

19-7029

Supreme Court, U.S.
FILED

NOV 26 2019

OFFICE OF THE CLERK

No. _____

In The
Supreme Court of the United States

In re: Paul Fahring - petitioner

vs.

Hon. Joseph R. Georgini, et al - respondent

In re a petition for an Extraordinary writ to
the Arizona Superior Court in and for the County of Pinal
Writ of Mandamus

In re PAUL FAHRING - Petition for an Extraordinary Writ/
Writ of mandamus

Paul Fahring
308 968
Aspe - Eyman - Cook
P.O. Box 3200
Florence, AZ 85132

ORIGINAL

①

Questions Presented

Does an inmate have access to the courts if all of the state courts refuse to address his issues in a constitutionally guaranteed proceeding?

Does the First Amendment guarantee an inmate more than a stamp and an envelope in an 'of-right' appeal?

Has an individual been given a fair trial when abuse of discretion has been allowed to pass?

List of Parties

Petitioner: Paul Fahring

308968

ASPC - Eyman/Cook

P.O. Box 3200

Florence, AZ 85132

Respondent: Hon. Joseph R. Georgini

Judge of the Superior Court in Pinal County, Arizona

P.O. Box 2457

Florence, AZ 85132

Real Party of Interest: Amanda Stanford

Clerk of the Superior Court in Pinal County, Arizona

P.O. Box 2730

Florence, AZ 85132

Real Party of Interest: State of Arizona

Pinal County Attorney's Office

P.O. Box 887

Florence, AZ 85132

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In the
Supreme Court of the United States
Petition for an Extraordinary Writ/
Writ of Mandamus

Petitioner respectfully prays that a writ of mandamus be issued reversing the Judgment below and granting the petitioners original requests.

Opinions Below

In the Superior Court in and For the County of Pinal in the
State of Arizona

S1100 CR-2014 02338 08/23/2018 motion titled:
Ruling on Motions/Issues Filed by: The Hon. Joseph R. Georgini

The AZ Appeals Court Div Two and The AZ Supreme Court
refused to accept Jurisdiction in this Special Action.

Court of Appeals; State of Arizona; Division Two:

2 CA-SA 2018-0081 01/04/2019

Supreme Court; State of Arizona

M-18-0102 03/13/2019

Jurisdiction

From a State Court (Arizona)

The AZ State Supreme Court denied Jurisdiction on 03/13/2019

The Jurisdiction of this Court is invoked under 28 U.S.C. § 1651(a)

Timeliness

Per the prison mailbox rule this motion was first submitted to the prison mailroom in May 2019. I am currently researching why I have had to resubmit it. I have had no response from the AZ DOC on this issue and this motion is accompanied by an inquiry to this Court's Clerk.

Constitutional and Statutory Provisions Involved

US CON Ammendment V : No person shall be ... deprived of life, liberty, or property without due process of law.

US CON Ammendment VI : In all criminal prosecutions, the accused shall... have the assistance of counsel for his defense.

US CON Ammendment XIV : All persons born or naturalized in the United States... No State shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its Jurisdiction the equal protection of the laws.

Abuse of Discretion as defined by This Court as : an error or judgment by a trial court in making a ruling that is clearly unreasonable, erroneous, or arbitrary and not justified by the facts or the law applicable in the case.

US CON Ammendment I : ... the right to petition the Government for a redress of grievances. Access to the Courts

Statement of the Case

On August 23rd, 2018 Mr. Fahring was denied his 6th AMM. right to counsel. His request for counsel was unopposed by the state. Judge Joseph R Georgini provided no legal justification for his decision giving rise to a Special Action on the grounds of Abuse of Discretion.

After filing his notice of PCR, Rosemary Gordon Panuco was assigned to represent Mr. Fahring. Without speaking to Mr. Fahring, as requested, she filed a Notice of No Colorable Issues. In that motion she addressed issues that did not relate to Mr. Fahring's case.

Mr. Fahring was then given the opportunity to proceed pro per. He filed a request with the court, asking for specific discovery items including his Trial Defense Attorney's file. That motion was denied on the grounds that he had an advisory counsel, stating that she needed to file such motions. She did not.

Then, Mr. Fahring was moved within the Arizona Department of Corrections. During that move most of his legal work was lost, including files that Mrs. Panuco had forwarded. AZ DOC told Mr. Fahring that the lost material was not their problem and that he needed to ask the court to replace it.

Mr. Fahring filed a motion with the court detailing the specific items that he needed in order to proceed. Before the court could

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respond, Mrs. Panuco who was serving as advisory counsel, counterfiled, stating that Mr. Fahring already had some of the items that he was requesting. Again, she proceeded without contacting Mr. Fahring first. The court denied Mr. Fahring's request based solely upon Mrs. Panuco's motion.

At that point Mr. Fahring felt like he could get nothing done with Mrs. Panuco standing over him so he asked for her to be dismissed from his case. He did not waive his Sixth AMM right to counsel, he simply asked for Mrs. Panuco to go away. He also asked that no new counsel be appointed, at that time, to replace her. His fear was that the court would find another attorney who would behave in the same manner as Mrs. Panuco had.

Shortly thereafter, the AZ Doc again moved Mr. Fahring. No legal materials were lost in this move but his new placement put him at a significant disadvantage. The new yard had no inmates that could assist him and the new paralegal insisted that "any assistance she offered an inmate could get her fired."

The state continued to ignore Mr. Fahring's request for files. He has tried everything within his power and has received nothing. He still does not have his basic file, his defense attorney's file. He cannot get any response from the jail nor the prosecutors office to his simple inquiries.

Consequently, Mr. Fahring requested that a new advisory counsel be appointed with the limited capacity of helping him acquire records, transcripts and other needed files. In addition, the new advisory counsel could assist

Statement of the Case Page 3

him with research and with corresponding with outside agencies that have thus far ignored Mr. Fahring's correspondence.

He also requested that Mrs. Panuco's motions be stricken from the record because they were clearly erroneous and their presence in his case are prejudicial.

The prosecutor's office did not object to Mr. Fahring's request.

Judge Georgini denied the motion, citing no legal reason nor precedent. Mr. Fahring's motion for reconsideration was denied in the same way.

The AZ Court of Appeals DEU 1 declined to accept jurisdiction over Mr. Fahring's Special Action in this matter.

The AZ State Supreme Court declined to accept jurisdiction.

Mr. Fahring is now asking this Court to overturn Judge Georgini's decision to deny him counsel and to have the items filed by Mrs. Panuco stricken from the record.

Reasons for Granting the Writ (RULE 20.1)

The State of Arizona does not have the right to plead the Fifth

Q1 They have the responsibility of upholding the Constitution and that responsibility does not wither when they are at Fault. By refusing to hear cases that meet their jurisdictional criteria the State of AZ is endorsing systemic abuse of discretion ~~in~~ ^{in their} lower courts.

Rule 20.1
Statement

This corruption warrants the use of this courts Discretionary powers. This court is also the only court that can supply adequate relief in this matter because it has been exhausted in the lower courts. Without the action of this court irreparable harm will be done; these are exceptional circumstances.

In "Writing to Win" Stephen Stark said to sell your Facts, Judges have already made up their minds about the law. I think he's right. I shouldn't need a mountain of case law that states that I have a right to a fair trial, due process and legal representation in an 'of-right' criminal proceeding. Those issues, while all present, require less of my attention than the Fact that my First Amendment right of 'access to the courts' has been denied. It is this interpretation of the US CON. wherein this Court's appellate Jurisdiction will most be aided by addressing this vital issue.

I propose that having access to the courts must be more than being given a stamp and an envelope. I make this

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Reasons For Granting the Writ page 2

assertion based upon the fact that I've done a lot of mailing but have yet to have my day in court. My issue has not been ruled upon on its merits and now I'm in danger of losing a case that I've never been allowed to present.

Abuse of discretion violates a person's right to a fair trial as well as their right to due process and equal protection of the law, ~~this~~ ^{this} claim is clearly established. When abuse of discretion keeps a person out of court it also violates their First Amendment right to redress the government and file grievances.

Abuse of discretion is defined as when the trial court makes a ruling that is unreasonable, erroneous, arbitrary or not justified by the law. In the State of Arizona the Appeals Court's job is to correct abuse of discretion when it 'affirmatively appears.'

How can the Appeals Court determine if there is Abuse of Discretion if they refuse to accept jurisdiction? This loophole is being broadly used in the State of AZ allowing them to preserve the corruption of the lower courts by not doing their job.

The State of AZ is pleading the Fifth and by doing so they are denying me access to the courts. This matter clearly warrants this court's discretionary powers.

Reasons For Granting the Writ page 3

Addressing Abuse of Discretion cannot be a matter of discretionary review, and it's not in the state of AZ but that is the practice; there is no accountability for judges who assume the role of prosecutor and have forfeited their mandatory neutrality.

This court has established numerous precedents that protect a person in my situation but they mean nothing if this court does not enforce them. The State of AZ is ignoring the law of the land. I am asking this court to squash the doctrine of abuse of discretion that exists in the State of AZ by establishing a precedent that protects people from this; a precedent that has some teeth.

The legal tyranny that exists in AZ is the very kind of corruption that our Founding Forefathers wrote a nasty letter to King George about in 1776.

Not giving me my day in court is tantamount to obstruction of justice, which is a criminal act.

I am asking this court to establish justice as a precedent in the State of AZ.

Q2 The State of AZ does not provide an inmate access to case law.
The State of AZ will not allow their paralegals to provide case law.

Reasons for granting the writ page 4

The State of AZ has contrabanded publications for including case law.

The State of AZ has banned literature that assists proper inmates.

The State of AZ has determined that some vital legal materials represent a security threat.

I can support all of these claims with documentation.

All of this is part of impeding an inmate's access to the courts.

Stripping away the law libraries and an inmate's ability to conduct legal research serves no penological purpose. By doing so the AZ Department of Corrections is not a neutral entity in the legal process. All issues created by the AZ DOC must be ruled against the state. Such as: tampering with or losing an inmate's legal materials, interfering with legal mail, hiring paralegals who know nothing about the law and swear that they will be immediately fired if they assist an inmate with their case.

All of this affects my First Amendment right of access to the courts.

The system in AZ is not designed to establish justice but rather to ensure convictions. An inmate needs protection from this kind of environment. That is why I'm asking for a limited advisory counsel.

My issue stands on its merits.

Conclusion and Relief Sought.

- ① I am asking this Court to issue a writ of mandamus under 28 U.S.C. § 1651(a) reversing the court's decision to deny me a limited advisory counsel and to strike from the record all motions filed by my previous advisory counsel.
- ② I am asking this Court to establish that addressing abuse of discretion as mandatory in the Appeals Courts in AZ.
- ③ I am asking this court to expand a prisoner's right of access to the courts to include actually being heard in court.
- ④ I am asking for a new judge to preside over my case in Pinal County, Arizona.
- ⑤ I am asking that the State of Arizona be held accountable for the actions of DOC employees by forcing the court to correct any errors made by them.

The petition for Writ of Mandamus should be granted.

Respectfully submitted by Paul Fahring
Paul Af

originally submitted in ~~may~~ ^{may}, 2019.