

No. 19-8305

**IN THE
SUPREME COURT OF THE UNITED STATES**

KINGSLEY AZUBUIKE ONONUJU
Petitioner

v.

COMMONWEALTH OF VIRGINIA
Respondent

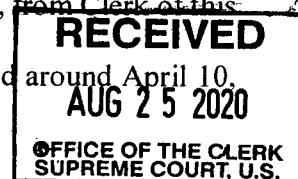
**On Petition for Rehearing for Writ of
Certiorari to Virginia Supreme Court**

**MOTION FOR LEAVE TO FILE OUT-OF-TIME
"PETITION FOR REHEARING" FOR WRIT OF CERTIORARI**

The undersigned *pro se* Petitioner, proceeding forma pauperis, respectfully seeks leave of this Honorable Court to file his "out-of-time" Petition for Rehearing, following recent Order of this Court denying his Petition for Writ of Certiorari, and hereupon furnishes the below good cause.

INTRODUCTION

1. On June 27, 2020, Petitioner receives denial letter dated June 22, 2020, from Clerk of this Honorable Court, in relation to his Petition for Writ of Certiorari that was filed around April 10,



(1.)

2020. However, since early 2019, Petitioner has been encountering ingrowing pain arising out of his spinal pain. *See, X-ray "Exhibit-J" and the sworn affidavit "Exhibit-K", all enclosed herewith.* This pain does make him feel intermittent numbness on his both hands and sometimes his left leg, whenever his emotional tension exacerbates. The first time he experienced this numbness was in March 2019, but it was gone with serious chiropractic help of his doctor.

2. And in early this year, 2020, an unexpected and unprecedented fatal and highly infectious disease known as "coronavirus" began to hijack our entire nation and the entire world. Its novel and invisible nature has made it extremely petrifying, to say the least. It has compelled almost all scholars as to construing it as an "intervening circumstance of substantial effect", especially where no reliable and verifiable vaccine upon which it could be cured or even silenced, has been found. And since May 2020, the media industries (television, radio, internet and others) have been emphatically forewarning that Americans of black racial descent and with medical preexisting condition would be more vulnerable and at very high risk to getting infected, inflicted, and asphyxiated. Also, since same May 2020, so many Americans have been reported dead from this pandemic, both the young and the old. Nonetheless, report has also spread that this infection is growing alarmingly in Norfolk, Virginia Beach and other cities in Hampton Roads, Virginia.

3. Because Petitioner hereof does have medical preexisting condition as aforementioned and does hail from black descent and does live in Hampton Roads, his emotional tension exacerbated since mid-June 2020, as to concern in getting infected. And though he is not infected, his emotional trauma has nevertheless been causing intermittent numbness on his hands since this mid-June 2020, thereby making it utterly difficult for him to put some apposite writing or typing together in timely compilation of a petition for rehearing. He has been exercising his hands as initially advised

by his doctor, and he is getting better now, hence reason he is filing this petition for rehearing at this time. Overall, he does fall within the "zone of danger".

LEGAL THEORY AND ARGUMENT

4. Pursuant to Rule 44.2 of this Court, there is twenty five (25) day window to filing a petition for rehearing, but this Court has clearly answered in the affirmative that, where there is intervening circumstance of substantial effect, as here, justice would never support strict application of any appellate procedural rule. *See, Gondeck v. Pan Am. World Airways, Inc., 382 U.S. 25, 26-27 (1965) (aff'd United States v. Ohio Power Co., 353 U.S. 98, 99 (1957) (holding that, where there is intervening circumstance of substantial effect, the interest in finality of litigation must yield to interests of justice, as the latter would make "unfair" the strict application of our rules). See also, Robert L. Stern, et al., Supreme Court Practice § 15.3 (8th ed. 2002) ("But [it] is not necessarily the case [that petitions for rehearing must be filed in time or not at all], provided that the tardy petition is accompanied by a motion for leave to file the petition out of time").*

5. In *Schacht*, this Court has held that "*the procedural rules adopted by the Court for the orderly transaction of its business are not jurisdictional and can be relaxed by the Court in the exercise of its discretion when the ends of justice so require*". *Schacht v. United States, 398 U.S. 58, 64 (1970); Taglianetti v. United States, 394 U.S. 316 , n. 1 (1969); Heflin v. United States, 358 U.S. 415, 418 n. 7 (1959)*. This Court has also ruled that a petition that is even jurisdictional and late-filed beyond three (3) months, could still be allowed where it is accompanied with motion for leave and an affidavit. *See, Schacht, 398 U.S. at 64.*

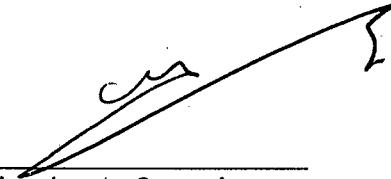
6. This deadly coronavirus outbreak has also coerced this Court to enter an Order (Order List 589 U.S) dated March 19, 2020, to extending some filings with this Court. Here, Petitioner who

had experienced serious intermittent numbness on his hands when he encountered exacerbating challenge in 2019, encountered same experience around June this year, 2020, due to exacerbating emotional trauma on intense fear that he would be infected with coronavirus, following the scary increase in rate of infection and death toll reported in news media. His numbness became severe from mid-June 2020. There is no way he could have compiled any handwritten or typed pleading in meeting the timeliness upon which this Court has promulgated for filing a nonjurisdictional petition for rehearing. *Id.* Indeed, his circumstance was beyond his control and thus supports a showing that justice is disfavored and disserved if his 'out-of-time' petition for rehearing (enclosed herewith) is hereof barred, as averred in aforesaid case laws. *E.g., Gondeck, 382 U.S. at 26-27.*

CONCLUSION

WHEREFORE, undersigned *pro se* Petitioner respectfully beseeches this Honorable Highest Court of our nation to please grant him leave as to filing and hearing his "out-of-time" Petition for Rehearing enclosed herewith.

Respectfully Submitted:


Kingsley A. Ononuju
(Petitioner/*pro se*)
2509 George Mason Drive, 6033
Virginia Beach Virginia 23456
Telephone# 757 805 8850
Email: Caringteam@aol.com

Dated August 19, 2020

SERVICE CERTIFICATE

I hereby certify that on August 19, 2020, true copies of the foregoing **MOTION FOR LEAVE TO FILE OUT-OF-TIME "PETITION FOR REHEARING" PETITION FOR WRIT OF CERTIORARI**, were served by United States Postal Service through regular mail (first class prepaid) to counsel for Respondent, to wit;

Colin D. Stolle Esq.,
Office of Commonwealth Attorney
2425 Nimmo Parkway,
Judicial Center, Building 10B
Virginia Beach, Virginia, 23456.


Kingsley A. Ononuju *pro se*

Exhibit - J

ONONUJU, KINGSLEY
4/4/69
5612
M

Premier Health Chiropractic
8/1/19
4:41 PM

1
2



GT:
IL:
VP: AP
PS: 0.140 14000
mA

APL/AP/11

L: 8087
W: 13045

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Affidavit of Petitioner

I, Kingsley Azubuike Ononuju, hereby swear and affirm, under penalty of perjury;

1. That during early year of 2019, I first experienced serious intermittent numbness on my hands as a result of exacerbating emotional trauma I encountered, paired with pain from my spinal cord.
2. And that beginning from mid-June 2020, the intermittent numbness on my hands seriously came back again as a result of exacerbating emotional trauma and concern arising from the growing outbreak of the deadly and invisible coronavirus pandemic (COVID-19), paired with the pains from my spinal cord.

The above sworn statements are true and accurate to the best of my knowledge.

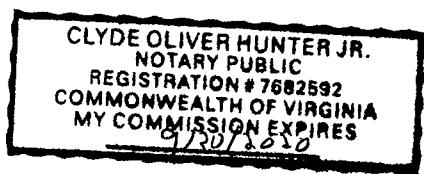
Sign:  Date: Aug 19th 2020
Kingsley A. Ononuju

NOTARY PUBLIC:

Subscribed and sworn before me by Kingsley Ononuju, this 18th day of August, 2020

Type of identification: VA DRIVER LICENSE

Notary sign and stamp:



City/County of Clyde Oliver Hunter Jr.
Commonwealth of Virginia
The foregoing instrument was acknowledged before me
this 18th day of August, 2020
by Clyde Oliver Hunter Jr. Notary Public
Reg # 7682592 Com Exp 9/30/2020