SUP. CASE NO.

IN THE UNITED STATES SUPREME COURT
WASHINGTON D.C. 20543

WALTER J. BRZOWSKI Petitioner/(Appellant)	)	Appeal from the 7th Circuit Court of Appeals
v.	)	APP. CASE NO. #19-2167
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT Respondents	)	Hon. Frank H. Easterbrook; Hon. Ilana D. Rovner, *et al.* Presiding

PETITION FOR WRIT OF CERTIORARI TO REVIEW AN ERRANT DECISION FROM THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Pursuant to U.S. Supreme Court Rule 14(1)

Walter J. Brzowski
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PETITIONER/(APPELLANT)
In Want of Counsel

ORAL ARGUMENT REQUESTED

Pursuant to U.S. Supreme Court Rule #28

No. _____

IN THE UNITED STATES SUPREME COURT
Washington D.C. 20543

WALTER J. BRZOWSKI
Petitioner/(*Appellant*)
v.

U.S. COURT OF APPEALS FOR
THE SEVENTH CIRCUIT
Respondent(s)/(*Appellees*)

ON PETITION FOR A WRIT OF CERTIORARI TO REVIEW AN ERRANT 'DECISION' FROM THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

QUESTION PRESENTED FOR REVIEW

- Can the U.S. Court of Appeals for the Seventh Circuit, (Chicago IL. 60604), review and discredit a previously entered: "Certified Copy of Order of Remand" (June 22, 2005; 2nd Removal case no 03 C-2685), pursuant to Title 28 USC § 1447(c), [lack of subject matter jurisdiction], some 14¾ years later on March 16, 2020, (App. no. 19-2167; direct appeal against U.S. Northern District Court of IL. 'restricted filer' case no. 07 C-5613; *Federal Executive Committee v. Walter J. Brzowski*), when by operation of Federal Statute 28 USC § 1447(**d**), and several precedents from this U.S. Supreme Court and other paralleled U.S. Court of Appeals, strictly forbids this type of review, based upon only: *"failure of the movant, Walter J. Brzowski to render the filing fee payment*", which he did in fact, file a: "In Forma Pauperis Petition" into (2nd), Removal case no. 03 C-2685 on April 22, 2003, that was suspiciously 'denied as moot' without District Judge James F. Holderman affording any type of reason and explanation to such arbitrary 'denial'; and upon **NO** Court instructions directed towards their [*former*], Clerk, Michael Dobbins, to inquire for such 'Court filing fee payment' from the movant, Walter Brzowski at anytime after May 5, 2003?

LIST OF PARTIES

- Petitioner, Walter J. Brzowski was born in the County of Cook, Illinois on February 19, 1958, and was the movant to three Federal Removal cases on August 30, 2002, (No. 02 C-6219), on April 22, 2003, (No. 03 C-2685), and on March 19, 2007, (No. 07 C-5613), as to remove Cook County divorce case no. 01 D-14335, (*Brzowski v. Brzowski*), into the realm of the U.S. Northern District Court of Illinois, Eastern Division pursuant to Federal Statute 28 USC § 1446(d); He is a natural Citizen; taxpayer, and registered voter; *and the* natural Father onto to his two private Children, [Brandon and Eric Brzowski];
- Chief Justice Frank H. Easterbrook of the U.S. Court of Appeals for the Seventh Circuit, was born in the continental United States in 1948; and was admitted into Law practice in the District of Columbia in 1975; and was the drafter of the flawed "Affirmance Order" on March 16, 2020, (Appellate no. 19-2167); He was the senior Lecturer in Law at the University of Chicago Law School, Chicago IL. 60637, in 2004;
- Secondary Circuit Judge Ilana Diamond Rovner of the U.S. Court of Appeals for the Seventh Circuit, was born in the United States in 1938; and was admitted into Law practice in the State of Illinois in 1972; and was the second endorser of Circuit Judge Easterbrook's flawed 'Affirmance Order' on March 16, 2020, (App. no. 19-2167);
- Third Circuit *Endorsing* Judge Amy C. Barrett of the U.S. Court of Appeals for the Seventh Circuit, is presumed to be born in the United States in 1970?; and was allegedly admitted into Law practice in the State of Colorado in 1995; and in the State of Illinois in 1999; and was previously employed in the Law Firm of Rothgerber, Johnson & Lyons in Denver CO., 80202;

BASIS FOR JURISDICTION

The Petitioner Brzowski duly asserts under the time restraints of Supreme Court Rule 13(1)(3), that this U.S. Supreme Court possesses the necessary jurisdiction to review the last overt judicial act committed by the U.S. Court of Appeals for the Seventh Circuit on March 27, 2020, ("Denial of Rehearing Motion"), ['Affirmance Order' entered on March 16, 2020], to the timeliness within the 90 day provision of this filed: "Petition for Writ of Certiorari".

AUTHORITIES CITED HEREON Page

MATERIAL FACTS OF APPELLATE CASE NO. 19-2167, (7th Circuit)

On October 31, 2019, (Appellant), Walter J. Brzowski duly filed his: "Brief and Argument for Respondent/Appellant" into U.S. Court of Appeals case no. 19-2167, as to reveal the exposed flaws and errors within lower U.S. Northern District Court of Illinois conjectures strewn within their May 7, 2009 'Denial Order', (No. 07 C-5613). Such "Brief and Argument" revealed that the

U.S. Northern District Court of Illinois, (Hon. James F. Holderman), clearly overreached his *limited* statutory authority on May 7, 2009 by improperly reviewing and discrediting an already entered 'Certified Copy of Order of Remand', (June 22, 2005; Case no. 03 C-2685), *some four years earlier*, and upon *another* dissimilar Federal case. The Federal District Court, (Hon. James F. Holderman), would be denied such 'reviewing authority' on May 7, 2009 in two distinct legal principles, (**i**), after 30 days, the Court loses its jurisdiction to amend—review such 'Order'; and (**ii**), Federal Statute 28 USC § 1447(**d**) prohibits any Federal District and Appellate Courts to review and discredit an already entered/existing: 'Certified Remand Order', regardless of any defects thereon, which both scenarios happened on Federal 'restricted filer' case no. 07 C-5613. The (Respondent/Appellant), Walter J. Brzowski's paper filed "Brief and Argument" was never responded to by the (Plaintiff/Appellees), Federal Executive Committee for Illinois within the 30 day provision set by F.R.A.P. Rule 31(a)(1), [by December 1, 2019], that would offer merited weight towards its 30 page arguments therein. On March 16, 2020, the U.S. Court of Appeals for the 7th Circuit, (Hon. Frank H. Easterbrook, *et al.*), entered a very unusual 'Affirmance Order' as to unjustly affirm the May 7, 2009 and May 24, 2019 'Denial Orders', (No. 07 C-5613), citing: *'upon the failure of (movant), Walter J. Brzowski to render payment for Court filing fees on August 30, 2002, (No. 02 C-6219); on April 22, 2003, (No. 03 C-2685), and on March 19, 2007, (No. 07 C-1504), did not create these three Federal Removal cases at all'*. Now as to combat such errant and flawed Decision on March 16, 2020, (Appellant), Walter J. Brzowski timely filed his: "Petition for Rehearing Against the March 16, 2020 Order" on March 23, 2020 exposing the huge errors of such 'affirmance order', supported by cited Federal Laws and Stare Decisis case precedents, yet on March 27, 2020, the three panel Circuit Judges named above, denied such 'Rehearing Petition' without offering any legal reason or basis to do so. Now as to be in adherence to timely Federal Laws, Respondent/(Appellant), Walter J. Brzowski filed a: "Notice

of Intent to Continue Onward into the U.S. Supreme Court for a Writ of Certiorari Against the Flawed 'Affirmance Order" into U.S. Court of Appeals case no. 19-2167 on April 9, 2020, that a copy was *courteously* served onto U.S. Supreme Court Clerk, Scott S. Harris which he acknowledged such served Notice on April 15, 2020, causing such jurisdiction onto this alerted United States Supreme Court to address and resolve this highly irregular: 'Affirmance Order', issue.

CONCISE ARGUMENT BY PETITIONER BRZOWSKI FOR REVERSAL

Upon the Petitioner's reliance on U.S. Supreme Court Rule 10(a), requires this U.S. Supreme Court to decide the highly erroneous judicial act taken by the U.S. Court of Appeals for the Seventh Circuit on March 16, 2020 because it: *"has entered a decision that comes into conflict with the decision(s) of other United States court of appeals, (as well as from this U.S. Supreme Court in June, 2006), on this raised same important matter",* that cannot offer substantial due process Justice onto private U.S. Citizen, Walter J. Brzowski. Thus by the statements held below, strongly invokes the judicial discretion upon this Supreme Court to resolve this crucial unsettled issue of law against that impeachable 'affirmance order' made by the three panel Circuit App. Judges on March 16, 2020.

Such errant and challengeable 'Affirmance Order' rendered by the U.S. Court of Appeals for the Seventh Circuit on March 16, 2020 would come into direct conflict upon several other U.S. Court of Appeals' (*esp.* from the Fifth Circuit Court of Appeals in 2001 and 2000), addressing this open: *"once a Federal District Court issues its certified remand order back to the State Court clerk, it is not open for any type of further (appellate) review, regardless of how erroneous such Order is*", of Federal Statute 28 USC § 1447(**d**) which clearly states: "*An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise...*", and as cited below:

"Court lacked jurisdiction to review remand order expressly based on lack of subject matter jurisdiction", {*Rio De Janeiro of the Fed. Rep. of Brazil v. Philip Morris, Inc.* 239 F. 3d 714, (CA5, 2001}; and:

"Court lacked jurisdiction to review district court's order remanding case to state court pursuant to 28 USCS § 1447(c), since Congress has specifically excluded this type of remand order from appellate jurisdiction", {*Heaton v. Monogram Credit Card Bank*, 231 F. 3d 994, (CA5, 2000};

Such errant 'Affirmance Order' on March 16, 2020 would also come into direct conflict with a prior decision from this U.S. Supreme Court in June, 2006: "Where remand order as to removed case is based on defect in removal procedure or lack of subject matter jurisdiction, review of that order is unavailable no matter how plain the legal error in ordering the remand", {*Kircher v. Putnam Funds Trust*, 126 S.Ct. 2145, (June, 2006}.

Thus due to the cited 'Supreme Court Conflict Rule 10(a), clearly reveals that the U.S. Court of Appeals for the 7th Circuit overstepped its judicial authority, and issued an incorrect 'Affirmance Order' on March 16, 2020, (App. no. 19-2167) as to unlawfully: *'review and discredit an already issued Certified Copy of Order of Remand'*, (June 22, 2005; No. 03 C-2685) some **14¾** years later, which even *that* appellate case was ***NOT*** a review of Federal Removal case no. 03 C-2685; *on the contrary*, it was a direct appeal against federal restrictive filer case no. 07 C-5613, of that District Court's *unconstitutional* 'negative order' on May 24, 2019, (Hon. Rebecca Pallmeyer).

Thus it is well shown by Petitioner/(Appellant), Walter J. Brzowski that it strongly appears that the U.S. Court of Appeals for the Seventh Circuit on App. no. 19-2167, overreached its limited judicial authority twice by: (**i**) improperly reviewing and invalidating an already existing entered: 'Certified Remand Order', (June 22, 2005), on March 16, 2020 which it cannot undertake pursuant to Title 28 USC § 1447(**d**), and which would come into conflict from prior held Federal Decisions from the other U.S. Court of Appeals for the Fifth Circuit in 2001 and 2000, and from

this superior U.S. Supreme Court in June, 2006; and (**ii**), wrongfully overreaching its limited judicial boundaries to review and discredit such: '*free-standing* Certified Remand Order' upon *another* Federal District Case no. 03 C-2685, which was *NOT* the basis of that Case Record review thereof; it was a direct appeal of *dissimilar* Federal District Case no. 07 C-5613!

Remember, the previously entered: "Certified Copy of Order of Remand" on June 22, 2005, was based on: '*lack of subject matter jurisdiction*', which pursuant to Title 28 USC § 1447(c), renders such 'Remand Order' in compliance with such Federal Remand Statute; there is **NO** inference of any cited: *"failure of movant Walter Brzowski to render payment for the Court filing fee"* within the Federal District Record of case no. 03 C-2685, so as to then invalidate such correct, 'free-standing Order', and thus would deny these three Federal Circuit Judges for the 7th Circuit to use as their overreaching foundation to issue its challenge 'affirmance order' on March 16, 2020!

The applicable Federal Law upon this topic is 28 USC § 1447(c), which plainly reads: "*If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded....*(supra)....*A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court; The State court may thereupon proceed with such case*", which is amplified by:

"The plain language of USC #28 § 1447(c) gives no discretion to dismiss rather than remand an action over which the Federal Court lacks subject matter jurisdiction;...the Federal Court was without subject matter jurisdiction and was required to remand suit back to State Court rather than dismissing it", {*Fent vs. Oklahoma Water Recourses Bd.* #235 F. 3d 553, (Dec. 18, 2000};

"Once Federal Court determines that it lacks subject matter jurisdiction over removed case, remand to State Court is mandatory, even if it appears that Remand would be futile", {*Bromwell vs. Michigan Mutual Ins. Co.* #115 F. 3d 208, (1997}; and,

This U.S. Supreme Court has ruled: "We also take note of the literal words of USC 28 § 1447 (c), which on their face gives no discretion to dismiss rather than remand an action", {*Primate Protection League vs. Tulane Education Fund,* #111 S. Ct. 1710, (1991};

Thus it is well shown by the Petitioner/(Appellant), Walter J. Brzowski that such free-standing Remand Order issued on June 22, 2005, (Case no. 03 C-2685), is in *total* compliance with Remand Statute 28 USC § 1447(**c**)(**d**), and therefore cannot be opened-up for the U.S. Court of Appeals, (7th Cir.), review and invalidation some 14¾ years later on March 16, 2020, making such: 'Certified Remand Order' *valid and binding* on the Cook County IL. Domestic Relations Court, (No. 01 D-14335; *Brzowski v. Brzowski*), that also **nullifies** several of that Illinois State Court's judicial actions taken ***between*** April 22, 2003, (2nd Removal date), to June 23, 2005, (filed 'Remand Order' into such civil divorce case), pursuant to Title 28 USC § 1446(d), and:

"The proceedings in the State Court in the interval between filing and service of the removal notice, and the certified Remand order were void", {*State of South Carolina vs. Moore*, #447 F. 2d 1067, (1967}; and,

"Once notice of remand petition is given, the State court must stop all proceedings until a determination on the merits of the removal petition is made in Federal court, and even constructive notice would suffice to deprive the state court of jurisdiction, thus making any further proceedings void", {*Medrano vs. State of Texas,* (C.A. 5 Tx. 1978) #580 F. 2d 803}; and,

"Every order made in State court following removal is void ab initio, even if it is eventually determined that the removal was improper", {*Hyde Park Partners, L.P. vs. Connolly*, #839 F. 2d 837, (1988}.

There was no inference by the Federal District Court upon second Federal Removal case no. 03 C-2685, that would site: *"failure of movant Walter J. Brzowski to render payment for the Court filing fee on April 22, 2003,* [filed 'Petition to Proceed In Forma Pauperis' by Brzowski denied

without explanation by District Judge James F. Holderman as moot on May 5, 2003], *would not effect Removal, creating no need for compliancy to Title 28 USC § 1447(c) on April 28, 2005"* because the Court Transcripts on April 28, 2005 (No. 03 C-2685), and on April 16, 2009, (No. 07 C-5613) declares otherwise of that conjecture, which could **not** be a reliance by the U.S. Court of Appeals to use a foundation on their challengeable affirmance order on March 16, 2020. Thus such *'judicially legislated'*, **rogue** 'Order' by the U.S. Court of Appeals for the Seventh Circuit fails to abide by Federal Statute 28 USC § 1447(**d**), and conflicts with other held precedents from the U.S. Court of Appeals for the Fifth Circuit and from the U.S. Supreme Court, which *MUST* be reversed and rewritten by this invoked Supreme Court.

CONCLUSION IN LAW

The Petitioner, Walter J. Brzowski puts forth herein, that the only legal and logical conclusion to be derived from Fed. Appellate case no. 19-2167, (7th C.A.), is that due to the above named three Circuit Judges, Easterbrook, Rovner and Amy Barrett's horrible 'Affirmance Order' entered on March 16, 2020, and their arbitrary 'denial' of his: "Petition for ReHearing" on March 27, 2020, certainly cannot be allowed to stand because it comes into direct confliction with other prior held Rulings from both the U.S. Court of Appeals for the Fifth Circuit, (2001 and 2000), as well as from this U.S. Supreme Court in June, 2006, and repugnant to Federal Statute 28 USC § 1447(d), which would offer this U.S. Supreme Court to review this single, unresolved legal issue of law pursuant to U.S. Supreme Rule 10(a), and duly **reverse** the March 16, 2020, ***non***-precedential 'affirmance order', so as restructure such errant 'Order' for its compliancy with Federal Statute 28 USC § 1447(c)(d) by solidifying the previous: "Certified Copy of Order of Remand' on June 22, 2005, (No. 03 C-2685), for its legal worthiness and controlling aspects onto Cook County IL. divorce case no. 01 D-14335. [Note: First Federal Removal case no. 02 C-6219 was never procedurally remanded back to the Cook County Illinois Domestic Relations Court on and after

September 9, 2002 by Dist. Judge Ruben Castillo in accordance with 28 USC § 1447(c); said Northern Fed. District Court of Illinois wrongfully dismissed such 1st Removal case upon a cited 'lack of jurisdiction pursuant to the Rooker/Feldman Doctrine' which it certainly cannot do].

ATTESTATION

I Walter J. Brzowski, having read and understood the above self subscribed "Pleading" believes that it is true and correct in content and form, and as to where knowledge of Information provided herein is presumed truthful to assert in a Court of Law.

Dated this 12th day of May, 2020

Walter J. Brzowski

APPENDIX FOR SUPPORT

Page

MAIN REASON RELIED UPON FOR THE ALLOWANCE OF THE WRIT OF CERTIORARI

Pursuant to U.S. Supreme Court Rule 10(a)

Upon the Petitioner's reliance on U.S. Supreme Court Rule 10(a), requires this U.S. Supreme Court to decide the highly erroneous judicial act taken by the U.S. Court of Appeals for the Seventh Circuit on March 16, 2020 because it: *"has entered a decision that comes into conflict with the decision(s) of other United States court of appeals, (as well as from this U.S. Supreme Court in June, 2006), on this raised same important matter"*, that cannot offer substantial due process Justice onto private U.S., IL., Citizen, Walter J. Brzowski.

Such 'Affirmance Order' entered by the U.S. Court of Appeals for the 7th Circuit on March 16, 2020 would come into ***direct conflict*** upon several other U.S. Court of Appeals' (*esp.* from the Fifth Circuit Court of Appeals in 2001 and 2000), addressing this open: *"once a Federal District Court issues its certified remand order back to the State Court clerk, it is not open for any type of further (appellate) review, regardless of how erroneous such Order is*", pursuant to Federal Title 28 USC § 1447(**d**)", and as cited below:

"Court lacked jurisdiction to review remand order expressly based on lack of subject matter jurisdiction", {*Rio De Janeiro of the Fed. Rep. of Brazil v. Philip Morris, Inc.* 239 F. 3d 714, (CA5, 2001}; and:

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The 'Affirmance Order' on March 16, 2020 would also come into direct confliction with a prior decision from *this* U.S. Supreme Court in June, 2006: "Where remand order as to removed case is based on defect in removal procedure or lack of subject matter jurisdiction, review of that order is unavailable no matter how plain the legal error in ordering the remand", {*Kircher v. Putnam Funds Trust*, 126 S.Ct. 2145, (June, 2006};

*Thus the direct need by the U.S. Supreme Court to address this confliction between the Fifth and Seventh Circuit Court of Appeals is required to resolve this discord once-and-for-all, (Rule 10(a)).