

NO 19 - 806

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL S. BARTH,

PETITIONER,

v.

BERNARDS TOWNSHIP, *ET AL.*,

RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE  
NEW JERSEY SUPREME COURT

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PETITION FOR WRIT OF CERTIORARI

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MICHAEL S. BARTH  
P.O. BOX 832  
FAR HILLS, NEW JERSEY 07931  
917-628-6145  
PETITIONER PRO SE



## QUESTIONS PRESENTED

There are a number of questions and sub questions whether to revisit, or distinguish this case from, National Private Truck Council, Inc. v. Oklahoma Tax Commission, 515 U.S. 582 (1995); alternatively distinguish this case from the denial for petition for *certiorari* in General Motors Corp. v. City of Linden, 143 N.J. 336 (1996), *cert denied* 519 U.S. 816 (1996); or uniquely and independently consider these facts and circumstances to grant *certiorari* on grounds because of the federal unconstitutional process of the court below (*see infra*), in whatever terms it should be characterized.

## PARTIES TO THE PROCEEDING

Petitioner Michael S. Barth owns and farms property in Bernards Township, Somerset County, New Jersey. Respondent Bernards Township is a Governmental Entity in New Jersey that brought suit against Barth in Somerset County Tax Court. Respondent Somerset County is an entity that is responsible for its County Board of Taxation. Respondent David Centrelli was part of the tax assessor's office in Bernards Township and signed a "roll-back" complaint" against Barth in the Somerset County Tax Court. Respondent Somerset County Board of Taxation is in part supposed to hear certain tax matters. Respondent Robert Vance is the administrator of the Somerset County Board of Taxation. Respondent John Lowe was the President of the Somerset County Board of Taxation during the time of the proceedings at issue. Respondents John and Jane Does sat on the Somerset County Board of Taxation during the time of the proceedings at issue.

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## PETITION FOR A WRIT OF CERTIORARI

Petitioner Michael S. Barth respectfully submits this Petition for a Writ of Certiorari to the Supreme Court of New Jersey.

### OPINIONS BELOW

The Order of the Supreme Court of New Jersey (App., infra 1a) is found at 2019 WL 4725184, N.J., Sep. 20, 2019. The Unpublished Opinion of the Appellate Division of the Superior Court of New Jersey (App., infra 2a) is found at 2019 WL 1111133, N.J. Super. A.D., Mar. 11, 2019. An opinion of the Law Division of the Superior Court of New Jersey is not reported and not included herewith. A “judgment” of the Somerset County Board of Taxation is not reported and is not included herewith.

### JURISDICTION

The New Jersey Supreme Court entered judgment on September 20, 2019. This Court’s jurisdiction rests on 28 U.S. Code 1257.

### UNITED STAETS CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment of the United States Constitution, 28 U.S.C. §1257 and 28 U.S. Code 1983.

## STATEMENT OF THE CASE

It is not clear if this case was originated by Bernards in retaliation, or just a complete blundering; and although everyone wants to stay in good graces with their state highest court, unfortunately the so called New Jersey judiciary let this matter to get out of hand, and by doing so, violated the United States Constitution.

This case began when Bernards Township, then plaintiff, filed, on their admittedly mistaken legal theory, a "roll-back" complaint, against Barth, then the defendant. Appendix A 35-36. That mistaken legal theory was admitted by then attorney Martin Allen, before the County Tax Board in his opening statement that "failure of a farmer to provide proof of income automatically entitled a township to roll back taxes". Id. The Board President John Lore took a brief recess to look up the case law that Barth cited in objection to Martin Allen's error, which should have resulted in the dismissal of the complaint filed against. However, since John Lore was also a coworker with the principal of the law firm Martin was employed, he let the case continue. Martin Allen personal friendship with John Lore, was also shown by a previous tax board matter that Barth was involved years earlier, where Martin Allen started off his case that he and the President Lore "were talking [impermissible ex parte] about the case before the hearing.\* (\*Any reference to a hearing is not to suggest a hearing that comported with minimum due process.) Id. at A34-41.

The New Jersey Department of Treasury indicated the Complaint signed by David Centrelli, then tax assessor for Bernards Township was

defective as the complaint cited outdated statutory notice requirements for the number of days' notice before a roll back hearing, and also only constituted one of the two pages of the complaint. *Id.* at 6. Centrelli indicated he omitted sending the "second page" of the Complaint because in his words, "it was only the instructions". *Id.* at A26.

The Tax Board administrator Vance was equally incompetent because he mailed Centrelli's one (of two) page defective complaint while he was walking out the door to go on vacation, and was not available to address the defective notice of a "hearing" the day after Labor Day. It was only until the day after Labor Day, Vance rescheduled that improperly noticed hearing, that caused irreparable to Barth who had to prepare for an improperly notice hearing on a national holiday weekend, when the Tax Board was out enjoying a National holiday. *Id.* 28-33.

The administrator indicated when he called to reschedule the proceeding that he would instruct Centrelli to send Barth the "evidence" he expected to rely on at the roll back hearing, that Centrelli never complied with, or Vance never followed through. Vance did call Barth about the day of the reschedule hearing to tell Barth to contract Centrelli basically on the day of the hearing to get that documentation. Vance was evasive at best, if not a liar, as on the day of the hearing did not comply with the administrators "order". Vance apparently had mastered half-truth's as when Lore asked Vance if he told Centrelli to provide Barth with the documentation Centrelli expected to rely on, Vance said he told Barth to reach out to Centrelli, which was true that morning, but in effect Vance lied by

not disclosing he had previously said he himself would instruct Centrelli to provide Barth with that documentation. Id. The summary provided unfortunately shows the Tax Board hearing constituted a kangaroo proceeding. Id. 24-41. Not only was the tax board proceeding a kangaroo tribunal, while the case was pending appeal, the tax assessor stated to this party that his testimony before the board was falsehood. According to N.J.S.A. 54:3-24 Perjury, the New Jersey courts should have punished the tax assessor for both his false testimony, and not providing what the board administrator indicated Centrelli failed to do N.J.S.A. 54:3-23 Disobedience of Witness.

#### REASONS FOR GRANTING THE WRIT

The basis of the decision below is repugnant to the United States Constitution Due Process Clause and is inconsistent to this Court's precedent National Private Truck Council, Inc. v. Oklahoma Tax Commission, 515 U.S. 582 (1995). The Court indicated it would revisit National Private Truck upon certain facts and circumstances, where here, the much more egregious facts and procedures require that revisit.

Furthermore, it does not appear unreasonable that this Court will find that New Jersey Court system has abused the denial of *certiorari* in General Motors Corp. v. City of Linden, 143 N.J. 336 (1996), *cert denied* 519 U.S. 816 (1996); to not provide the minimum due process as required under the United States Constitution.

For example, this case is extremely distinguishable from GMC, in that there GMC was the initial plaintiff before the County Board. In effect, GMC got a second bite of their claim when they appealed and received a proceeding de novo.

Contrast here, where the New Jersey structure goes unconstitutionally awry is that Bernards as the original plaintiff gets a second bite at the apple as New Jersey's convoluted rules switch the role that a perjured Bernards, where their tax assessor's testimony was stricken as net opinion, receives a benefit from the New Jersey Court system they do not deserve.

Another distinguishing factors this case and GMC is GMC as a multi-billion dollar enterprise, is remarkably different than here, a farm of approximately 6 acres, under various federal contracts, where even recently Congressman Malinowski testified about the challenges facing New Jersey Farmers. *See e.g.*, <https://malinowski.house.gov/media/press-releases/representative-malinowski-testifies-support-farmland-preservation>

Even if there isn't global warming, and even if in the future another ice age is coming, the reality of the recent warm winters ruin the ability to harvest maple sap in New Jersey, and Bernards Township deer killing fields in adjoining properties, also attacks many deer who bucks during the runt season just before the Christmas season, basically destroy nearly countless Christmas trees that get close to a significant age for sale.

Perhaps the only "constitutional act" below was when the New Jersey Chief Judge, upon this party's suggestion, recused himself on an apparent conflict of interest where in effect otherwise, the Chief Judge would have to overturn a ruling from a Tax Court judge that the Chief, on his own, had recently promoted to the Appellate Division without any advice and consent of the New Jersey legislature.

To the extent that GMC relied primarily on National Private Truck Council, the state court below incorrectly relied on the denial of certification in General Motors Corp (GMC) in ruling against this party. While the New Jersey Supreme Court in GMC may initially have been well intended in a self-belief that the New Jersey provided sufficient due process; from a United States Supreme Court perspective, denying GMC has resulted in unintended consequences when applied here, it allowed a state court to craft rulings on semantics and processes in name only, whereas in this case, other than mere "lip service", the state court appears to actually intended an unconstitutional consequences and outcome.

Perhaps New Jersey is known for a lot of things, but perhaps only in New Jersey can a tax assessor file a false claim, commit perjury, testimony get stricken net opinion, not give constitutional notice, have an attorney who is not counsel of record enter into *ex parte* communication with a superior court judge, and tax court judge only send his scheduling orders to one party, and the New Jersey Supreme Court grant the unscrupulous costs.

Perhaps as Justice Gorsuch has said, you have “bigger fish to fry”, but arguably, while this party lives in the Township of Bernards, County of Somerset, the State of New Jersey, from this case the Court could probably conclude this party lives in the Township of Corruption, in the County of Corruption, in the State of corruption.

#### CONCLUSION

Accordingly, the Petition for Writ of Certiorari to the New Jersey Supreme Court should be granted. Oral arguments are NOT requested.

Respectfully submitted

/s/Michael S. Barth/s  
Petitioner Pro Se  
December 13, 2019