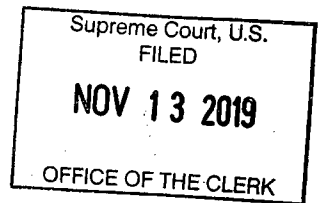


No.

19-6988

ORIGINAL

Before the
Supreme Court of the United States



Marlon Blacher — Petitioner

v.

S. Johnson, R. Davis — Respondent

ON PETITION FOR A WRIT OF CERTIORARI IN ACCORDANCE
WITH 28 U.S.C. § 1651

Marlon Blacher, hereinafter "Petitioner", respectfully move for issuance of a writ of certiorari to review an order entered on the 23rd day of September, 2019, by "UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT" (APPENDIX A) that deny the Petitioner in forma pauperis to review the lower court's act/order: imposing improper venue; imposing magistrate jurisdiction improperly and without consent; impairing contractual obligations; among other abuses.

Marlon Blacher

% Post Office Box 5002

Calipatria, the State of California 92233-9998

30. Admit that all presumptions made by a public employee against a party protected by the Bill of Rights

which might prejudice those rights are unconstitutional and constitute a tort.

"It is apparent, this court said in the Bailey Case (219 U.S. 239, 31 S.Ct. 145, 151) 'that a constitutional prohibition cannot be transgressed indirectly by the creation of a statutory presumption any more than it can be violated by direct enactment. The power to create presumptions is not a means of escape from constitutional restrictions. If a legislative body is without power to enact as a rule of evidence a statute denying a litigant the right to prove the facts of his case, certainly the power cannot be made to emerge by putting the enactment in the guise of a rule of substantive law.'"
[Heiner v. Donnan, 285 U.S. 312 (1932)]

ANSWER: ☒ Admit ☐ Deny

Acknowledgement

I declare by penalty of perjury as stipulated at 26 U.S.C. § 6065 that the answers provided by me to the foregoing questions are true, correct, and complete to the best of my knowledge and ability, so help me God. I also declare that these answers are completely consistent with each other and with my understanding of both the Constitution of the United States, Internal Revenue Code, Treasury Regulations, the Internal Revenue Manual, and the rulings of the Supreme Court/Supreme Court but not necessarily lower federal courts.

Name: _____
Without Prejudice/Recourse,

Signature: _____ Date: _____

the Two Witness Rule (BLD page 1056)

Witness 1: _____

Signature: _____ Date: _____

Witness 2: _____

Signature: _____ Date: _____

QUESTION(S) PRESENTED

1. Is it not true that a court which Congress has not conferred any jurisdiction by law is without valid jurisdiction?
2. Is it not true that a magistrate which Congress has not conferred any jurisdiction by law is without valid jurisdiction?
3. Is it not true that a contract made by means of fraud, threat/duress/undue influence, and without full disclosure re the terms included in said contract, is void and unenforceable, and that to compel Petitioner to performance upon said contract while relieving Respondent of such performance is contrary to what is lawful and just?
4. Is it not true that where the circumstances warrant issuance of declaratory judgment, Petitioner is one to whom such must be rendered?
5. Is it not true that where the bias of the court is made manifest then due process of law is violated?
6. Is it not true that an appeal that is brought for conclusion on the foregoing questions is not frivolous?

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STATUTES AND RULES

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court ^{is stated during cell search on transfer,} ~~appears at Appendix _____ to _____~~ ^{by a CDCR so-called "Correctional Peace Officers"} ~~the petition and is~~

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was the 23rd day of September, 2019.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Article I § 10, cl. 1, Constitution of the United States.
- Article III §§ 1 and 2, cl. 1, id.
- Article IV § 2, cl. 1, id.
- Article VI, cl. 2, id.
- Amendment VIII, Constitution of the United States.
- Amendment IX, id.
- Amendment XIV § 1, id.
- Title 28, United States Code, sections 43, 46, 132, 631 et seq., and 1331.
- Title 42, United States Code, sections 1981, 1982, 1983, 1985(c), 1986.

STATEMENT OF THE CASE

On or about the 16th day of July, 2012, the cause of action brought by Marlon Blecher, hereinafter "Petitioner", with intent to be heard before the district court which Congress confer ^{Jurisdiction} ~~by law~~ by law, i.e. the United States District Court for the eastern district of California (See e.g. Title 28, United States Code, section 132.), is entered by some all-capital-letter court that is not mentioned by the statutes expressing jurisdiction for the district courts of the United States, and on or about the 18th day of July, 2012, service, by means of substituted service, of a consent to Magistrate Judge jurisdiction form is executed by said all-capital-letters court but said form does not communicate disclosure re the nature and organization of said all-capital-letter court, nor the office of said Magistrate Judge, and upon such uninformed basis consent to jurisdiction of some all-capital-letter magistrate judge is entered on or about the 30th day of July, 2012. On or about the 7th day of September, 2012, the aforesaid magistrate judge dismiss the aforesaid cause of action, which concern prison staffing persons imposing (Viet armis) unclothed searches upon the Petitioner in a manner that plainly conflict with the prison system regulations governing the matter, by asserting a failure to state a claim upon which relief could be granted, to which the Petitioner appeal and on or about the 23rd day of April, 2013, the Court of Appeal pronounce an order affirming in part, reversing in part and remanding said cause of action.

Subsequent to the aforesaid remand, on or about the 30th day of October, 2013, the Petitioner's initially presented pleading that express the Petitioner's absence of consent to the aforesaid Magistrate jurisdiction is entered, and subsequent to the aforesaid dismissal and remand the aforesaid all-capital-letter court does not attempt to obtain consent to said magistrate jurisdiction. On or about the 9th day of October, 2013, a motion to dismiss is ^{entered} ~~filed~~ on behalf of Respondant, whereby on or about the 26th day of February, 2014, the aforesaid all-capital-letter magistrate grant said motion to dismiss, to which the Petitioner appeal such order and on or about the 2nd day of June, 2016, the Court of Appeals vacate ^{said order granting} ~~and remand~~.

STATEMENT OF THE CASE pg. 2

Said motion to dismiss filed on behalf of Respondent. Subsequently the Petitioner move to disqualify Magistrate and to change venue of the court to the proper court operating under the proper Article of the Constitution of the United States, which the aforesaid all-capital-letter district court continue to impose ~~magistrate~~^{the aforesaid} magistrate jurisdiction upon the Petitioner and decline to change venue as requested by the Petitioner.

On or about the 5th day of December, 2017, an order appointing attorney Milton Greg Mullanax to assist the Petitioner is entered, and on the 13th day of March, 2018, a settlement conference transpire. During the aforesaid settlement conference payment of the sum \$ 7,500.⁰⁰, along with a C.D. player, Guitar, and fan is agreed upon whereby all of the documents stemming from such agreement are delivered to said attorney Mullanax, who make a show of scrutinizing said documents, express to the Petitioner that "it is a good deal" and that the Petitioner should indorse said documents, and to accordance with such advice of said attorney Mullanax the Petitioner indorse said documents with inclusion of the phrase "Without Prejudice" and citing Cal.'s Uniform Commercial Code 1-308. Subsequently, after a copy of the aforesaid agreement documents are rendered to the Petitioner and the Petitioner enjoy sufficient time to scrutinize such the Petitioner initially notice that said documents contain false / fraudulent information, e.g. the reference of the Petitioner as a resident of STATE OF CALIFORNIA not withstanding that the Petitioner consistently assert that Petitioner is not a resident of STATE OF CALIFORNIA by the pleadings presented by the Petitioner, and it is settled that fraud will vitiate any transaction (see e.g. 40 U.S. 518, 40 U.S. 518, The Amistad, (U.S. Conn. 1841).) Subsequently, the Petitioner present notice and presentment to cancel the written instruments generated via the aforesaid settlement conference and by means of said presentment the following matters are made known to the court:

- C.D.C.R. staffing persons make a show of intent to render the items, stipulated by the settlement conference documents, to the Petitioner by bringing the Petitioner to a room with said items displayed on a table in said room but then said C.D.C.R. staffing person demand that the Petitioner reindorse said documents prior to obtaining receipt of said items, and such performance is not stipulated during said settlement conference;

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

(Your Name) — PETITIONER

VS.

— RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☐ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____
_____, or

☐ a copy of the order of appointment is appended.

(Signature)

STATEMENT OF THE CASE pg. 3

- regarding the CD player that is to be rendered to the Petitioner, per stipulation is said settlement documents, a discman (that is without headphones) is what is intended to be rendered, notwithstanding that no disclosure regarding such discman is rendered to the Petitioner during the aforesaid settlement conference and the Petitioner does not have any idea that said discman is what is to be rendered, and the Petitioner speak with Milton Greg Mullanax regarding the matter whereby Mullanax agree that such a discman device is not what Mullanax consider to be a CD player but seem to be some "bait-and-switch tactic" in action;
- Regarding the reinforcing of said settlement documents the Petitioner express to Milton Greg Mullanax the Petitioner's discomfort with such unagreed performance but Mullanax only reinforce the State's interest to realize such reinforcing;
- Mullanax promise the Petitioner to research legal matters relevant to the validity of the restitution imposition but unduly fail to fulfill such promise, Mullanax argue against the interests of the Petitioner; and
- during a telephonic conference regarding the aforesaid demand that the Petitioner reinforce the settlement documents, Carolyn Delaney UNITED STATES MAGISTRATE JUDGE speak to the Petitioner by saying, "What's gonna happen if you don't sign the documents is that the Defendant will file a motion to enforce the settlement and after consideration I will grant the motion", and regarding the Petitioner's hesitation to reinforce said documents Delaney speak to the Petitioner saying, "things will get harder for you", if the Petitioner does not such reinforce, and in multiple instances during such conference Delaney speak by saying, "I cannot make the CTCR do anything".

The aforesaid all-capital-letters district court deny the Petitioner relief to the aforesaid circumstances and deny other relief sought by the Petitioner. The Petitioner

Date _____

Printed Name _____

Without Prejudice/Recourse

Signature _____

Two Witness Rule (BLI page 1056)

Witness #1

Earl Johnson

Name

Date

Witness #2

Stewart Thomas

Name

Date

STATEMENT OF THE CASE pg. 4

then bring a Motion in accordance with the Federal Rules of Civil Procedure 60(b) (See APPENDIX C.) to be heard before the United States District Court for the eastern district of California (See Tecker v. Montgomery (1822) 54 U.S. 498; Wells v. United States, 214 F.2d 380; and Title 28, United States Code, section 132.) but the aforesaid all-capital-letter district court take jurisdiction de facto and deny said Motion. The Petitioner then present Notice of the Petitioner's intent to appeal the aforesaid denial orders, to be heard before the United States Court of Appeals for the ninth circuit (See e.g. American Constr. Co. v. Jacksonville T. & K. Co. (1893) 148 US 372; United States v. Winston (1898) 170 US 522; Western P.R. Corp. v. Western P.R. Co. (1953) 345 US 247; Tabin v. Ramey (1953, CA5 La.) 206 F.2d 505; and Title 28, United States Code, sections 43 and 46.)

Subsequently same all-capital-letter court of appeal, that is not mentioned in any statute Congress enacted by law to prescribe jurisdiction for the courts of the United States, refer the aforesaid appeal to the district court for the purpose of determining whether in forma pauperis status should continue for the appeal or whether the appeal is frivolous or taken in bad faith, whereby the aforesaid all-capital-letter district court, that is not mentioned in any statute Congress enacted by law to prescribe jurisdiction for the courts of the United States, assert that the appeal is frivolous or taken in bad faith. Then, the Petitioner present a "STATEMENT THAT APPEAL SHOULD GO FORWARD" (APPENDIX D.) to be heard before the aforesaid United States Court of Appeals for the ninth circuit but ultimately the aforesaid all-capital-letter court of appeal revoke in forma pauperis status and dismiss the appeal as frivolous (See APPENDIX A & B.); such appeal include the matter that the Petitioner is compelled to full performance to the stipulations in the aforesaid settlement conference documents, whereby Respondent is unduly relieved of such performance, for instance, to the date of the present Petition for a writ of certiorari the merchandise items, stipulated in said settlement conference documents to be rendered to the Petitioner, have not been rendered to the Petitioner.

The consequence from the orders imposed by the aforesaid all-capital-letters courts is that the Petitioner is deprived of the right to petition the government for a redress of grievances regarding plain usurpations of positive law that include:

§ 7701 (3) (4)

4. No jurist or judge, like the Submitter, may be in receipt of any federal financial or other privilege, benefit or employment nor maintain a domicile on federal territory.
5. The common law of the state and no federal law or act of Congress or the Internal Revenue Code are the rules of decision, as required Federal Rule of Civil Procedure Rule 17(b), 28 U.S.C. § 1652, and Erie R.R. v. Tompkins, 384 U.S. 64 (1938).
6. Any judge who receives retirement or employment benefits derived from Subtitle A of the I.R.C. recuse himself in judging the law and defer to the jury to judge both the facts and the law, as required under 18 U.S.C. § 208, 28 U.S.C. § 144, and 28 U.S.C. § 455.
7. All of the pleadings, exhibits, and statements made, including those about the law, are admitted into evidence and subject to examination by the jury.
8. None of the pleadings in the case are sealed or unpublished so as to cover up government wrongdoing or otherwise obstruct justice.
9. The signator is not censored or restricted by the judge in what he can say to the jury during the trial.
10. Submitter is treated as a "foreign sovereign" under the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602 through 1611.
11. Submitter is not treated as a "person" under 26 U.S.C. § 1611 (d) or 26 U.S.C. § 7343, which is defined as an officer of a corporation or partnership who has a fiduciary duty. See: <http://seclm.org/Forms/MemLaw/WhyThiefOrEmployee.pdf>

Non-acceptance of this affirmation or refusal to admit all evidence attached to this pleading into the record by the court shall constitute evidence of duress upon the Submitter. This affirmation is an extension of my right to contract guaranteed by life and upheld by all valid and just law, and as is stipulated at Article I, Section 10 of the Constitution of the United States 1787 and may not be interfered with by any court of a State of the Union or of the United States.

STATEMENT OF THE CASE pg. 5

the imposing of court jurisdiction in clear absence/excess of all lawful jurisdiction;
the imposing of magistrate jurisdiction in clear absence/excess of all lawful jurisdiction;
the failure to render requested relief/remedy/remedy to the written instruments, generated by the aforesaid settlement conference, that are infected by fraud and where threat/coercion/duress/undue influence, by a court staffing person, is imposed to get the Petitioner to reindorse such; the failure to render declaratory judgment due to the Petitioner; and the undue invoking Article I /Article III Commerce /war powers clause jurisdiction where such is clearly not lawfully applicable.

An appeal brought for redress regarding such circumstances is clearly not frivolous or brought in bad faith but is surely ripe for review. The Petitioner is without any known relief/remedy/remedy regarding the foregoing save by issuance of a writ of certiorari here and the Petitioner hereby seek such.

REASONS FOR GRANTING THE PETITION

- 1) Here the UNITED STATES COURT OF APPEALS essentially condone the lower court's acts of: impairing the obligation of contracts on behalf of respondent; imposing some magistrate jurisdiction that Congress has not conferred by law, and without consent; imposing a venue that Congress has not conferred by law; which all seem to call for an exercise of this Court's supervisory power.
- 2) The aforesaid court of appeals has decided a question regarding the right to petition for a redress of grievances in a way that conflicts with relevant decisions of this Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Maury Black, All Rights Reserved.

Date: the 13th day of Nov., 2019.