

Supreme court For The United States
1 First Street, NE
Washington, DC 20543

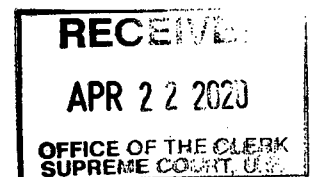
In re: Gilbert M. Martinez
Petitioner

Case no. 19-7296

PETITION FOR REHEARING

Retrospective Plaintiffs Petition for a Writ of Mandamus and Prohibition To
The Social Security Administration, The Department of Human Services and The
Tax Claims Bureau

By:
PRO SE
Gilbert M. Martinez
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CERTIFICATE OF INTEREST FOR GILBERT M. MARTINEZ

Pursuant to Federal Circuit Rule 47.4(a) and Federal Rule of Appellate Procedure 26.1, Petitioner Gilbert Martinez certifies the following identification of corporate parents, subsidiaries and affiliates: NONE

The names of all law firms and defendants that have an interest in these cases are listed below:

Tax Claims Bureau
Deasey, Mahoney & Valentini LTD.
Christopher C. Negrete
103 Chesley drive. Suite 101
Media , PA 19063

Department of Human Service
Office of General Counsel
West Health & Welfare Bldg.
P.O. Box 2675 3rd fl.
Harrisburg, PA 17120

United States Attorney
Social Security Administration
Region II
P.O. Box 4177
Philadelphia, PA 19101
(215)597-1838

STATEMENT OF THE COURTS JURISDICTION

This court has jurisdiction to issue a writ of Mandamus in aide of its Appellate court jurisdiction in accordance with 28 U.S. Code §1651, and also has extraordinary jurisdiction pursuant to Rule.21 because the issues presented are a matter of public importance.

STATEMENT REQUIRED BY FRAP 35(b)(1)

(1) Reconsideration is warranted here because this case involves questions of exceptional importance:

Did the Social Security Administration abuse its discretion holding that plaintiff is ineligible for Social Security disability benefits after claimant provided sufficient evidence proving that he is disabled with Rheumatoid Arthritis and Gerd ?

Suggested Answer: Yes

Did the Department of Human Services abuse its discretion by arbitrarily denying petitioner interim cash assistance pending Social Security disability review?

Suggested Answer: Yes

Did The Commonwealth Court make a clear error of law holding that Article VIII Section II (b)(ii) of the Pennsylvania Constitution does not provide residents with property tax exemption that have a disability and or are economically burdened by poverty ?

Suggested Answer: Yes

Did the Common Wealth Court abuse its discretion by not finding that the trial court judge failed to Test the sufficiency of the cause for action for defendants motion of a demurrer which is confined to whether the complaint as alleged fails to state a cause of action?

Suggested Answer: Yes

Did the Berks County Pleas court abuse its discretion by denying plaintiffs motion to recuse where plaintiff averred a clear violation of his due process right which deprived plaintiff of being heard on the merits of the case?

Suggested Answer: Yes

Did the Eastern district court judge abuse his discretion by not affording petitioner a evidentiary hearing seeking an Order to show cause for property tax exemption before dismissing Plaintiffs lawsuit with prejudice?

Suggested Answer: Yes

Did the district court judge in a abuse of his discretion commit a clear error of law holding that res judicata bars petitioners property tax claims in federal court whereas I was deprived of being heard on the merits in the state courts and such State remedy was therefore not plain, speedy and efficient ?

Suggested Answer : Yes

(2) The Supreme courts decision conflicts with prior decisions of various circuit courts and of the court to which this petition is addressed. Reconsideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions. See 28 East Jackson Enterprises, Inc. v. Cullerton, 551 F.2d 1093 (7th Cir. 1977) (on second petition for rehearing); see also 28 East Jackson Enterprises, Inc. v. Cullerton, 523 F.2d 439 (7th Cir. 1975); Pintozzi v. Scott, 436 F.2d 375 (7th Cir. 1970); Tramel v. Schrader, 505 F.2d 1310 (5th Cir. 1975); and Bland v. McHann, 463 F.2d 21 (5th Cir. 1972)

BRIEF STATEMENT OF GROUNDS

The grounds of this petition is limited to intervening circumstances of a substantial or controlling effect and to other substantial grounds not previously presented. The proceeding also involves questions and issues of exceptional importance that conflicts with prior decisions and those of various Circuit courts, each of which is concisely stated; for example, (1) The district court deprived plaintiff of a preliminary injunction hearing on the merits of these claims. (2) The Pennsylvania Supreme court denied plaintiffs petition for writ of Mandamus against the The tax claims bureau and Department of Welfare where the defendants did not defend and the writ should have issued. (3) The third circuit Appeals court denied plaintiffs petition for writ of Mandamus a day after receiving defendants answer before considering plaintiffs response to a jurisdictional issue brought up by the tax

claims bureau, thereby failing to afford plaintiff the opportunity to present opposing argument, and the writ should have issued.(4) The petition set forth clear rights to the relief which the U.S.Supreme court denied without affording plaintiff meaningful consideration.This court should grant rehearing in order to apply the correct standard and practices of the due process clause. This court should also grant rehearing to give a full comprehensive understanding to the case and whether Plaintiff possesses a liberty or property interest and, if so, what process he was due before he could be deprived of that interest. See.. Conley v. Gibson, 355 U. S. 41 Green v. Bauvi, 46 F.3d 189, 194 (2d Cir.1995). Applying that standard the court should conclude that the state courts made clear errors of law holding that that Article VIII Section (II)(b)(ii) does not provide a property tax exemption for persons burdened by economic hardship and suffering with a disability being the cause of them unable to pay property taxes. Subsequently, the state court clearly errerd by holding there was no legal basis to my claims. This court should also conclude that the department of Human services is without justification for depriving plaintiff interim cash assistance pending Social Security disability review in accordance with Sections 403.2 and 442.1 of the Public Welfare Code. Moreover, the statements and evidence supports the conclusion that plaintiff is disabled under the Social Security Act and the respondents do not quarrel that plaintiff is not entitled to the relief.

STATEMENT OF REASONS FOR RECONSIERATION

This court should grant reconsideration to insure the public's interests in this case which is to decide whether Pennsylvania residents that are economically burdened by poverty or a disability must pay property taxes contrary to the Constitution and local tax laws. (2) Whether plaintiff is entitled to a award of SSI benefits and interim cash assistance in accordance with the law that was wrongfully deprived by the Social Security Administration and the Department of Welfare.

ARGUMENT

Applying "liberal rules that would afford plaintiff an opportunity to be heard on the merits of his claims with meaningful review is of pertinent importance set by the standards and practices of law, particularly where a party proceeds Prose. This court should review de novo my claims accepting as true the petitions uncontroverted factual allegations. See *Sac & Fox Nation of Okla. v. Cuomo*, Nos. 97-6317, 98-6212, 1999 WL81 1669, *2, *4 (10th Cir. Oct. 12, 1999) This court should review de novo on grounds that the state courts judgments for the property tax issue is void as a matter of law. *Burke v. Smith*, 252 F.3d 1260,1263 (11th Cir. 2001) The Fourteenth Amendment provides: "No State shall deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend.XIV, § 1. See *Connelly vs. Lane const. Corp.* 809 F.3d 780, 787, (3rd Circuit 2016) Elements are sufficiently alleged when the facts in the complaint show that the pleader is entitled to relief. As in here plaintiff has stated sufficient facts proving entitlement to a award of SSI benefits and Welfare benefits which were deprived by the government agencies and the evidence supports the conclusion that Plaintiff is considered disabled under the Social Security Act Section.1614(a)(3)(A). Subsequently, this court should take into consideration the consequences for being povertized by government action with regard to plaintiffs property tax claims. In *Murray v. Philadelphia*, 364 Pa. 157, 71 A.2d 280 (1950) the Supreme Court was called upon to decide whether a number of specific items of income were taxable under the ordinance or whether the city council had no authority to impose the tax upon them because they were "excepted" on the ground they were then subject to a state tax. The Supreme Court there applied the rule of strict construction against the taxing authority saying, on Page 163, ". . . "it is a principle universally declared and admitted that **municipal corporations can levy no taxes, general or special, upon inhabitants, or their property, unless the power be plainly and unmistakably conferred**": (citing). And the grant of such right is to be strictly

construed, and not extended by implication: (citing) This court is therefore bound to apply the rule of strict construction against The Property Tax Claims Bureau for the City of Reading by issuing a writ of Mandamus Tax exempting plaintiff and issuing a refund of taxes paid to them for three years prior to filing the civil complaint in the Berks county common pleas court during the time which plaintiff was entitled to the relief.

CONCLUSION

WHEREFORE, plaintiff respectfully asks this court to grant rehearing of his application in order to assure the the correct principles and standards for review. Upon concluding the matter this court should find in favor of plaintiff issuing a writ of Mandamus to the tax claims bureau property tax exempting plaintiff and issuing a tax refund for three years.(2) Issuing a writ of Mandamus to the Department of Human Services awarding plaintiff interim cash assistance retroactive from July 31 2019, and (3) Issuing a writ of Mandamus to the Social Security Administration awarding plaintiff benefits retroactive from August 31, 2011.

Date: 4/14/2020


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CERTIFICATE OF GOOD STANDING PURSUANT TO RULE.44

Plaintiff certifies that this petition for rehearing is presented in good faith and not for delay. A copy of the certificate is attached to each copy of the petition.