No. 19-8484

In The
Supreme Court of the United States

Ali Mehdipour

Petitioner

v.

City of Midwest City, ET AL.,

Respondents.

On Petition for Writ of Certiorari
To the Tenth Circuit Court of Appeals

19-6021

Reply to Respondent's June 22, 2020 Brief
In Opposition To Petition for Writ of Certiorari

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The writ of certiorari should be granted. This case is Exhibit Number One why the public distrusts the judicial system as an elitest hodge-podge of slick actors who prevail, not based upon right, but instead based upon the slickest reason to ignore right.

Respondents and the Tenth Circuit strain reason to deny the Tenth Circuit jurisdiction based upon some abstract need of a specifically titled, or specifically worded, final order by the District Court. The District Court said the case in the District Court is over with, End of story. Right?

No. When Petitioner presented his End of Story ORDER to the Tenth Circuit he was made to dance some sort of Rule 54 jig. After dancing the Rule 54 jig Petitioner was told that he (or the Rule 54 Court) failed to dance the jig just right so he was now out of time.

The Rule 54 dance should not have been necessary. On January 22, 2019 the District Court said the case was over with. Petitioner filed his timely notice of appeal on February 13, 2019, and

filed his appeal in the Tenth Circuit the next day, February 14, 2019.

Petitioner is just a plain joe. He cannot afford a slick lawyer. (He had a lawyer who took his money and sold him out.) Does that mean the Courts need not afford Petitioner justice? Particularly when Defendants are of the Courts' co-lateral branch of the Government, being afforded slick lawyers at the expense of Petitioner's own tax dollars? slick lawyers who never miss an opportunity to mock Petitioner's lack of legal prowess: "oh! he didn't do this", or "he did that wrong", with a tone of ridicule that even the District Court adopted (though likely unconsciously out of frustration and unintentual prejudice). It is throughout the pleadings.

All Petitioner can do is read a commoner's take on a thing. When the District Court uses language that sounds like "it's over," he thinks it means "dis-missed." As in "go away."

So, Petitioner went to the Tenth Circuit. There, he learned that, apparently, he was supposed to have hung around and told the District Court how to do it's job.

On January 22, 2019, Judge Charles B. Goodwin, U.S. District Court for the Western District of Oklahoma, case number 5:17-cv-00298 issued the final oder appealed from. (Exhibit A, [Doc. 56]) The ORDER is Judge Goodwin's unmistakable DENIAL of two of Petitioner's Motions:

1) Motion to Terminate Counsel [Doc. 49], who had, without notice to Petitioner, stipulated to *dismissal* of the case and abandoned Petitioner and the case. Judge Goodwin's reason for denying Petitioner's Motion: "this matter is closed". (Exhibit A, p. 4) There is no ambiguity there (at least in Petitioner's commoner's mind). If there is any uncertainty whether the case is over with, Judge Goodwin goes on to say he finds no reason "to direct the Clerk of the Court to reopen the matter", Id. p. 11.

2) Motion to Vacate Judgment [Doc. 50]. Denying this motion, Judge Goodwin referred to his previous rulings as "A final judgmement or order" Id. p. 6. Judge Goodwin went on

in the very next sentence: "For a judgment [or final order] to be void..." (internal brackets original) Then the next sentence begins: "In the interest of finality..." Again, Petitioner is a mere commoner, but all that talk about final, and final judgment, and final order, and fanilaty, sure does sound to Petitioner like Judge Goodwan said the case (at least in his court) is over with.

Judge Goodwin continued on in a strained narrative to rule that the matter (meaning case) was over, the District Court no longer had jurisdiction, and even if it did Judge Goodwin saw no reason "to direct the Clerk of the Court to reopen the matter..." Id. p. 11. (emphasis added)

Judge Goodwin went on to "DENIES Plaintiff's Motion to Vacate Judgment..." Id. (emphasis added)

Liberal Construction

The District Court *should* have *liberally* construed Petitioner's *pro se pleadings*. Haines v. Kerner, 404 U.S. 519, 520 (1972) (*pro se* pleadings held to less stringent standard than formal papers drafted by lawyers). see also Hall v. Bellmon, 935 F.2d 1106, 1110 & n. 3 (10th Cir. 1991); Patterson v. Santini, 631 Fed. Appx. 531, 534 (10th Cir. 2015)(Viewing Mr. Patterson's motion to reopen through this liberal construction, we conclude the district court abused its discretion in denying the motion and dismissing the case).

Liberal construction does not require the court to act as a *pro se* party's advocate. But in the current matter Judge Goodwin went to the opposite extreme. His January 22, 2019 ORDER strained to rule against Petitioner. Then, when the matter came back to him for a Rule 54 determination, Judge Goodwin took a different pathway, and then failed to *notice* Petitioner that a new Notice of *Appeal might* be necessary. Even a magistrate is required to *notice* litigants of the right and time to object to Report and Reccomendations. Morales-Fernandez v. INS, 418 F.3d 116, 119 (10th Cir. 2005); Duffield v. Jackson, 545 F.3d 1234, 1237 (10th Cir. 2008).

Rule 54

To deal with some jurisdictional problem, The Tenth Circuit pointed to Heimann v. Snead, 133 F.3d 767 (10th Cir. 1998) Petitioner, pro se, found the case whiched appeared to point to Federal Rules of Civil Procedure (FRCP), Rule 54. Plaintiff sought and obtained permission to return to the District court for a Rule 54 resolution. The Tenth Circuit stayed the appeal pending the Rule 54 resolution.

The District Court was not having it, and did something different which everybody but pro se Petitioner construes as needing a new notice of appeal.

Plain reading of Federal Rules of Appellate Procedure (FRAP) Rule 4(a) should have been sufficient without the Rule 54 distraction:

> "In a civil case . . . the notice of appeal . . . must be filed . . . within 30 days after entry of the judgment or order appealed from."
>
> FRAP 4(a)(1)(A) (emphasis added)

and

> "An appeal must not be dismissed for informality . . . whose intent to appeal is otherwise clear from the notice."
>
> FRAP 3(c)(4)

Petitioner's intent to appeal was clear. Even without liberal construction. Based upon the trajectry of the case, it would be silly for anybody involved to claim suprise, or that they were not aware of an appeal in the works. Both before and after the Rule 54.

FRAP 4(a)(2) would leave any plain minded person to believe return from the District Court would still be under the pending appeal.

If liberal construction ever requires notice to a pro se party, like the time to object to a magistrate's Report and Recommendation, it should occur in cercomstances like the present.

ORDER

Federal appellate courts generally only review final decisions of the district courts. Judge Goodwin defined, in no uncertain terms, his January 22, 2019 ORDER as Final.

In a Nutshell

A woman owned a generator. The woman's drug addict son sold the generator to Petitioner's business associate. The business associate loaned the generator to Petitioner. The drug addict son tells the woman what he did with her generator, and that Petitioner now has the generator. The woman and/or son repeat the son's account to the police. All of this occurred in Midwest City (MWC), a suburb of Oklahoma City (OKC). So, MWC now know who sold the generator, who purchased the generator, and who borrowed the generator.

Petitioner, an Iranian immigrant, is a poor sub-contractor in the poor section of OKC, who often employs poor and/or homeless, provides low-rent (sometimes no-rent) housing to the poor, and otherwise assists the poor with food and other assistance; all of which occasions contact with local law enforcement and other authorities. Petitioner is often the target of prejudice and discrimanation.

Bypassing the drug addict son (who stole and sold his mother's generator) and Petitioner's business associate, MWC police teamed-up with OKC police to target Petitioner. MWC trespasses on Petitioner's property to peek in windows and cracks. MWC sees a generator on a trailer in Petitioner's garage. MWC stake out the OKC property, laying in wait to pounce on Petitioner when he drives away from his property. As Petitioner drives away from his garage pulling the trailer and generator, MWC follower in an unmarked vehical. Frightened (this is a bad part of town), Petitioner pulls into a neighbor's driveway. MWC pulls in behind, blocking Petitioner's egress.

MWC calls OKC for back-up (they must, because they are in OKC). Meanwhile Petitioner explains how a business associate loaned him the generator. But MWC already know, and do not seem to care. OKC arrives and transports Petitioner to MWC, wherein OKC issues a ticket alleging Petitioner was guilty of a traffic violation, which was the reason for the "traffic stop."

After issuing the sham traffic-ticket (oke were not even around until after Petitioner pulled into his neighbor's driveway) oke left Petitioner in mwc custody, where he was processed for receiving stolen property.

The drug addict son (who admitted to mwc police and prosecutors that he sold his mother's generator without her permission) was never charged with a crime. The business associate (who admitted to mwc police and prosecutors that he purchased the generator from drug addict son and loaning it to Petitioner) was never charged with a crime.

The mwc police and prosecutors, fully aware of the circumstances continued to prosecute Petitioner for months, at considerable cost to Petitioner, before finally having to dismiss the case for the sham/cover-up pretense of "for further investigation."

There was no further investigation. The only thing that proceeded further is the blatant prejudice and deliberate discrimination of an Iranian immigrant.

Petitioner sought justice in this case. The good ol' boys at the Oklahoma Attorney General's office, the U.S. District Court, and the Tenth Circuit Court of appeals all strain reason to absurdity to cover-for and shield police and prosecutoral misconduct.

Respondents continue to muddy the waters here. The one thing they get right is a cause for issuing the writ: "embarrass[ment]" of and to the judicial system.

If this matter does not embarrass This Honorable Court, then nothing will.

The writ should issue.

Respectfully,

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