 11, 2019

**Elisabeth A. Shumaker
Clerk of Court**

CARLOS VELASQUEZ,

Plaintiff - Appellant,

v.

STATE OF UTAH; UTAH
DEPARTMENT OF HUMAN SERVICES
AND AGENCIES; UTAH OFFICE OF
ADMINISTRATIVE HEARINGS;
DIVISION OF AGING AND ADULT
SERVICES, ADULT PROTECTIVE
SERVICES,

Defendants - Appellees.

No. 19-4041
(D.C. No. 2:18-CV-00728-DN)
(D. Utah)

ORDER AND JUDGMENT*

Before **McHUGH, KELLY**, and **MORITZ**, Circuit Judges.**

Plaintiff-Appellant Carlos Velasquez appeals from the district court's dismissal of his case as barred by the Rooker-Feldman doctrine. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Background

This appeal is the latest skirmish in a long-running legal battle between Mr. Velasquez and various agencies and courts of the State of Utah. The saga appears to have begun with administrative law proceedings at the Utah Department of Human Services. 1 R. 629. After the administrative proceedings concluded, he took his fight to Utah state court, where in addition to his original claims he raised new constitutional claims regarding the fairness of his administrative proceedings and challenging the constitutionality of several Utah statutes and regulations. *Id.* Unable to find success after exhausting his appeals in Utah state court, he sued the State of Utah and several state agencies in federal district court. *Id.* at 6. In federal court he once again raised his constitutional claims from state court while adding constitutional claims that the Utah Supreme Court “‘sustained malice,’ ‘refused to clarify the constitutional question,’ and ‘refused to recognize evidence.’” *Id.* at 629 (quoting Compl. at 25).

Because Mr. Velasquez proceeded pro se and in forma pauperis (IFP), the district court construed his complaint liberally, but found the claims to be “generally confusing and difficult to decipher.” *Id.* at 628. Ultimately, the court dismissed his complaint as barred by the Rooker-Feldman doctrine because it “to one extent or another” asked the court to review “certain decisions rendered concerning the Administrative Case by Utah administrative agencies, the Utah Third District Court, the Utah Court of Appeals, and the Utah Supreme Court.” *Id.* at 631. Following that

order, Mr. Velasquez filed a motion for reconsideration,¹ which the district court denied. Id. at 712. The district court denied Mr. Velasquez leave to proceed on appeal IFP, certifying that the appeal was not taken in good faith because it “presents no substantial question for review” and “there is no reasonable basis for his claims of error.” Id. at 728. Mr. Velasquez has renewed his motion to proceed IFP on appeal in this court.

Discussion

We review a district court’s dismissal for lack of subject matter jurisdiction *de novo*, and any factual findings for clear error. Stuart v. Colo. Interstate Gas Co., 271 F.3d 1221, 1225 (10th Cir. 2001). The denial of a motion for reconsideration under Rule 59(e) is reviewed for abuse of discretion. Nelson v. City of Albuquerque, 921 F.3d 925, 929 (10th Cir. 2019).

First, Mr. Velasquez challenges the dismissal of his case. The premise of the Rooker-Feldman doctrine is that 28 U.S.C. § 1257(a) gives only the United States Supreme Court jurisdiction to review appeals from state court judgments. See Dist. of Columbia Ct. of Appeals v. Feldman, 460 U.S. 462 (1983); Rooker v. Fid. Trust

¹ While Mr. Velasquez identified Federal Rule of Civil Procedure 60(a) as the basis for his reconsideration motion, that rule is usually reserved for correcting clerical errors or inadvertent mistakes. See McNickle v. Bankers Life and Cas. Co., 888 F.2d 678, 682 (10th Cir. 1989); 11 Charles Allen Wright & Arthur R. Miller, Federal Practice & Procedure § 2854 (3d ed., April 2019 update) [“Wright & Miller”]. Instead, Rule 59(e) is the mechanism typically used to correct a substantive error in a court’s legal determination after judgment has been entered. See Nelson, 921 F.3d at 928–29; Servants of the Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000); 11 Wright & Miller § 2810.1. Accordingly, for purposes of this appeal we construe his motion as one under Rule 59(e).

Co., 263 U.S. 413 (1923). By negative inference, inferior federal courts lack subject matter jurisdiction to hear appeals from state court. Mo's Express, LLC v. Sopkin, 441 F.3d 1229, 1233 (10th Cir. 2006). The scope of the doctrine, however, is narrow. Rooker-Feldman only bars federal district courts from hearing cases “brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005). Where the relief requested would necessarily undo the state court’s judgment, Rooker-Feldman deprives the district court of jurisdiction. Mo's Express, 441 F.3d at 1237.

In Mr. Velasquez’s case, he appears to challenge decisions by the Utah state courts reviewing his state administrative law appeal. He claims that the Utah state courts violated his constitutional rights in the course of that litigation and seems to seek reversal of decisions he lost on the merits. This is precisely the type of suit that Rooker-Feldman prevents federal district courts from hearing. Having already raised his various objections in state court and failed, Mr. Velasquez has now “repaired to federal court to undo the [state-court] judgment” against him. Exxon, 544 U.S. at 293. If he wants to receive federal review of his constitutional claims from Utah court, his only remedy is an appeal to the United States Supreme Court. The district court properly dismissed this action for lack of subject matter jurisdiction.

Second, Mr. Velasquez challenges the district court’s denial of his motion for reconsideration. We review such a denial for an abuse of discretion, and a district

court only abuses its discretion when its decision was “arbitrary, capricious, whimsical, or manifestly unreasonable.” Nalder v. West Park Hosp., 254 F.3d 1168, 1174 (10th Cir. 2001) (internal quotation marks omitted). Here, Mr. Velasquez’s motion was impermissibly overlong and entirely “without merit.” 1 R. 712–13. The district court did not abuse its discretion by denying a motion that raised no new arguments and did not reveal any defect in the court’s original decision. See Nelson, 921 F.3d at 929–30; Servants, 204 F.3d at 1012.

Finally, we deny Mr. Velasquez’s motion to proceed IFP; he has not advanced a rational argument on the law and facts to warrant such status. See DeBardeleben v. Quinlan, 937 F.2d 502, 505 (10th Cir. 1991).

AFFIRMED. All pending motions are DENIED.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

June 13, 2019

FOR THE TENTH CIRCUIT

**Elisabeth A. Shumaker
Clerk of Court**

CARLOS VELASQUEZ,
Plaintiff - Appellant,

v.

No. 19-4041

STATE OF UTAH, et al.,
Defendants - Appellees.

ORDER

Before **McHUGH, KELLY, and MORITZ**, Circuit Judges.

Appellant's petition for rehearing is denied.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

Office of the Clerk

Byron White United States Courthouse
Denver, Colorado 80257
(303) 844-3157

Elisabeth A. Shumaker
Clerk of Court

Chris Wolpert
Chief Deputy Clerk

June 14, 2019

Carlos Velasquez
1848 Ramona Avenue
Salt Lake City, UT 84108

Re: *Velasquez v. State of Utah, et al.*, No. 19-4041 (10th Cir.)

Dear Mr. Velasquez:

The court received from you today a document captioned *Second Motion for Reconsideration*. As you are aware: (1) on June 11, 2019, this court entered an order and judgment affirming the district court's dismissal of your case as barred by the *Rooker-Feldman* doctrine; and (2) on June 13, 2019, the court denied your petition for rehearing and rehearing en banc. The court construes your submission as a second petition for rehearing and/or a motion to reconsider the court's previous ruling on your first petition for rehearing.

Tenth Circuit Rule 40.3 prohibits both a second petition for rehearing and a motion to reconsider the court's ruling on a previous petition for rehearing. *See* 10th Cir. R. 40.3. ("The court will accept only one petition for rehearing from any party to an appeal. No motion to reconsider the court's ruling on a petition for rehearing may be filed."). Accordingly, this court will neither accept your submission for filing nor take any action regarding it.

This case is closed. Please be advised that the court may not respond to future correspondence or submissions.

Very truly yours,
ELISABETH A. SHUMAKER, Clerk



by: Lisa A. Lee
Counsel to the Clerk

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT
Office of the Clerk**

Byron White United States Courthouse
Denver, Colorado 80257
(303) 844-3157

Elisabeth A. Shumaker
Clerk of Court

Chris Wolpert
Chief Deputy Clerk

June 17, 2019

Mr. Carlos Velasquez
1848 Ramona Avenue
Salt Lake City, UT 84108

Re: *Velasquez v. State of Utah, et al.*, No. 19-4041 (10th Cir.)

Dear Mr. Velasquez:

The court received from you today a document captioned *Plaintiff's Motion Objection to Denial, Request to Suspend Rule 40.3 in this Instance to Find a Second Petition for Rehearing is Merited*. As you are aware: (1) on June 11, 2019, this court entered an order and judgment affirming the district court's dismissal of your case as barred by the *Rooker-Feldman* doctrine; (2) on June 13, 2019, the court denied your petition for rehearing and rehearing en banc; and (3) on June 14, 2019, this court refused to file your *Second Motion for Reconsideration* pursuant to Tenth Circuit Rule 40.3.

The motion you have now filed seeks the suspension of Rule 40.3 to allow the filing of yet another petition for rehearing and/or a motion to reconsider the court's previous rulings on your first and/or second petition for rehearing. Regardless how you label the motion, the relief you request is barred.

Tenth Circuit Rule 40.3 prohibits both a successive petition for rehearing and a motion to reconsider the court's ruling on a previous petition for rehearing and does not provide exceptions to that prohibition. *See* 10th Cir. R. 40.3. ("The court will accept only one petition for rehearing from any party to an appeal. No motion to reconsider the court's ruling on a petition for rehearing may be filed."). Accordingly, this court will neither accept your submission for filing nor take any action regarding it.

This case is closed. Please be advised that the court will not respond to future correspondence or submissions.

Very truly yours,
ELISABETH A. SHUMAKER, Clerk



by: Lisa A. Lee
Counsel to the Clerk

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

June 21, 2019

**Elisabeth A. Shumaker
Clerk of Court**

CARLOS VELASQUEZ,

Plaintiff - Appellant,

v.

No. 19-4041

STATE OF UTAH; UTAH
DEPARTMENT OF HUMAN SERVICES
AND AGENCIES; UTAH OFFICE OF
ADMINISTRATIVE HEARINGS;
DIVISION OF AGING AND ADULT
SERVICES, ADULT PROTECTIVE
SERVICES,

Defendants - Appellees.

ORDER

Before **McHUGH, KELLY**, and **MORITZ**, Circuit Judges.

This matter is before the court on the appellant's *Motion for Stay of Mandate with Interest the Panel Must Recuse*. Upon careful consideration, the motion is DENIED. The mandate will not be stayed, and this panel will not recuse itself from this matter.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK**

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157

Elisabeth A. Shumaker
Clerk of Court

June 25, 2019

Chris Wolpert
Chief Deputy Clerk

Mr. D. Mark Jones
United States District Court for the District of Utah
Office of the Clerk
351 South West Temple
Salt Lake City, UT 84101

Mr. Carlos Velasquez
1848 Ramona Avenue
Salt Lake City, UT 84108

RE: 19-4041, Velasquez v. State of Utah, et al
Dist/Ag docket: 2:18-CV-00728-DN

Dear Clerk and Appellant:

Pursuant to Federal Rule of Appellate Procedure 41, the Tenth Circuit's mandate issued today and the court's judgment takes effect.

Please contact this office if you have questions.

Sincerely,



Elisabeth A. Shumaker
Clerk of the Court

cc: David O. Nuffer

EAS/klp

FILED
United States Court of Appeals
Tenth Circuit

June 25, 2019

Elisabeth A. Shumaker
Clerk of Court

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

June 25, 2019

FOR THE TENTH CIRCUIT

**Elisabeth A. Shumaker
Clerk of Court**

CARLOS VELASQUEZ,

Plaintiff - Appellant,

v.

No. 19-4041

STATE OF UTAH; UTAH
DEPARTMENT OF HUMAN SERVICES
AND AGENCIES; UTAH OFFICE OF
ADMINISTRATIVE HEARINGS;
DIVISION OF AGING AND ADULT
SERVICES, ADULT PROTECTIVE
SERVICES,

Defendants - Appellees.

ORDER

Before **McHUGH, KELLY**, and **MORITZ**, Circuit Judges.

This matter is before us on “Plaintiff’s Motion for Reconsideration at all Recent Motions, Including That to Stay Mandate, That to Suspend Recuse, That to Suspend Rule 40.3, That to Reconvene a Panel by the Court of Appeals and Discern if There Were Not

Errors in the Lower Court Decision....” The motion is denied, and Appellant’s electronic filing privileges are revoked. The Clerk shall issue the mandate forthwith.

Entered for the Court,

ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read 'Chris Wolpert', with a long horizontal stroke extending to the right.

by: Chris Wolpert
Chief Deputy Clerk

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

Office of the Clerk
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157

Elisabeth A. Shumaker
Clerk of Court

Chris Wolpert
Chief Deputy Clerk

July 1, 2019

Mr. Carlos Velasquez
1848 Ramona Avenue
Salt Lake City, UT 84108

Re: No. 19-4041, *Velasquez v. State of Utah*

Dear Mr. Velasquez:

The court has received your letter and accompanying documents regarding this appeal. As you were notified by letter dated June 24, 2019, this case is over and there are no additional procedural mechanisms available to seek further review in this court. Accordingly, no action will be taken on these documents. The court may not respond to any further correspondence or documents you file in this appeal.

Sincerely,



Elisabeth A. Shumaker
Clerk of the Court

EAS:err

Carlos Velasquez
1848 Ramona Ave
Salt Lake City, UT 84108
Gmail: cfv1983@gmail.com
Tel: 801.671.0361

Asst. Attorney General
Utah DAAS/APS
J. Stephen Mikita
350 N. State St. # 230
84114-2320

Dear Mr. Mikita,

This is notice of a judicial complaint filed and notice of intent to file appeal.

Presently, a case prior served and held, 19-4041 (2:18-cv-00728-DN, D. UT) is complained against in the United States Court for the Tenth Circuit for a failures to exercise discretion at violation of the Petitioner's First Amendment right before Judicial Agency. The standing of Utah DAAS/APS has been defended implicit by judges mishandling the present case, that is, your position, as the position of the State of Utah on this matter is not clarified.

This was prior queried, before United States Court of Appeals. The matter is a civil rights challenge to a form of administrative censure presently provided to misuse by law; there is original jurisdiction to United States District Courts by 28 U.S. § 1343. At present, Judges have not properly exercised discretion to ensure the timely administration of justice.

Utah Senate Bill 63 (2008) is alleged as originally unconstitutional with deliberation of conspiracy by *preterition* between the bill's sponsor and its author, neither of whom may be without the knowledge of standards for strict scrutiny in terms of the liberality of agency discretion as beside authentic interests of protective order.

There is sought a remedy to this problem presently on complaint (Judicial Complaint Nos. 10-19-90025 through 10-19-90029), as well the petitioner is in a condition to have to seek the censure/recusal/impeachment of several judges for compounding an alleged culture of conspiracy with a failure to exercise the correct discretion.

Once the standing of the complaint is expressed, a Petition for *Writ of Certiorari* may be initiated to Supreme Court and will be served to all Utah agencies prior served this matter, however it is likely the Court of Appeals may be made to recall the mandate of its decision, whereupon the

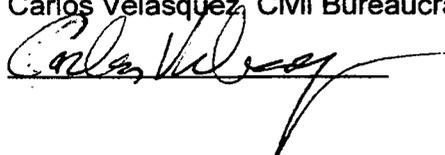
panel may elect to summon Utah agencies to respond to the constitutional question for pre-trial purposes.

All petitions presently hold that there is grounds for partial judgment and preliminary injunction, that a jurisdiction is to United States District Courts by 28 U.S. § 1343, that there is presently to your DAAS/APS agency a deliberate constitutional tort which dispositions agency from positive standing at the expense of the civil right. The petitioner's present preference is that the state of Utah will be summoned on issue of a *Writ of Certiorari* at remand to the United States District Court as defined on *In re, Carlos Velasquez* (COA Docket No. 10647555, Served 5/9/19).

This is notice of continued action before any appeal is filed.

Sincerely,

Carlos Velasquez, Civil Bureaucrat



A copy of this letter is transmitted to the following:

The Office of Governor
Gary R. Herbert
350 N. State St. # 200
PO Box 142220
Salt Lake City, UT 84114-
2220

Utah Attorney General
Sean D. Reyes
350 N. State St. # 230
84114-2320

United States Court of
Appeals for the Tenth
Circuit
ATTN Case 19-4041
(2:18-cv-00728-DN, D.
UT)
1823 Stout St.
Denver CO, 80257

United States Courts for
The Tenth Circuit
Office of the Circuit
Executive
Deputy Circuit Executive,
Leslee Fathallah
ATTN Judicial Complaint
Nos. 10-19-90025 through
10-19-90029
1823 Stout St.
Denver CO 80257
Tel: 303.544-2067

United States Courts for the Tenth Circuit
Office of the Circuit Executive
1823 Stout Street
Denver, Colorado 80257
(303) 844-2067

David Tighe
Circuit Executive

Leslee Fathallah
Deputy Circuit Executive

July 23, 2019

Mr. Carlos Velasquez
1848 Ramona Avenue
Salt Lake City, UT 84108

Re: Carlos Velasquez v. Circuit Judges Paul J. Kelly, Jr., Carolyn B. McHugh and Nancy L. Moritz, District Judge David Nuffer and Magistrate Judge Paul M. Warner
Judicial Complaint Nos. 10-19-90025 through 10-19-90029

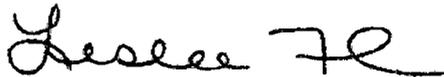
Dear Mr. Velasquez:

Your complaint under the Judicial Conduct and Disability Act against the above listed judges was received in this office and assigned the case numbers referenced below:

10-19-90025	Circuit Judge Paul J. Kelly, Jr.
10-19-90026	Circuit Judge Carolyn B. McHugh
10-19-90027	Circuit Judge Nancy L. Moritz
10-19-90028	District Judge David Nuffer
10-19-90029	Magistrate Judge Paul M. Warner

Any future filings or correspondence in this matter should be directed to my office. I will notify you of any actions taken on the complaint. In accordance with Tenth Circuit Misconduct Rule 8.2, I am providing a copy to Chief Circuit Judge Timothy M. Tymkovich, Chief District Judge Robert J. Shelby, and to the subjects of the complaint.

Sincerely,



Leslee Fathallah
Deputy Circuit Executive

LF:kw

cc: Chief Circuit Judge Timothy M. Tymkovich
Chief District Judge Robert J. Shelby
Subject Judges