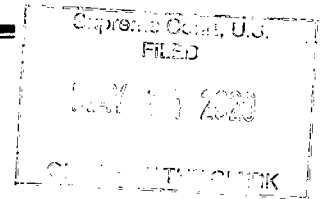


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No. 19-8067



In the
Supreme Court of the United States

Abdul Mohammed,

Petitioner,

v.

DuPage Legal Assistance Foundation et.al,

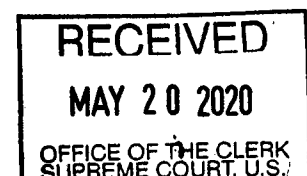
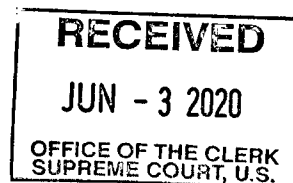
Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit

PETITION FOR REHEARING

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May 14, 2020



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U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Pursuant to Rule 44 of this Court, the Petitioner, hereby respectfully petitions for rehearing of this case before a full nine-Member Court. The Petitioner raised in his Petition for Writ of Certiorari the following four important questions among some other questions. The Petitioner as of now want to address the following four questions for the purpose of this Petition for Rehearing:

1) whether the appointment of a counsel is a reasonable accommodation pursuant to the Rehabilitation of 1973, Section 504, Title II and/or Title III of the Americans with Disabilities Act.

2) whether this court should grant Certiorari because the 7th Circuit and United States District Court for the Central District of California has a conflict on the question of whether the appointment of counsel is a reasonable accommodation pursuant to Americans with Disabilities Act and/or the Rehabilitation Act of 1973, Section 504;

3) whether the appointment of an attorney is a reasonable accommodation pursuant to Title III of the Americans with Disabilities Act for Legal Aid Providers such as the Respondent DuPage Legal Assistance Foundation Inc., Prairie State Legal Services Inc., Legal Aid Chicago Inc., Equip for Equality Inc, etc.

4) whether this court should treat this case on par with *Gideon v. Wainwright*, 372 U.S. 335 (1963) because this case deals with almost 50 million people with disabilities in the United States and because this case is of great National Importance.

Argument # 1

A United States Court decided, "It is a self-evident truth that a cognitively disabled person CANNOT provide "a reasoned argument and discussion of legal authority with appropriate citation to the appellate record." It takes three years of law school, passing the California Bar Exam, and several years of experience with appeals for a person WITHOUT physical and mental disabilities to be able to write a reasoned legal argument and discussion of legal authority with appropriate citation to the appellate record. Moreover, it is well established among lawyers and judges that even an experienced lawyer is a huge disadvantage when representing himself. "A lawyer who represents himself has a fool for a client" is not just a joke, but an official opinion of the Supreme Court of the United States in *Kay v. Ehrler*, 499 U.S. 432 (1991) at p. 437430:

"Even a skilled lawyer who represents himself is at a disadvantage in contested litigation. Ethical considerations may make it inappropriate for him to appear as a witness. He is deprived of the judgment of an independent third party in framing the theory of the case, evaluating alternative methods of presenting the evidence, cross-examining hostile witnesses, formulating legal arguments and in making sure that reason rather than emotions, dictates the proper tactical response to unforeseen developments in the courtroom The adage that "a lawyer who represents himself has a fool for a client" is the product of years of experience by seasoned litigators."

In *Tennessee v. Lane*, 541 U.S. 509 (2004), this court held that the ADA applies to state courts and that, moreover, "Cases such as *Boddie*, *Griffin v. Illinois*, 351 U.S. 12, and *Gideon v. Wainwright*, 372 U.S. 335, make clear that ordinary considerations of cost and

convenience alone cannot justify State's failure to provide individuals with a meaningful right of access to courts. Judged against the backdrop of Title II's affirmative obligation to accommodate is a reasonable prophylactic measure, reasonably targeted to a legitimate end." (emphasis added). The United States Supreme Court held in *Tennessee v. Lane*, 541 U.S. 509 (2004) that the ADA Title II applies to state courts. The California Supreme Court in *Kenneth Munson v. Del Taco, Inc.*, (2009) 46 Cal. 4th 661, stated:

"A Plaintiff who establishes a violation of the ADA, therefore, need not prove intentional discrimination to obtain damages under section 52 [of the California Civil Code]". In other words, the entities, including the California courts and courts of every other State, including the State of Illinois, should be PROACTIVE in eliminating the discrimination against people with disabilities. The right to representation by legal counsel sought by the Plaintiff in this complaint was established in the State of Washington on July 7, 2007, when the Washington Supreme Court adopted a New General Rule 33, which includes representation by counsel" as "accommodation" for parties with disabilities. As stated in General Rule 33 (a)(1)(C): "... as to otherwise unrepresented parties to the proceedings, representation by counsel, as appropriate or necessary to making each service, program, or activity, when viewed in its entirety, readily accessible to and usable by a qualified person with a disability".

Based on the decisions of this court in *Kay v. Ehrler*, *Tennessee v. Lane*, *Boddie*, *Griffin v. Illinois*, *Gideon v. Wainwright* and based on State

of Washington's General Rule 33 which appoints counsel for people with disabilities pursuant to the Title II of the Americans and Disabilities Act and the Rehabilitation Act of 1973, Section 504; this court should vacate this court's order which denied Petitioner's Writ of Certiorari and grant Petitioner's Writ of Certiorari to settle the issues raised by the Petitioner above in Question # 1. There is no rational for this court to deny Writ of Certiorari on the Question # 1 when one or more states out of 50 states are providing counsel to people with disabilities as a reasonable accommodation pursuant to Title II of the ADA and the Rehabilitation Act of 1973, Section 504. The Petitioner's argument to have his Writ of Certiorari granted becomes even more stronger in light of *Gideon v. Wainwright* where this court granted Clarence Gideon's Petition for Writ of Certiorari where he questioned whether a class of people (Defendants in Criminal Cases) are entitled to appointment of counsel? The only difference in the instant case and *Gideon v. Wainwright* is that the instant case deals with appointment of counsel for people with disabilities as a reasonable accommodation pursuant to Title II of the ADA and the Rehabilitation Act of 1973, Section 504 whereas *Gideon v. Wainwright* dealt with appointment of counsel for Defendants in Criminal Cases. The instant case and *Gideon v. Wainwright* address the appointment of counsel for a particular class of people. When this court ruled "A lawyer who represents himself has a fool for a client" in *Kay v. Ehrler*, 499 U.S. 432 (1991), why would this court deny appointment of counsel for people with disabilities as a reasonable accommodation pursuant to Title II and/or Title III of the ADA and the Rehabilitation Act of 1973,

Section 504. Further Mark Lyttle, an United States Citizen with mental disabilities who was wrongfully detained and deported to Mexico was forced to live on the streets and in prisons for months because he was not able to prove to the USCIS and ICE that he was a United States Citizen due to lack of legal representation.

Argument # 2

Further there is no rational for this court to refuse to resolve the conflict between 7th Circuit and United States District Court for the Central District of California on the question of whether the appointment of counsel is a reasonable accommodation pursuant to Americans with Disabilities Act and/or the Rehabilitation Act of 1973, Section 504 as described in the Petition for Writ of Certiorari. This court should vacate this court's order which denied Petitioner's Writ of Certiorari and grant Petitioner's Writ of Certiorari to settle the issues raised by the Petitioner above in Question # 2.

Argument # 3

Further this court should resolve the question whether appointment of an attorney is a reasonable accommodation pursuant to Title II and/or Title III of the Americans with Disabilities Act and the Rehabilitation Act of 1973, Section 504; for Legal Aid Organizations such as DuPage Legal Assistance Foundation Inc., Prairie State Legal Services Inc., Legal Aid Chicago Inc., Equip for Equality Inc, etc. because many Legal Aid Organizations are not only contractors of public entities but they are also instrumentalities of public entities pursuant to the Title II of the ADA and the Rehabilitation Act of

1973, Section 504 as they receive state and federal funding. The Question # 3 raised here is somewhat intertwined in Question # 1.

Argument # 4

Further this court should also resolve whether this court should treat this case on par with *Gideon v. Wainwright*, 372 U.S. 335 (1963) because this case deals with the question of appointment of counsel exactly like *Gideon v. Wainwright* which also raised the question of appointment of counsel and further this case will effect almost 50 million people with disabilities in the United States just like *Gideon v. Wainwright* dealt with millions of Defendants in Criminal Cases. When this court granted Writ of Certiorari on the question of appointment of counsel in *Gideon v. Wainwright* there is no rational in denying Writ of Certiorari on the question same question in this case.

CONCLUSION

For the reasons set forth above, this Court should vacate the order denying Petition for Writ of Certiorari and grant the Petition for Writ of Certiorari.

May 14, 2020

Respectfully submitted,


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