

NO. 19-7374

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE- JOHN PATRICK WALLACE
PETITIONER

ORIGINAL

Supreme Court, U.S.
FILED

JAN 15 2020

OFFICE OF THE CLERK

A PETITION FOR A WRIT OF MANDAMUS AND
PROHIBITION SOUGHT AGAINST THE HONORABLE
RETIRED NANCY KOENIG AND ACTIVE
MAGISTRATE GORDON D. BRYANT

PETITION FOR A WRIT OF MANDAMUS AND
PETITION FOR A WRIT OF PROHIBITION
seeking Review of Unlawful-Unauthorized
SANctionings Issued By The Northern
District Courthouse Of Texas
LUBBOCK DIVISION

COUNSEL OF RECORD
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QUESTIONS PRESENTED

Congress Enacted The 28^{U.S.C. 1915(g)} Three Strikes Statute Of 1996 To Prevent Prisoner's From Filing FRIVOLOUS, MALICOUS, or VEXATIOUS Lawsuits.

In The Course Federal Judge's May Not Ursupate Curtail; or Abuse This Statute In The Issuance Of Unlawful Or ERRONEOUS STRIKES.

The Questions Presented Are;

1. Whether Magistrate NANCY KOENIG Exceeded It's Judicial Authority In Regulation Of A (Sanctioning) Strike Which The Fifth Circuit Court Of Appeal's Never Issued.

2. Whether Petitioner Is Entitled To Relief Pursuant To 28^{U.S.C. §1651(a)} To Vacate The Enumeration Of An Unlawful STRIKE, or Other Issued STRIKES Regarding Appeal #15-40750 Of The Fifth Circuit's Dismissal, and Enumerated In Civil #5:16-cv-168 As A Third In Prevention From MR. WALLACE Appealing The Merits Of The Ruling.

PARTIES TO THE PROCEEDING

The Parties To The Mandamus Sought Is:

1. The Honorable Magistrate Judge NANCY KOENIG.
2. The Honorable Magistrate Judge GORDON D. BRYANT
Of The Northern District Court In Lubbock Texas.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF MANDAMUS

Petitioner Respectfully Prays That The Writ Of
Mandamus Issue In Regards To Opinion Below.

OPINIONS BELOW

The Opinion Of The United States Court Of
Appeals Appears At Appendix A To The Petition
And The Decision Is Unpublished.

JURISDICTION

The Date The United States Court Of Appeals
Decided My Case Was 3-24-2016 U.S.C.A. #15-40750

The Decision To Which Mandamus Is Sought In
The Above Matter Arose From The Decision Of The
Federal District Court 2-14-2017 Civil #5:16-cv-168

The Jurisdiction Of This Court Is Invoked
Under 28\$ U.S.C. 1651.

CONSTITUTIONAL AND STATUTORY PROVISIONS

STATUTORY PROVISIONS

28 U.S.C. §1651

28 U.S.C. §1915(g)

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1. Mandamus In This Matter Is Authorized By 28 U.S.C. §1651 'All Great Writs Act', And Where No Other Relief May Be Obtained By Any Other Court Forum As Exhausted Or Postjudgement Relief. see Sup Ct. Rule.20.1. *Mallard vs. U.s.d.c.* 490 U.S. 296,109 S.ct.1814,1822(1989).

2. The Writ Will Be In Aid Of The Court's Appellate Jurisdiction, And Call Upon It's Discretionary Power's, And Halt The Prohibition Of Judicial Abuse In The Northern District of Texas. *Roche vs. Evaporated Milk assn*, 319 U.S. 21,26,63 S.ct 938,87 L.ed 1185(1943): see also 78 L. Rev 1433(2000).

3. The Enactment's Of 28 U.S.C. 1915(g)(P.L.R.A.) Allow Supervision Of The Court Upon A Lower Court. As The Honorable Magistrate NANCY KOENIG, And GORDON D. BRYANT Have Eviscerated The Rule's. *In-Re Sindrom*, 498 U.S.177,111 S.ct 596,112 L.Ed.2d 599(1991).

4. Exceptional Circumstance's Amounting To A Judicial 'Usurpation of Power' ibid, or a 'Clear Abuse of Discretion'. May Warrant This Court's Inherent Power's. *Cheney vs. U.S. Dist Court Of Columbia*, 542 U.S. 367(2004)

5. Stripping The Petitioner Of The Utilization In Proceeding Before The Court's Judicial Forum For Personal Reason Or Issue Of Poverty Is An Arbitrary Injustice In Itself. see e.g *Marbury vs. Madison* 18 S.ct 197(1803).

6. Judge's Need Neutral, And Objective Criteria As "Originalism" Preserve's The Authority Of The Court As Opposed To Having Their Own Elitist Value's In The Spake Of Issuing Unconstitutional Strike's. Then The Tradition Of The Mandamus Shall Aid Itself. *El Shaddai vs. Zamora*, 833 F.3d 1036,1048(9th Cir 2017).

7. As View'ed In Appendix A. The A "AFFIRMANCE STANDING ALONE" or PROCEDURAL POSTURE Is Immaterial. As Improvident To Derive An Acquisition Of An Inauthoritative STRIKE. Knapp vs. Hogan, 738 F.3d 1106, 1109 (9th Cir 2013); Choyce vs. Dominguez, 160 F.3d 1068, 1070 (5th Cir 1998). Adepegba vs. Hammons, 103 F.3d 383, 398 (5th Cir 1996).

8. Inferior Tribunal's Shall Confine Themself's To A Technical Definition Of Jurisdiction. Will vs. United States, 389 U.S. 90, 95, 88 S.Ct 269, 19 L.Ed.2d 305 (1967).

9. As view'ed In Appendix A "the record comported that the appellant was not entitled to proceed I.F.P status".... The Appeal Itself Was Not Within The Grounds Of 1915(g). Wilkerson vs. Prunty, No, 98-55154 (9th Cir 1998).

10. Another Lower Court May Not Count An Unqualified STRIKE. El Shaddai vs. Woodford, No. 08-cv-2429, 2009 U.S. Dist LEXIS 134107 (E.D. Cal June 18 2009)

11. Especially The 'Third Strike' As STRIKE OUT For Clear Criteria. Blakely vs. Wards, 738 F.3d 607, 615 (4th Cir 2013).

12. Delegate's Of The Very Supreme Court. Has Subject To It's Own Sense In Trustyship On Our National System. 63 L. Harvard Law Review 1, 2 (1949).

13. To Prevent Future Manifest Injustice. Mandamus, And Prohibition Meets The Criterion For Extraordinary Remifification. Clapper vs. Amnesty Int'l USA, 568 U.S. 264, 133 S.Ct 1138 (2013).

STATEMENT OF THE CASE

As Viewed In Appendix A.The Order Issued As FRIVOLOUS Was Standing Alone,And Without The Incurrence Of A Predicated STRIKE.

On June 17 2017 The Petitioner Generated A Non-Frivoious Claim Of A Perrsonal Injury.(Civ#5:16-cv-187).

In The Magistrate ORDER Of Dismissal. The Magistrate Invalidated A STRIKE Which Was Never Issued By The Authority Of The Fifth Circuit Court Of Appeals.

This Unauthorized STRIKE,There-by DENIED The Petitioner His Right To Proceed on Appeal(15-40750) Magistrate NANCY KOENIG Then Retired Off The Bench As Avoiding Any Further Duties or Reprehension Of This Matter.

The Petitioner Then Filed A Meritorious Rule 60(b) Motion.Magistrate GORDON D. BRYANT Refuse The Post Judgement Motion Entirely,And Incurred Forms Of Sanctions Monetary, and A BAR from Future Filing With-in The Judicial Court.

Further MR. WALLACE Attempted To File The Mandamus Procedure As A Step Of Exhaustion.

The Northern District Then Deducted A 180 Days of GOOD CONDUCT TIME EARNING CREDITS. As The Dismissal Did Not Meet The Criteria Of The Texas Goverment Code.

REASONS FOR GRANTING PETITION

MR. WALLACE Will Continue To Suffer Shall He Be Denied Pursuing Relief In Other Forums In Regard To His Personal Injury Claims.

In The Matter Of Public Policy. Granting This WRIT Will Prevent Judicial Abuse In Regulation Of SANCTIONS To Litigants. As Congress Enacted The P.L.R.A Statute 1915(g) To Prevent Frequent Flyer's or Vexatious litigant's.

Control Impartial Tribunal's In Dispersing Unregulated SANCTIONS, And Manipulating Congress'es Enactment Of The P.L.R.A. Three Strikes Provision.

CONCLUSION

1. The Petitioner Prays That This Honorable Court Lift The Third Strike Incurred From The Result Of Appeal #15-40750 During The 'TENURE' of NANCY KOENIG.

So The Petitioner/Appellant May Appeal Civil#5:16-cv-168.

2. Restore The Petitioner's GOOD CONDUCT CREDIT's (180 Days). That Were Unlawfully Forfeited For The Filing Of A Mandamus Act #18-40901.

3. GRANT Any Other Equitable Relief The Court Deem Necessary.

WHEREFORE; The Petitioner Respectively Pray The Petition For WRIT of MANDAMUS Be GRANTED In It's Entirity.

RESPECTFULLY SUBMITTED

Delta Wallace
4-10-2020