

No. 19-8

Supreme Court, U.S.  
FILED

JUN 24 2019

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

JESSIE D. MCDONALD, )  
                          )  
                          )  
Petitioner, )  
                          )  
v.                    ) Certiorari before  
                          ) Judgment on Appeal  
FEDERAL COMMUNICATIONS )  
COMMISSION, et al.,    ) Case No. 19-5448 &  
                          )                   19-5449-RLJ  
Respondent(s). ) Judicial Council  
                          ) No. 06-18-90024

On application for Writ of Certiorari  
Before Judgment on Appeal in the  
Sixth Circuit Court of Appeals

**PETITION FOR WRIT CERTIORARI**

Dr. Jessie D. McDonald, Ph.D., Pro se  
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## **QUESTIONS PRESENTED**

1. Whether the Sixth Circuit Judicial Council have supervisory powers over district court judges?
2. Whether 28 U.S.C. §352(b)(1)(A)(ii)(&(iii)( and Rule 11(c)(1)(B) &(C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings is unconstitutional?
3. Whether “due process” require provisions for a Motion to Rehear or an appeal of final orders?
4. Whether 28 U.S.C. §357 and Rule 9(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings violate due process when there is no procedure for a rehearing or appeal?
5. Whether judges have immunity when acting outside the judicial scope of the court jurisdiction or abusing judicial powers?
6. Whether a judge’s action outside the scope of the court’s jurisdiction by influencing another judge to act with malice or corruptly in cases before their court constitute judicial misconduct?
7. Whether judges should recuse themselves from cases where the litigant has filed judicial misconduct charges against them?
8. Whether judges have the authority to take a litigant’s money without a legal judgment authorizing the court to do so?
  - i.

9. Whether trial judge was acting with bias and prejudices in this case?
10. Whether officers of the court and judges are immune from monetary damages when acting corruptly, with bias and malice and causing irreparable injury on litigants?
11. Whether judges have abused their discretion by instructing the clerk of the court to divert specific cases to their office by deviating from the normal case assignment protocol?
12. Whether 28 U.S.C,§351-364 is unconstitutional by assigning jurisdiction to the Sixth Circuit Judicial Council, when court of appeals judges has no supervisory powers over district court judges?
13. Whether judicial misconduct is present when judges abuse their discretion by finding no wrongful conduct by chief judge, when the accused judge acted without jurisdiction?
14. Whether this Court has jurisdiction to expel a federal judge for judicial misconduct?
15. Whether the public election is valid that denies or prohibits Independent Candidates from having equal time as Democratic and Republican Candidates?

## **LIST OF PARTIES**

The Petitioner, Dr. Jessie D. McDonald is the only petitioner in this case;

Federal Communications Commission; Tennessee Elections Commission; The Judicial Council of the Sixth Circuit; and the Solicitor General are the respondents in this case;

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### **Orders Below**

January 24, 2019, order on appeal from the district court, denying leave to file Motion for Leave to proceed in forma pauperis and for a writ of prohibition and mandamus.

[Joint Appendix, P. 14]

April 12, 2019, order on appeal from the district court, denying leave to file Motion for Relief from Judgment; and Motion to Amend the application for writ of error coram nobis.

[Joint Appendix, P. 17]

May 3, 2019, entered by the Judicial Council for the Sixth Circuit, affirming the actions of the former Chief Judge of the District Court, and present Chief Judge of the Sixth Circuit Court of Appeals.

[Joint Appendix, Page 21]

May 6, 2019 letter from the Circuit Executor informing Petitioner that there are no provisions for further review by Motion to Rehear.

[Joint Appendix, Page 23]

1.

## **STATEMENT OF JURISDICTION**

Pursuant to Rule 11 of this Court Rules, Petitioner, Jessie D. McDonald, Pro se asks this Court to issue the Writ of Certiorari to determine the constitutionality of 28, U.S.C. §352(b)(1)(A)(ii) & (iii) and related statutes; and Rules for the Judicial-Conduct and Judicial-Disability Proceedings for failing to provide provisions for a rehearing or an appeal in judicial misconduct cases; and whether the two federal judges acted illegally to foreclose petitioner from having access to the district court; and declared to be a 'vexatious' litigant, in the absence of a hearing or charges in a pleading before the court, before a judgment in the interest of the public?

## **IMPERATIVE PUBLIC IMPORTANCE**

Independent Candidates in the November 6, 2018 General Elections were denied equal time as the candidates for the democratic and republican parties, based on rules or policies from the Federal Communications Commission and on appeal now.

Petitioner, an Independent Candidate for Governor of Tennessee was denied access to the district court to seek

injunctive relief or writ of prohibition because of a void judgment that declared petitioner to be a 'vexatious litigant' and now pending on appeal now.

#### Statement of Facts

Petitioner was denied leave to seek relief from the void judgment that was entered without a hearing as required under Rule 11, of FRCP; and there has never been a judgment as required under 28, U.S.C., §1651(a), declaring petitioner to be a vexatious litigant; nor has there been a complaint or other pleadings before the court that gave the district court jurisdiction to impose monetary sanctions against petitioner; and denied leave to seek injunctive relief to enjoin the enforcement of the results from the public election on November 6, 2018, where Independent Candidates were denied equal time as allowed the democratic and republican candidates.

Petitioner, Jessie D. McDonald, acting pursuant to an order that was entered, while in the custody of Vinson Thompson, Warden at the Tennessee State Penitentiary, in May of 1976, by Chief Judge, L. Clure Morton, attempted to reinstate a habeas corpus proceeding in the district court, after exhausting state remedies and after

the imposed sentence had expired, by Petition for Writ of Error Coram Nobis, under the All Writs statute, 28, §1651(a), U.S.C.;(Clerk refused to provide a copy of that order, even after petitioner paid the \$30.00 research fee).

Rather than conducting a hearing on the merits of the petition, Judge Thomas Wiseman set a show cause hearing on charges amounting to 'abusing the judicial process', when there had never been a pleading or allegation against petitioner before the court.

Petitioner being an over the road truck driver was not aware of the order until coming home several days after the date that was set and the first monetary sanctions of \$500.00, was imposed; and the court GRANTED the Motion to Recuse, based on bias and prejudices toward petitioner.

Upon arriving home and finding the order, Petitioner attempted to respond to the order, when Judge Trauger imposed a second monetary sanction of \$1,000.00, without allowing a hearing to give petitioner the opportunity to give a reason for not attending the show cause hearing, as required under Rule 11 of Federal Rules of Civil Procedure.

The order further foreclosed and restricted the petitioner of having access to the court for future filings.

The effects of that order resulted in the district court dismissing several civil lawsuits that were initiated in accord with Federal Rules of Civil Procedure and even taking the filing fee in one case and applying it towards the monetary sanctions.

On another occasion, at a Kinko's Copy Center location on West End Avenue, in Nashville, Tennessee...petitioner was making copies for a response to a pleading in the U.S. District Court, in St. Paul, MN., when the copy came up, Judge Trauger snatched the copy and read it in its entirety and later contacted the Magistrate Judge and the District Judge in St. Paul, MN and had the wrongful employment lawsuit to be dismissed.

The district court judge even denied a Motion to Recuse herself, that alleged bias and prejudice towards petitioner; which resulted in a judicial misconduct complaint being filed her.

The Chief Judge dismissed the complaint and a Petition to Review the Order of Dismissal was submitted to the Judicial Council of the Sixth Circuit that affirmed

the dismissal. A motion to amend the brief of appellant is pending before Senior Judge, Martha Craig Daughtrey to include the constitutionality of the federal statutes and rules of the Judicial Council for the Sixth Circuit.

These issues are on appeal in the Sixth Circuit and because of important imperative issues involving a public election on November 6, 2018, an immediate review in this court is required.

#### **Concise Argument**

Petitioner has never been declared to be a 'vexatious litigant' after being charged in a pleading before any court, as required under the All Writs statute and was wrongfully foreclosed from having access to the district court to seek a writ of prohibition to prohibit the enforcement of the public election results on November 6, 2018, where petitioner was denied equal time as an Independent Candidate, as allowed democratic and republic candidates, based on a void judgment from the district court.

#### **STATUTORY PROVISION**

28, §2101(e), U.S.C.

## **CONSTITUTION INVOLVED**

### **Fifth and Fourteenth Amendments**

All citizens have the right to equal protection and due process in all courts from being discriminated against, under the laws of the land.

## **REASONS WHY RELIEF SHOULD BE GRANTED**

A review in this court is of such imperative importance involving the enforcement of illegal voting results on November 6, 2018 that denied Independent Candidates of equal time, because of Federal Communications Commission's rules or policies.

Petitioner was denied leave to seek a writ of prohibition or injunctive relief in the district court to prevent the enforcement of fraudulent public voting results because of a previous void judgment in the district court, foreclosing petitioner's right to access in the district court and is presently on appeal now.

The district court denied leave to seek relief from the void judgment and motion to amend the writ of error coram nobis, to show 'ongoing civil disabilities', as allowed under Rule 15 of Federal Rules of Civil Procedure.

The district judge has acted with malice on so many occasions and denied a Motion to Recuse, based on bias and prejudices. She even directed the clerk of the of the district court to direct all new cases initiated by the petitioner to her court; and even contacted judges in the Middle District of Tennessee, as well as in the district court in St. Paul, Minnesota, to have cases wrongful dismissed.

This district court judge took the filing fee that was paid in another case and applied it towards the imposed sanctions, after causing Judge William J. Haynes to dismiss an action involving the safety and welfare of senior citizens, that dies and there are no provisions in place to discover the dead residents until several days or even weeks in some cases; without a show cause hearing.

A complaint was filed in the Sixth Circuit Judicial Council for judicial misconduct against Judge Aleta Trauger and it was dismissed by former Chief Judge, and present Chief Judge in the Sixth Circuit Court of Appeals, Guy Cole, after finding no wrong doings.

On review by the Sixth Circuit Judicial Council, the qualifying members of the council affirmed the dismissal of the complaint; and informed petitioner that there were no provisions that allow a rehearing or an appeal.

A Motion for Leave to Amend the Brief of Appellant to include a due process question by the Sixth Circuit Judicial Council is presently pending before Senior Judge Martha Craig Daughtrey, challenging the constitutionality of 28 U.S.C. §352(b)(1)(A)(ii)(&(iii)( and Rule 11(c)(1)(B) &(C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, for not having provisions for a rehearing or an appeal.

In another case, a Tennessee state criminal court judge imposed a \$25.00 fine and 1 day suspended sentence on a gambling charge by playing street numbers, against the petitioner in this case. After the fine was paid, Judge Cheryl Blackburn in Division III, Criminal Court for Nashville and Davidson County, Tennessee, increased the fine eight years later, to a \$50.00 fine, showing the interest to change the cost to \$648.00. The state court refused to allow petitioner to get a copy of the transcript, even though petitioner offered to pay the cost for the transcript. The district

court judge dismissed the complaint on judicial immunity which conflicts with the established laws on judicial immunity.

While at Kinko's Copy Center on West End Avenue, Judge Trauger snatched a paper from the copy machine that petitioner was copying and read it in its entirety, which involved a wrongful employment termination in St. Paul, Mn., and she contacted the district judge through the magistrate judge and had that judge to dismiss that lawsuit. She also denied a motion to recuse herself from my case when the motion was based on bias and prejudice. She also ordered the clerk to single my Cases out from the normal assigning of cases and send any and all case that petitioner submit, to her court. This Court has said, "A judge was not liable for judicial acts unless they were done *maliciously or corruptly*". *Randall v. Brigham*, 74 U.S. (7 Wall.) 523, 19 L. Ed. 285 (1868) and "...if a person subjected to unconstitutional practice files suit against the judge, the judge will not be given immunity and upon losing the case, will be forced to pay plaintiff attorney fee and court costs:." *Pulliam v. Allen*, 466 U.S. 522, 104 S. Ct. 1970, 80 L. Ed. 2d 565 (1984).

This court should determine whether the Sixth Circuit Judicial Council has jurisdiction, since court of appeals jurisdiction is purely statutory and they do not have general supervisory powers over judges of the district court. *In re MacNiel Bros. Co.*, C.A. Mass., 1958, 259 F. 2d 386.

To show such imperative and importance to justify deviation from normal appellate practice and to require immediate determination in this Court, the general public is being subjected to being served by illegal and unlawful individuals from an illegal election; as well as being subjected to an unconstitutional statute that authorize the Sixth Circuit Judicial to function in a manner that conflicts with due process, by not having provisions for a rehearing; nor an appeal from a final decision from the qualified members of the reviewing panel.

These are important reasons why this Court should exercise its supervisory powers over the judicial council's judgments, if for no other reason, to determine whether the Sixth Circuit Judicial Council's statutory authority

and rules conflicts with due process, since their decisions are final and there is no accountable, not even to this court; and whether the election was illegal.

Therefore, it is necessary to review judgments like the case at bar, when the council affirmed a dismissal by a chief judge, when the judge accused of the wrongful conduct acted with malice, corruptly and in a complete absence of personal or subject matter jurisdiction.

Petitioner has never been charged or accused of an illegal act, wrongful conduct nor given notice that a litigant had a specific number of times in their lifetime to seek relief from the courts or any court, when justice is at issue.

Petitioner has never been served with a Notice, or Motion to Declare Petitioner a Vexatious Litigant; nor has there been an application for a pre-filing order, pursuant to 28 USC, §1651(a) to justify Judge Trauger foreclosing petitioner's rights to access of the district court, and Judge Cole acted illegally by dismissing the complaint for judicial misconduct, as well as the affirmation by the Sixth Circuit Judicial Council.

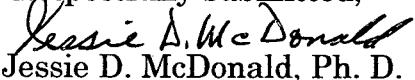
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It has been previously determined that, to single out a litigant by limiting and restricting a litigant to access of the courts is a violation of due process when there has been on complaint or petition accusing the litigant of any wrong doings. *Brown v. Vankeuren*, 340 Ill. 118, 122,(1930). Where there is no justifiable issue is presented to the court through proper pleadings, the judgment is void. *Ligon v. Williams*, 264 Ill. App. 3d 701 (1994).

#### **Relief Sought**

For the reasons as shown herein, Petitioner, Jessie D. McDonald, Pro se asks this court to GRANT this application for writ of certiorari before a judgment has been entered on the pending appeal, to prevent further enforcement of the aggrieved statute that prevents further review from final decisions of the judicial council and the void judgment in the district court; with instructions for future complaints for judicial misconduct be forwarded and transferred to the Clerk office of this Court for review; and all other and further relief the Court deems to be appropriate, and void the election.

Respectfully submitted,

  
Jessie D. McDonald, Ph. D.