

No. 19-7597

IN THE SUPREME COURT
OF THE UNITED STATES

ROBERT WILLIAM WAZNEY, Petitioner,

v.

Kenneth Nelson, Warden, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
U.S. COURT OF APPEALS 4th Circuit

PETITION FOR REHEARING
ON GROUNDS OF
NONMUTUAL TRUE RES JUDICATA

May 19, 2020.

ROBERT WILLIAM WAZNEY
990 WISKEY HWY.
Bishopville, South Carolina 29010
Captive Petitioner
Pro Se (forced)
803-428-2800

RECEIVED

MAY 28 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

AFFIDAVIT OR DECLARATION OF
PETITION FOR REHEARING ON GROUNDS OF
NONMUTUAL TRUE RES JUDICATA

COMES NOW, ROBERT WILLIAM WAZNEY, Petitioner, pro per, who being duly sworn deposes and says:

"1. I am ROBERT WILLIAM WAZNEY and this is PETITION FOR REHEARING ON GROUNDS OF NONMUTUAL TRUE RES JUDICATA, case number 19-7597.

2. Grounds for this Petition come from other substantial grounds not previously presented.

3. I respectfully petition this court for a rehearing of the appeal in the above-entitled cause, and in support of this petition present and represent to the Court as follows:

4. This case is about where I never seen my day-in-court, which is my "right and opportunity, in a judicial tribunal, to litigate a claim, seek relief, or defend [my] rights", Blacks Law Dictionary, page 455 (9th ed. 2009), and that day-in-court right was abolished by nonmutual true res judicata, a/k/a nonmutual claim preclusion. I have not had fair and full opportunity to litigate the claims in the prior suit where I was misconvicted at trial in county court and is still in full force and effect.

5. The role of the United States Supreme Court is to make sure that important issues of federal law—including interpretation of the United States Constitution—are settled in a uniform way for the entire country. I have demonstrated to this Court claim of federal Constitutional error, demonstrating those constitutional guarantees which have been abridged.

6. April 6, 2020, this Court entered a bare order to deny my Motion to proceed in forma pauperis (IFP) and dismiss my writ of certiorari based upon Rule 39.8. Rule 39.8 states that the Court, if satisfied that a petition for writ of certiorari, jurisdiction statement, ~~or~~ petition for an extraordinary writ is frivolous or malicious, may deny leave to proceed IFP. Which leads one only to speculate whether "frivolous" or "malicious" drives this Court's decision.

7. A lawsuit is an action brought in a court of law by a person or organization claiming a personal or financial injury incurred from another party's or entity's actions that seeks a legal or equitable remedy. A lawsuit is an adversarial proceeding and its basic nature is a contest, conflict or dispute where you are expected to observe the customary rules of decorum and you are not expected to 'play nice'.

8. In most lawsuits there is a party who becomes injured. I have become injured in this case and I am appealing to this Court the injustice done where my injuries have been done without just cause not only by the opposing party in this case but also unjustified-malicious governmental practice.

9. I have acquired the evidence which proves my innocence in this case and it is not my fault that particular evidence was kept from me by my trial attorney until after I was thrown in prison. It is not my fault the government restrained my assets--assets unrelated by the alleged crime, untainted and legitimate assets--before I was brought to criminal trial depriving me of my right to choice of counsel. It is not my fault I was given an unfair trial abolishing that right as well. I am being denied many other United States Constitutional guarantees such as right of security of person, equal

protection, effective remedy, right to property, right to equal access to public service, and I have a right to appeal ALL those federal constitutional abridgements and errors, et al., the State and federal Courts fail to provide due process to protect my rights in which I have alleged have been abolished and violated, I am receiving no judicial protection. And, once I presented that information to the government, the government seems to not want to 'play nice'.

10. Definitions:

FRIVOLOUS, adj.(15c) Lacking a legal basis or legal merit; not serious; not reasonably purposeful. Blacks Law Dictionary, page 739 (9th ed. 2009).

and,

MALICIOUS, adj. (13c) 1. Substantially certain to cause injury. 2. Without just cause or excuse. Blacks Law Dictionary, page 1043 (9th ed. 2009),

and to include;

MALICIOUS, adj. 2. Law, Motivated from or having the nature of MALICE. Readers Digest Illustrated Encyclopedic Dictionary, page 1023 (First Edition 1987);

and,

MALICE, n. (14c) 1. The intent, without justification or excuse, to commit a wrongful act. 2. Reckless disregard of the law of a person's legal rights. 3. Ill will; wickedness of heart * This sense is most typical in nonlegal contexts. ... Blacks Law Dictionary, page 1042, (9th ed. 2009).

11. I have no history of repetitive filing of papers with the United States Supreme Court with any obvious effect of burdening it's office of clerk and other members of court staff. All of my filings prior have been legitimate, good faith claims with legal merit. All of them were never granted certiorari by the Court for no ill reason, and there has been no frivolousness flourished per se.

12. It is vital that right to file IFP not be incumbered by those who would abuse integrity of process by frivolous filings, particularly those few person whose filing are repetitive with obvious effect of burdening office of clerk and other members of court staff. U.S.Sup.Ct.Rules 33.1, et seq., 39.1 et seq., 39.8, 28 USCA. In re AMENDMENT TO RULE 39, 134 F.R.D. 493.

13. This case involves my life or death in prison, which, if dismissed by this Court, would ultimately effectuate court Officials who are not judges the permission to fail performance of ministerial duties and determine the rights and fate of persons, making my claim and appeal very serious and reasonably purposeful because it points out those facts and allegations of unconstitutionality.

14. So, obviously the Courts action under rule 39.8 would be an unexplained expansion of such rule under frivolousness.

15. Which leaves, Malicious, and to include, Malice: "Motivated, without just casue or excuse, with reckless disregard of the law a person's legal rights, to commit a wrongful act, substantially certain to cause injury.":

16. My claims have been precluded under the explained actions where JAMES C. CAMPBELL CLERK OF COURT, "county clerk", is not filing my papers with the Court when it should be, county clerk has NO malice exception, which means he is NOT immune to face civil liability because he failed to perform ministerial duties, and which resulted in a violation of my rights. County clerk does not have qualified immunity for willfully exercising discretion in a way that violated my well-established right(s). County clerk is a malefactor and has harmed me by it's actions and inactions. County clerk not performing it's ministerial duty is totally controlling my litigation and circumventing my access to justice and circumventing my day-in-court, and which is a legally sufficient reason for this legal action and appeal to the line of Courts which have been appealed, and all of which failed to provide adequate or effective remedy, nor have they provided due process to protect the rights allegedly violated. District Court is failing to give due recognition to the evidence of my claims as is Fourth Circuit Court of Appeals, evidence-of-claim where State-Court process is ineffective and inadequate; I have not been allowed access to domestic remedies and I have been kept from exhausting them; this totality of circumstance gives rise to nonmutual res judicata, and discounts Court's "malicious" reason for expansion of it's Rule 39.8. My playing nice does not necessarily effect me to prevail when my stylized process of combat is compromised by such 'nice-play', especially when claims-consciousness is turned on end and the "PCR Act" is thrown out the proverbial 'window' by the very government which enacted it. United States Supreme Court has found time to litigate ".com" issues, why not time for an innocent citizens life, who has had no opportunity to be heard.

17. County Clerk has a qualified pre-existing nonparty-preclusion 'special relationship' to this case, nonmutual true res judicata clearly appears in my pleadings, and res judicata should not be applied inflexibly to deny justice.

18. PREMISES CONSIDERED, I am due my day-in-court, which I have been deprived of by the judiciary, which offends due process of law, I request certiorari from this Court or any other relief this Court deems fit and appropriate." [emphasis added].

I declare under penalty of perjury the foregoing is true and correct.

Executed May 19, 2020.

ROBERT WILLIAM WAZNEY

990 Wisacky Highway

Bishopville, SC 29010

Indigent Captive

SWORN to and subscribed before me this 19
day of May, 2020.

Debra Eastwood
Notary Public

My Commission Expires: 3/3/2021

**CERTIFICATION OF PARTY
UNREPRESENTED BY COUNSEL**

I, ROBERT WILLIAM MAZNEY, Petitioner, do hereby certify that inappropriate government action of pre-trial freezing of my legitimate untainted assets, assets unrelated by the crime, as a criminal defendant has effected my poverty and my misconviction and therefrom I cannot afford counsel, I am so unrepresented by counsel and this PETITION FOR REHEARING is presented in good faith and not for delay. I declare under penalty of perjury the foregoing is true and correct.

/s/

ROBERT WILLIAM MAZNEY
Party Unrepresented by Counsel

Bishopville, SC 29010

April 19, 2020

may

No. 19-7597

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OF THE UNITED STATES

ROBERT WILLIAM WAZNEY, Petitioner,

v.

Kenneth Nelson, Warden, Respondent.

PROOF OF SERVICE

I, ROBERT WILLIAM WAZNEY, do swear or declare that on this date, May 19, 2020, as required by Supreme Court Rule 29 I have served the enclosed PETITION FOR REHEARING ON GROUNDS OF NONMUTUAL TRUE RES JUDICATA and CERTIFICATION OF PARTY UNREPRESENTED BY COUNSEL on each party to the above proceeding or that party's counsel and on every other person required to be served, by depositing an envelope containing the above documents in the United States Mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Clerk, U.S. Supreme Court
One First Street, N.E.
Washington, DC 20543

S.C. Attorney General
PO Box 11549
Columbia, SC 29211

Ken Nelson
PO Box 21787
Columbia, SC 29221-1787

I declare under penalty of perjury the foregoing is true and correct.

Executed on May 19, 2020.

ROBERT WILLIAM WAZNEY
990 W. 2nd St.
Bishopville, SC 29010
Captive Petitioner
Pro se (forced)
803-428-2800