

APR 16 2020

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No. 19-7401

IN THE

Supreme Court of the United States

DUMISAI HASANI HOCKADAY,

Petitioner,

v.

HELENE CHRISTNER, et al.

Respondent,

On Petition For Rehearing To

The United States Court of Appeals for the Tenth Circuit, Case No. 19-1259, and
The United States District Court for the District of Colorado, No. 17-cv-01018-MSK-NRN.

MOTION FOR LEAVE TO FILE A PETITION FOR REHEARING

Dumisai Hasani Hockaday, *pro se*
Prisoner ID 159095

CCC – Colorado Correctional Center
15445 South Golden Road
Golden, Colorado. 80401-3956
303.273.1620

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SUPREME COURT, U.S.

LEGAL STANDARD

SUP. CT. R. 44.2 – Any petition for the rehearing of an order denying a petition for a writ of certiorari... shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented...

STATEMENT OF THE CASE

The Tenth Circuit publicized its animus against the Constitution by using an “order to show cause” for § 1915(g) purposes, as a means to circumvent a lower federal judgment on a § 1915(g) motion.

REASONS FOR GRANTING THE PETITION FOR REHEARING

The Fifth Amendment prohibits the government from unfairly or arbitrarily depriving a person of life, liberty, or property. These rights are so fundamentally important as to require compliance with due-process standards of fairness and justice, and sadly, were not conferred upon the § 1915(g) finding of Senior United States District Judge Marcia S. Krieger, whose property was tampered with in lieu of clearly established law forbidding such conduct.

ISSUE FOR REHEARING

Whether Senior Judge Krieger’s property rights under USCS Const. Amend. 5, were violated when the defendants failed to object to a § 1915(g) ruling, and the Tenth Circuit reversed.

STANDARD OF REVIEW

To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort, and for an agent of the State to pursue a course of action whose objective is to penalize a person's reliance on his legal rights is "patently unconstitutional." *See Bordenkircher v. Hayes*, 434 U.S. 357, at *363 (1978) (Stewart, J.).

STATEMENT OF FACTS

¶1. On August 13, 2019, I requested leave to commence this appeal without prepayment of fees or security therefor pursuant to 28 U.S.C. § 1915(g). *See Appendix D, pg. 8-11.*

¶2. Judge Krieger GRANTED the prisoner's motion and affidavit for leave to proceed on appeal pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24.

¶3. In the exercise of good judgment, Senior Judge Krieger states: "Mr. Hockaday's Motion to Proceed *In Forma Pauperis* on appeal [168] is granted. Mr. Hockaday has previously been allowed to proceed *in forma pauperis* in this action and the Court finds no basis under Fed. R. App. P. 24(a)(3) to revoke that authorization at this time." *See Appendix C, at pg. 6.*

¶4. The "Order" in paragraph (¶) 3, is an equitable decree whose standpoint is subject to change by the progenitor, or by due-process (specific objection).

¶5. The guarantee of due process is found in the Fifth Amendment to the Constitution which states: "No person shall... be deprived of life, liberty, or property, without due process of law;"

¶6. The “Property” associated with Senior Judge Krieger, and all other judges, is intellectual, personal, and private. A judge’s right to integrity ensures that the ruling is not changed while wanting consent.

¶7. Further, the ability to create precedent that is binding between the parties to it, is pivotal, but it is the abstract *ratio decidendi* which alone has the force of law as regards to the world at large. As such, the Fifth Amendment proscribes the withholding of intellectual, personal, or private property without due process.

¶8. “While there is a close relationship between intangible property and the tangible objects in which they are embodied, intellectual property rights are distinct and separate from property rights in tangible goods. For example, when a person posts a letter to someone, the personal property in the ink and parchment is transferred to the recipient.... The sender (as author) retains intellectual property rights in the letter.” *See* Lionel Bentley and Brad Sherman, Intellectual Property Law 1-2 (2001). *See also* Appendix C, at pg. 6.

¶9. The Office of the Colorado Attorney General failed to properly preserve the error of a contemporaneous objection. An action of courtroom procedure that is absolutely essential, and beyond reproach.

¶10. Rules of Court procedure require that a complaint be clear, definite, and complete and that it be prepared in accordance with the law and the rules of the court. When the defense believes that a motion is not in accordance with court rules or the law, the attorney may object to it by means of various documents. These documents, and

others, attempt to invalidate the motion on the ground that it is not supported by a cause of action recognized by law.

¶11. The U.S. district court gave the defendants reasonable notice of the pending § 1915 action, and ample opportunity to present objections therewith.

¶12. The Supreme Court of the United States has long established the consequences of parties failure to preserve a right, and how that disconnect, seriously affects the fairness, integrity, or public reputation of judicial proceedings. *See, e.g., Yakus v. United States*, 321 U.S. 414, at *444 (1944); *Henry v. Mississippi*, 379 U.S. 443, at *448-50 (1965); *Thomas v. Arn*, 474 U.S. 140, at *147 (1985); *Greenlaw v. United States*, 554 U.S. 237, at *244-45 (2008); *Puckett v. United States*, 556 U.S. 129, at *134 (2009).

¶13. As a result, the U.S. district court adopted the federal magistrate's summary of the facts of the offense and evidence adduced in the federal pleading regarding Hockaday's § 1915(g) claims. Without opposition, however, the appellate court's review of the § 1915(g) matter is prohibited.

¶14. Controversy over a judicial decision **REQUIRES** due process, or else, a deprivation fundamentally altering the nature of a ruling is imminent.

¶15. Even though the boundaries of due-process are not fixed and are the subject of endless judicial interpretation and decision-making, Senior Judge Krieger's *orders* ("property") finds solace in the guarantee of the 5th Amendment, which **MUST** be protected in order to maintain the fairness, integrity, or public reputation of future judicial proceedings.

CONCLUSION

The petition for the rehearing of an order denying a Corrected Petition For A Writ of Certiorari should be granted.

Respectfully submitted on the 9th day of April, 2020.



Dumisai Hasani Hockaday, *pro se*

Prisoner ID. 159095

CCC – Colorado Correctional Center

15445 South Golden Road

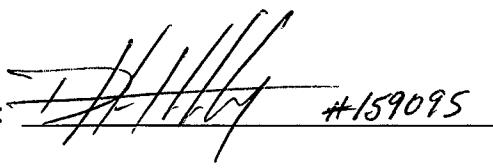
Golden, Colorado. 80401-3956

303.273.1620

CERTIFICATION OF A PARTY UNREPRESENTED BY COUNSEL

I Dumisai Hasani Hockaday, Prisoner ID #159095, hereby certify that this Motion for Leave to File a Petition for Rehearing is restricted to the grounds specified in SUP. CT. R. 44, and complies with Rule 33.2 and Rule 34. This motion is presented in good faith and not for delay.

Executed on: April 9, 2020

Prisoner Signature:  #159095