

No. 19-6564

In the Supreme Court of the United States

In re: WEI ZHOU,

PETITIONER

***ON PETITION FOR A WRIT OF CERTIORARI OR
MANDAMUS TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT***

WEI ZHOU, PETITIONER

v.

MARQUETTE UNIVERSITY OR PETER JONES, RESPONDENT

UNITED STATES OF AMERICA, RESPONDENT

**MOTION FOR RECONSIDERATION OF ORDER DENYING
LEAVE TO PROCEED IN FORMA PAUPERIS**

Wei Zhou
Pro se
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(i)

QUESTION PRESENTED

Since the Clerk of this Court has refused to have not only the petitioner's Petition for a Writ of Certiorari filed with this Court but also the Appendix to his Petition for a Writ of Mandamus posted on this Court's website and so the question presented is:

Whether the Clerk even this Court has declined the exercise of this Court's jurisdiction given by the Judicial Power Clause of the Constitution, in particular, by 28 U.S.C. § 1254 or 28 U.S.C. § 1651 or both.

**MOTION FOR RECONSIDERATION OF ORDER DENYING
LEAVE TO PROCEED IN FORMA PAUPERIS**

Petitioner Wei Zhou respectfully prays that either a writ of certiorari issue to review the May 16, 2019 order of the United States Court of Appeals for the Seventh Circuit or a writ of mandamus issue to direct the lower court to reconsider its May 16, 2019 order.

STATEMENT OF THE CASE

Since the Clerk of this Court so far has not only departed from the accepted and usual course of judicial proceedings but also declined the exercise of this Court's jurisdiction given by the Judicial Power Clause of the Constitution, in particular, by both 28 U.S.C. § 1254 and 28 U.S.C. § 1651, while the January 13, 2020 order of this Court on the petitioner's Petition for a Writ of Mandamus was established exactly on such a base and so it should be invalid or reversed.

1. The Clerk Has So Far Departed From The Accepted And Usual Course Of Judicial Proceedings.

Since so far the Clerk has not posted the Appendix consisted of both the May 16, 2019 order sought to be reconsidered and his August 8, 2019 letter to the petitioner on this Court's website while the petitioner is a pro se party and the

official information online that

“Additional material from this filing is available in the Clerk’s Office”

shows that the Appendix had been accepted for filing under the Rule 1 of this Court that

“The Clerk receives documents for filing with the Court and has authority to reject any submitted filing that does not comply with these Rules”

and so he has violated the Guidelines for the Submission of Documents to the Supreme Court’s Electronic Filing System (Guidelines) of this Court that

“10. Posting of Documents. (c) Paper filings from parties not represented by counsel will be scanned by the Clerk’s Office and posted on the Court’s website once the Clerk’s Office has reviewed the filing and determined that it should be accepted for filing”

or abused this Court’s process.

Since the Appendix had not been posted timely and so the petitioner had to file the Motion to Direct the Clerk to Have the Appendix Scanned with this Court that has complied with those Rules of this Court, especially, the Rule 21 of this Court, and was received on December 30, 2019 via the mail of tracking number EE754450205CN to request this Court to have it uploaded or posted,

however, both the Appendix and the Motion have not been posted so far and thus not only has he violated the Guidelines of this Court or abused this Court's process again but also it is probably that neither the Appendix nor the Motion was distributed for the January 10, 2020 Conference of this Court in which the January 13, 2020 order was made even that neither of them has been docketed and therefore he has so far departed from the accepted and usual course of judicial proceedings.

2. The Clerk Has Declined The Exercise Of This Court's Jurisdiction Given By The Judicial Power Clause Of The Constitution, In Particular, By Both 28 U.S.C. § 1254 And 28 U.S.C. § 1651.

A. The Clerk Has Declined The Exercise Of This Court's Jurisdiction Given By The Judicial Power Clause Of The Constitution, In Particular, By 28 U.S.C. § 1254.

Since on August 8, 2019, after receiving the Petition for a Writ of Certiorari filed by the petitioner, the Clerk wrote him the following letter:

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLERK

WASHINGTON, DC 20543-0001

August 8, 2019

Wei Zhou

Leshanshi Shizhongqu Xiaobalu 613 Hao

Laiyinshuian 25 Zhuang 3 Danyuan 11-1

Sichuan Province P.R. China, 614000

RE: Wei Zhou v. Marquette University

USCA7 No. 08-2695

Dear Mr. Zhou:

The above-entitled petition for a writ of certiorari was postmarked August 3, 2019 and received August 8, 2019. The papers are returned for the following reason(s):

The document dated May 16, 2019 pertaining to the above-referenced case is not a final judgment of the court of appeals and is not reviewable on certiorari.

Sincerely,

Scott S. Harris, Clerk

By: s/Jacob Levitan

Jacob Levitan

(202) 479-3392

Enclosures

and so he has refused to have the Petition for a Writ of Certiorari filed with this Court and therefore he has declined the exercise of this Court's jurisdiction given by the Judicial Power Clause of the Constitution that

"The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. ...

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authorities; ... – to controversies to which the United States shall be a party; ... – to controversies between ... and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make",

in particular, by 28 U.S.C. § 1254 that

"Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1). By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of the judgment or decree; ..." .

B. The Clerk Has Declined The Exercise Of This Court's Jurisdiction Given

By The Judicial Power Clause Of The Constitution, In Particular, By 28 U.S.C. § 1651.

Since the Clerk has departed from the accepted and usual course of judicial proceedings, specifically, he has repeatedly violated the Guidelines of this Court or repeatedly abused this Court's process while the Guidelines or the process is also part of this Court's jurisdiction and so he has declined the exercise of this Court's jurisdiction given by the Judicial Power Clause of the Constitution, in particular, by 28 U.S.C. § 1651, the All Writs Act, that

“(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law”

which never permits this Court, including the Clerk, to depart from the accepted and usual course of judicial proceedings or decline the exercise of its jurisdiction given by any law of the land however exercising its discretionary powers.

In conclusion, the January 13, 2020 order of this Court should be invalid or reversed.

REASONS FOR GRANTING THE MOTION

Reconsideration is the only way to not only reverse the January 13, 2020 order but also exercise this Court's jurisdiction given by either 28 U.S.C. § 1254 or 28 U.S.C. § 1651.

I. Reconsideration Is The Only Way To Reverse The January 13, 2020 Order.

Since the January 13, 2020 order should be invalid or reversed while by and only by reconsideration this Court may have it reversed and therefore reconsideration is the only way to reverse the January 13, 2020 order.

II. Reconsideration Is The Only Way To Exercise This Court's Jurisdiction Given By Either 28 U.S.C. § 1254 Or 28 U.S.C. § 1651.

Since the Clerk has determined that the May 16, 2019 order is not a final judgment of the court of appeals and is not reviewable on certiorari and thus this Court should examine whether he had been permitted to make such a decision, even so, then whether the May 16, 2019 order is not a final judgment, even not, then whether only final judgment is reviewable on certiorari, all in all, whether the May 16, 2019 order is not reviewable on certiorari under 28 U.S.C. § 1254.

If his decision is invalid, especially, if he was not permitted to make the decision then he has abused this Court's process one more time. Since his

decision is invalid and so not only is this Court's jurisdiction given by 28 U.S.C. § 1254 again invoked through this Motion but also the Petition for a Writ of Mandamus, including the Appendix, together with this Motion should be treated as a Petition for a Writ of Certiorari and therefore not only should this Court's jurisdiction given by 28 U.S.C. § 1254 be exercised but also a writ of certiorari should be issued to review the May 16, 2019 order of the lower court based on the questions exist.

Even if his decision is not invalid, then not only should this Court's jurisdiction given by 28 U.S.C. § 1651 be exercised as invoked in the Petition for a Writ of Mandamus but also a writ of mandamus should be issued to direct the lower court to reconsider its May 16, 2019 order based on not only the questions exist but also the exceptional circumstance exists.

So in either case, the Clerk should exercise this Court's jurisdiction to have the Appendix docketed, scanned and posted so that this Court may follow the accepted and usual course of judicial proceedings to exercise its jurisdiction but at least he has not posted it so far while by and only by reconsideration not only may he have it posted but also the posting will truly effectively rectify both his departure from the accepted and usual course of judicial proceedings and his refusal to exercise this Court's jurisdiction and therefore reconsideration is the

only way to exercise this Court's jurisdiction given by either 28 U.S.C. § 1254 or 28 U.S.C. § 1651.

In conclusion, reconsideration is the only way to exercise this Court's jurisdiction given by either 28 U.S.C. § 1254 or 28 U.S.C. § 1651.

This Court, as the unique Court directly established by the Constitution, should and has to do so with the best opportunity or help provided by the petitioner through this Motion.

CONCLUSION

The Motion for Reconsideration of Order Denying Leave to Proceed in Forma Pauperis should be granted.

Respectfully submitted by

Wei Zhou

Wei Zhou

Attorney for the Petitioner

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February 6, 2020.