

NO. 19-7374

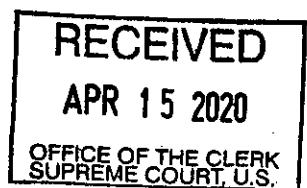
IN THE
SUPREME COURT OF THE UNITED STATES

IN-RE-JOHN PATRICK WALLACE
PETITIONER

PETITION FOR REHEARING OF A WRIT OF
MANDAMUS AND PROHIBITION

Seeking Review Of Unlawful Sanctioning
Issued By The Northern District Courthouse
Of Texas
Lubbock Division

JOHN P. WALLACE
Advocate & Petitioner
of Record
MARK W. STILE T.D.C.J
C.I.D PRISON UNIT
3060 FM 3514
BEAUMONT, TEXAS 77705



QUESTIONS PRESENTED

Congress Enacted The 28 U.S.C 1915(g)
Three Strike's Statute Of 1995 To Prevent Prisoner's
From Filing FRIVOLOUS, MALICIOUS, or VEXATIOUS Lawsuits.

In The Course Federal Magistrate Judge's May Not
Unsurpate, Curtail, or Abuse This Statute In The
Issuance Of Monetary Sanctions, Unlawful, or Erroneous
Strikes.

The Constitutional Questions Presented Are;

1. Whether magistrate NANCY KOENIG Exceeded It's
Judicial Authority In Regulation Of A (sanction) STRIKE
Which The Fifth Circuit court Of Appeals 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 Enumeration In Civil #5:16-cv-168 As A
Third In prevention of MR. WALLACE From Appealing The
Merit's of The Ruling.

(i)

PARTIES TO THE PROCEEDING

The Parties To The Mandamus/Prohibition
Sought is Listed As Followed:

1. The Honorable Retired Magistrate Judge
NANCY KOENIG.
2. The Honorable Magistrate Judge GORDON D.
BRYANT Of The NORTHERN DISTRICT COURTHOUSE IN
LUBBOCK TEXAS.

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(iii)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR REHEARING

Petitioner Respectfully Prays That The Petition
For Rehearing Issue To Review The Judgement Below.

OPINIONS BELOW

The Opinion Of The United States Court of
Appeals Appears At Appendix A To The Petition Of
Mandamus Originally Filed With The U.S. Supreme Court.

The Opinion/Denial Without Written Order Issued
By The U.S. Supreme Court As of MARCH 23rd, 2020.

JURISDICTION

The Date The UNITED STATES COURT OF APPEALS
Decided The Original Of Civil Nature Was 3-24-2016-
U.S.C.A 15-40750.

The Decision For Which PETITION FOR REHEARING
Is Sought Arose of The MANDATE By The U.S. SUPREME COURT...
DENIAL Without WRITTEN ORDER As Of MARCH 23rd, 2020.

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

(v)

CONSTITUTIONAL AND STATUTORY PROVISIONS

STATUTORY PROVISIONS

28 U.S.C. §1651

28 U.S.C. §1915(g)

(vi)

INTRODUCTION

The Petitioner Seek's A PETITION FOR REHEARING From The Mandate Issued 3-23-2020.(U.S. Sup.Ct.#19-7374) In Reviewance Of The Honorable/Retired NANCY KOENIG, and GORDON D. BRYANT Uncontroverted Issuance Of Sanctioning 1915(g) STRIKES.

As Revertly Exceeding Their 'STATUTORY' Authority.

Mandamus Relief Is Warranted.Dignified By National, and Public Importance.Undo Wrong's Which Were Deceived, Induced As A Temporary Injustice.

FACTS,CIRCUMSTANCES Dictate Rationale Founded By Extant Statutory,Constitutional Caselaw, and Controlling legal Principle's.

Ministerial Act Has An Elusive concept; Entitleing The Applicant To A CLEAR RIGHT.

Consistent With the Fifth Circuit Court Of Appeals ,and Texas Constitution Parables.Article & sec 86"said courts shall have such jurisdiction,original, and appellate ~~as~~ prescribed by law.

Texas.Gov.Code. §22.221(b)(1)Authorizes WRITS:As Each Court May Issue All Writs Of Mandamus, Agreeable To The Principles Of Law Regulating These Writs, Against A Judge Of A District.

Due to The Issue Of Poverty,or Personal Interest. A Judge By OATH Of Bench May Not Encompass Conduct Involving 'Moral Turpitude', Dishonesty, Corruption, MISUSE OF OFFICE, or BAD FAITH; Which Uses A Judicial Title Or Office For 'PERSONAL GAIN'.

A WRIT OF PROHIBITION Prevent's The Commission
Of Future Act's,Or Direct The lower Court To Refrain
From The Extant Act.

As Founded In The petitioner Argument's EL Shaddai
vs. Zamora Is The Controlling Case For MR. WALLACE'S
Imposition.

It Is the Most Recent Case of Unclear,Distinguished,
or Unsettled Law Since The Enactment Of The 1996 Statute
P.L.R.A SANCTIONING Of Authoritative STRIKES.

The Fifth Circuit Fails To Offer Procedure's
Regulating Certain Issuance Of Strikes Or The Very Most
Important"THIRD STRIKE".

'Separately'Or In A Class Of Future Litigant's MR.
WALLACE Has A Legal Entitlement To REDRESS The WRONGS
Asserted By Both Magistrate's In Their Acting Capacity.
In Congruence With The Northern District Or Impositionally.

A.B.A MODEL CODE OF PROFESSIONAL
RESPONSIBILITY

Lawyer's, Or Litigant's Acting Procendendo As
Guardians Of The Law. Play A Vital Role In The Preservation
Of Society.

Such Guardian Should Find His Touchstone To The Extant
Of Which his Actions Should Rise Above Minimum Standard's.

As The Preamble Allow's A Lawyer's Responsibility.
Whom, Has The Duty When Necessary To Challenge The Rectitude
Of Official Actions, and Uphold Legal Process.

A Major Part Of Foundation Is For A Lawyer To Cultivate
Knowledge of The Law, and Employ That Knowledge To Reform
The Law.

Finally, As An Advocate Pursuant To Rule 3.5 Of
Impartiality, and Decorum Of The Tribunal. A LITIGANT MUST
STAND FIRM AGAINST ABUSE BY A JUDGE BUT SHOULD AVOID
RECIPROCATION.

A.B.A Rules Of 1983.

TABLE OF AUTHORITIES

CASES	PG NUMBER
Logan vs. Zimmerman Brush Comp, 455 U.S. 422,429(1982).....	PG 1
Koon vs. U.S.,518 U.S. 81,100(1996).....	PG 1
Mass Bond and Insur Comp vs. U.s., 351 U.S. 128,139(1930).....	PG 1
Simons vs. U.S.,390 U.S.398(1968).....	PG 1
Coherar vs. Cullen,48 F.2d 946(1950).....	PG 1
Marbury vs. Madison,5 U.S.137. 18 S.CT 197(1803).....	PG 1,3
Yates vs. Hoffman,1962,1968(D.C Cir 111)..	PG 2
Williamson vs. Lee Optical Inc, 348 U.S. 483,488(1995).....	PG 3
Mattox vs. U.S., 15 S.CT.337,345,39L.ED.409.....	PG 3

STATUTE

28 U.S.C §1651.....PG 1

RULE

SUPREME COURT RULE 44.0.....PG 1

OTHER

Coke Institute ,Pleas Of The Crown,221.....PG 2

Phelps vs. Decker,10 Mass 246.....PG 2

Broom Legal Maxim 349.....PG 2

Third Volume Of William Blackstone Dictionary

Pages 23,109 Of Commentaries.....PG 2

Bouvier Law Dictionary(1839).....PG 3

CANON 1 DR-1-102 Of MISCONDUCT.....PG 3

1. The FOREGOING WRIT Has A Clear Entitlement Of Relief, and Legal Redress. Pursuant To 28 U.S.C. §1651, and Rule 44.0 Of The U.S. Supreme Court Rules. *Logan vs. Zimmerman, Brush Comp*, 455 U.S. 422, 429 (1982).

2. A Court May Throttle It's Discretion In Weighing Equitable Considerations By Not Addressing The Positive Equities, and Improperly Characterizing The Negative Equities. *Koon vs. U.S.*, 518 U.S. 81, 100 (1996).

3. Fundamental Principles Shall Not Be Annulled By Any Further Amendment, Rigidly Observed In All It's Provisions. *Mass Bond and Insur Comp. vs. U.S.*, 351 U.S. 128, 139 (1930).

4. One Constitutional Right Should Not Have To Be Surrendered To Assert Another. *Simons vs. U.S.*, 390 U.S. 398 (1968).

5. There Shall Be No 'Penalty' or Sanction, For Merely An Exercise Of His Constitutional Right. *Coherar vs. Cullen*, 48 F.2d 946 (1950).

6. A Judge or Magistrate Of ARTICLE III Standing By Oath Of Office, Is Required To 'Administer Justice'. To The "Poor", and Impartially Discharge Duties Faithfully Agreeable To The Constitution. *Marbury vs. Madison*, 5 U.S. 137, 18 S.Ct. 197 (1803).

7.A Judge Exceeds His Jurisdiction To Grant or Deny That Beyond his Lawful Authority.Perpetrating A Non-Judicial Act.Yates vs. Hoffman,1962,1968(D.C.111).As Incurring The Indelible Brand Of Infamy.Coke Institute, Pleas Of The Crown,221.

8.Equally,It Is Fraud To Conceal A Fraud.(1 Story Equity Jurisprudence 389,390).Out Of Fraud No Right Of Action Arises.Phelps vs. Decker,10 Mass 246;Broom Legal Maxims 349.

9.The Essence Of Civil Liberty Of A Claimed Inuria, Consist The First Duty Of Government To Afford That Protection.Marbury..at 163.

10.WILLIAM BLACKSTONE..States Two Causes In Which A REMEDY IS AFFORDED BY MERE OPERATION OF LAW.(see 3rd vol of commentaries p.23).

11."it is a general, and indisputable rule, that where there is a legal right, there is also a legal remedy by suit, or action at law, whenever that right is invaded."citing Marbury at 163.All Possible Inuriyas Whatever, That Do Not Fall Within The Exclusive Cognisance Of Either Ecclesiastical,Military,or Maritime Tribunals,Are For That Reason Within The Cognisance Of The Common Law Court's Of Justice.Which Must Have A Remedy, and Every Inuria Its Proper Redress.(3rd vol Blackstone Dictionary P.109 Commentaries)

12.The Applicant's Request For Mandamus/Prohibition Authoritises A Legal Modicum,Without The Description Of 'damnum absuque injuria'.Supra Marbury.

13.Usage Of Penological Test Or Rational Connection Will Assure That There Is An'Evil at Hand'For Correction To A Particular Risk Identifiable To The Public.Williamson vs. Lee Optical Inc,348 U.S. 483.488(1955).

14.An Unconstitutional Act...confers No Right, It Imposes No Duty,It Afford No Protection.It Creates No Office, and It Is Inoperative As Though It Never Passed.Mattox vs. U.S.,15 S.6T 337,345,39 L.ED.409(1838);see also Bouvier Law Dictionary(1839) Pg 628.

15.CANONS Are Axiomatic Norms...
CANON 1 DR 1-102 Of MISCONDUCT...Allows That No Fiduciary Shall Engage In Conduct That Is Prejudicial To The Administration Of Justice.

16.An Act,Repugnant To The Constitution.Shall Not Become A Law Of The Land In The United States.Marbury at 175.

STATEMENT OF THE CASE

As Viewed In Appendix A. An Order That Arose From An I.F.P Motion To Proceed Was DISMISSED STANDING ALONE As FRIVOLOUS On OCT 17th, 2017.

The Applicant Then Generated A Civil Suit In Regards To A Personal Injury Civil Suit(Civ #5:16-cv-168). This Causation Was DISMISSED. In With-in The Course Appeal#15-40050 Was INAUTHORITATIVELY Counted As A 3rd STRIKE. Which Then Prevented The Applicant In That Cause To Appeal the Decision I.F.P Due To Poverty.

After The Dismissal, and Issued Strike The United State Magistrate NANCY KOENIG Retired Off The Bench. The Applicant Then Generated Multiple Multi-District Extroadinary Motions Alledgeing Unauthorized Authority to Issue An Unworthy Strike Pursuant To 1915(g).

As Viewed In Appendix C Of Civ#6;12-cv-187#Motion To Conduct An Expedited Review.

Seen In The Original Petition For Mandamus...At Appendix D. The Applicant A Post Judgement Motion 60(B) Within The NORTHERN District of LUBBOCK Texas.

In His Official ~~Fitness~~ As A Magistrate, and Misuse Of Office. GORDON D. BRYANT Alledge That The Motion Was Totally FRIVOLOUS. Then Incurred A BAR Of Future Filings, and A Monetary Sanction Of \$25 Twenty Five Dollars.

Appendice E Will Institute, and Show the Applicant Submitted A WRIT OF MANDAMUS.#18-40901)

The Fifth Circuit Court Of ~~Appeals~~ Has No pro-offered Procedures To Challenge Note Worthy Prisoner Strikes.

In Turn The Application For Writ Of Mandamus Was DISMISSED FOR FAILURE TO PROSECUTE.Due To The Issue Of Poverty.

Further,The Applicant Was WRONGFULLY/INCORRECTLY Deducted Six Months Of GOOD CONDUCT PRISON CREDITS.

Appendice F Will Show the Last Form Of Post-Judgement Exhaustion.As There Is No Other Form/Applicable Remedy At Law Available.

The Applicant Submitted A Complaint Of Judicial Misconduct Which Was DENIED In Both Matters.

REASONS FOR GRANTING THE PETITION

Mandamus Is Reserved For Drastic, and Extraordinary Cause's. The Traditional Writ In Aid Of The Distinct Jurisdiction Will Unleash It's Provident Powers. *Ex Parte vs. Fahey*, 332 U.S. 258, 260, 67 S.Ct. 1558, 91 L.Ed. 2041 (1947).

Both At Common Law, and Consistent With The Federal Court's Which Is Confine To.

At Times Congress Enacted Statutes ~~News~~sions, and Provisions. To Promote The General Welfare Of The Rich, and The Poor.

As Seen In Other Circuit's. Such Circuits Provide 'Procedure's' For Unworthy STRIKES Of The P.L.R.A.1915(g) Statute. To Then Allow Prisoner-Litigant's To Challenge, and VACATE Enumerated STRIKES. As Seen In *El-Shaddai vs. Zamora*.

Bringing Effectuate To The Statute Will Promote Fairness To All Litigants With-in The Criminal Or Civil Justice System. Regardless To The Issue Of One's Poverty level.

The Passing Of This WRIT Will Hold Judges Universally To A Decorum Of CANONS, and OATHS Prescribed On To Them.

Promoting Good Government, and A Balance To Federal Enactment's Will Promote The Administration Of Justice.

CERTIFICATE OF GOOD FAITH

Pursuant To Supreme Ct. R. 44.1.The Petitioner Presents The Certificate Of Good Faith In A Timely, and Reasonable Manner.

Further, Moves This Court With A Petition for Re-hearing Which Presents The Controlling Effect Of Intervening Circumstances.

The Petitioner Certifies That The Petition Is Presented With No Intent To Delay, Harass, or With Any Dilatory Tactic.

Grounds presented Are Newly Redacted Arguments Of A Different Of A Different Type Not Presented In The Original WRIT OF MANDAMUS.

Finally, The Petitioner ~~Understands~~ That He Is Held To The Professional Standards Pursuant To The Amer. Bar. Assoc Of An ADVOCATE. see amer bar r.3.1

Meaning...A Lawyer Shall Not Assert, or Controvert An Issue Unless There Is A Basis For Doing So That Is Not FRIVOLOUS. Only To Present A Claim Of REVERSAL In Existing Law.

CONCLUSION

The Petitioner Has Presented The Following Petition In It's Brevity.

The Demand Of Equity, and Requested Entitlement Of Relief. Meets The WRIT In Substance, Form, and Fashion Consistent With The Standards Met In MARBURY.

The Following Request Will Allow The Unjust. The Form Of Punishment or Sanctions Metted To The Petitioner OVERTURNED and REMANDED With The Appropriate Opinion At Law.

STANDARD OF RELIEF

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 Exercise His Right Of Appeal Of Civ #5:16-cv-168.

2. Restore The Petitioners GOOD CONDUCT PRISON CREDITS Of A 180 Six Months Time Earning That Were Unlawfully Forfeited For The Filing Of A Mandamus Act #18-40901.

3. Issue A Prohibition order From Preventing Future Occurences Within The NORTHERN DISTRICT OF TEXAS.

WHEREFORE, The Petitioner Pray That The Petition
For Rehearing Of A~~A~~ WRIT OF MANDAMUS Be GRANTED
In IT's Entirity.

RESPECTFULLY SUBMITTED

JOHN P. WALLACE

CERTIFICATE OF COMPLIANCE

NO. 19-7374

IN-RE-JOHN P. WALLACE

As Required By Supreme Court Rule 32(a).I
Certify That The Petition For A WRIT OF MANDAMUS
Contains 2,370 Words, Excluding The Parts Of The
Petition That Are Exempted By Rule Of The Court 33.1(d).

NO: 19-7374

IN THE
SUPREME COURT OF THE UNITED STATES

PROOF OF SERVICE

I JOHN P. WALLACE Do Swear Under OATH, and The
Penalty Of Perjury. A True, and Foregoing Copy Was Sent
By U.S Postal Mail or Indigent Mail On April 7th @020.
Pursuant To Sup Ct. R 29. The Copy Was Directed To The
Honorable SAM CUMMINGS(district judge). Of The Northern
District Of Texas. As NANCY KOENIG Is Retired.

**The petition To The
Supreme Court Was
Sent out on the 5th
of April*

RESPECTFULLY SUBMITTED
JOHN WALLACE
MARK W. STILES UNIT
3060 FM 3514
BEAUMONT, TEXAS 77705