

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

GLENN REBENSTORF -- PETITIONER

vs.

CORRECTIONS OFFICER JEFFREY GRANT -- RESPONDENT(S)
SHIELD # 18559

PETITION FOR MOTION DIRECTING THE CLERK OF THIS
COURT TO FILE OUT OF TIME AND TO BE GRANTED FAVOR TO
PROCEED FOR A WRIT OF CERTIORARI

UNITED STATES COURT OF APPEALS SECOND CIRCUIT
THURGOOD MARSHALL U.S. COURTHOUSE 40 FOLEY SQUARE N.Y. N.Y. 10007
NAME OF COURT THAT LAST RULED ON MERIT(S) OF YOUR CASE

GLENN REBENSTORF

(Your Name)

114 88 ST

(Address)

BROOKLYN, NEW YORK 11209

(City, State, Zip Code)

(347) 985-5297

(Phone Number)

March 8, 2020

FROM:

Glenn Rebenstorf
114 88ST
Brooklyn, New York 11209
PHONE: 347-985-5297

FOR:

The United States Supreme Court
1 First St NE
Washington, DC 20543

**RE: REASONS I AM ASKING TO BE GRANTED MY PETITION
FOR THE CLERK OF THIS COURT TO FILE THIS OUT OF TIME /
STATEMENTS OF THE CASE TO BE APPROVED**

Dear Supreme Court Of The United States,

Thank you for this review of my case.

**I have re-submitted this letter that is also included in the original filings
that I have also re-submitted.**

**I am doing this pro se without any legal assistance since I am unable to
afford a lawyer.**

The reasons I have filed late is due to my medical condition as well as
another reason I will explain.

***1 - I had not been feeling well and I needed to wait for my therapist and Psychiatrist to review my situation and case to receive a letter from them to submit that took them some time to make the determinations that were made in the letter I have submitted for your review. I am being treated for Post Traumatic Stress, General Anxiety Disorder and Adjustment Disorder with depressed mood at Mind and Body Wellness Medical Center – 420 64ST. Brooklyn, New York 11220 and have been treated there since April 2014 to the present.

The latest letter from my Psychiatrist shows the 3 types of medications I have been prescribed as well as the reason they have determined in their professional opinion that I was under severe stress secondary to my anxiety and because of the circumstances I have been through, I was not able to make the right decision at the time I agreed to a Stipulated Agreement. In addition, my Psychiatrist stated in the letter I have submitted that recent research suggests people under stress are more likely to look on the positive side of things when making choices. He also says that researchers studying the effect of stress on decision making found that anxiety changes the way people weigh risks and rewards. The researchers also found that impairments of a specific brain circuit underlie this abnormal decision making and that patients like myself with anxiety disorder often feature poor decision making.***

***2 - The second reason I waited so long to file with The United States Supreme Court is because I had to wait for a response from The Office of Chief Judge Robert A. Katzmann at The United States Court of Appeals in New York City because I wrote a letter to him to ask him to review the 3 panel of Judges decision to deny my appeal which response I received in the letter from his Deputy Clerk Dina Sena that is dated as January 30, 2020. I have also included my original letter I sent to Chief Judge Katzmann that was returned to me along with a letter that said, “Please note, your appeal, Rebenstorf v. City of New York, 16-4169, was mandated and closed on October 3, 2019, and your petition for rehearing was denied on September 26, 2019. **This court does not have jurisdiction over any matter once a mandate issues.** Unfortunately, we can be of no assistance to you at this time.

Because you have no pending matters in this court, I am returning your papers to you. Very truly yours, Catherine O'Hagan Wolfe, Clerk of Court. By: Dina Sena – Deputy Clerk."

My letter did not even get to the attention of Chief Judge Katzmann. The clerks made the decision without letting the Chief Judge know what was contained in the letter so he could review the 3 panel of Judges decision and possible reverse their decision based upon his final decision since he has the jurisdiction to overrule the lower panel of Judges decision. It was worth the effort to write to Chief Judge Katzmann and he should have been made aware of my letter, which he was not that made is more difficult for me.***

*****Due to my medical condition and due to the reasons I have stated, I ask that The United States Supreme Court GRANT my request to review my case and allow me in the 1% of cases allowed granting me leeway for time to file with The Supreme Court.*****

It also took me time to understand the filing papers and to learn how to fill them out since I am doing this by myself, pro se.

A- I was poorly represented in my original court case by my court appointed lawyer where I had 2 dockets that were dismissed in February 2015

B- I was not given a fair justice and fair, reasonable treatment by Judge Cogan who denied my request to be able to submit all the evidence in my case to sue The City of New York even when I mentioned to him that a legal team with that Federal Court told me not to submit everything initially until I heard back from Judge Cogan even submitting an e-mail from this legal advice saying this to me. **I DID NOT GET FAIR JUSTICE ON THAT ALONE BEING I WAS ONLY DOING WHAT I WAS INSTRUCTED BY THEIR OWN LEGAL COUNCIL ADVICE GIVEN BY THAT FEDERAL COURT!!!**

C- The Appeals Court Summary Order says on page 4,
"The District Court also was not required to sua sponte conduct a competency evaluation under Federal Rule of Civil Procedure 17© before denying Rule 60(b) relief.

Such a hearing is required only if evidence is presented to the Court showing that a party has been adjudicated incompetent or "treated for mental illness of the type that would render him...legally incompetent." Ferrelli vs. River Manor Health Care Ctr., 323 F.3d 196, 201 (2d Cir. 2003.) The mental health evidence adduced by Mr. Rebenstorf does not make this showing.

I did not appreciate nor did I understand what I was signing that day the rights that I was relinquishing by agreeing to that unfair, inequitable stipulation.

I do not recall that day very well since I was under treatment and 3 types of medication the day I signed the agreement so I cannot recall what I said that day.

*****In light of the above, ask that a fair review of the latest letter from my Psychiatrist be weighed in light of those statements ask for a reversal of The Appeals Court decision and be GRANTED REMOVAL OF STIPULATION and to be restored back to calendar at Federal Court.*****

I need your assistance Your Honor(s). I have been through a great ordeal since it all began in April 2013 and have had numerous Court and Court lawyer blunders along the way that IS UNFAIR AND UNJUST. (SEE "B" above. "

Doing this Pro Se and not feeling well so many days has rendered me tired, doing my very best to go at this on my own. I am aware that only 1% of applicants to The Supreme Court of The United States in Washington D.C. get GRANTED for review. I am asking that you kindly put me in that 1%.

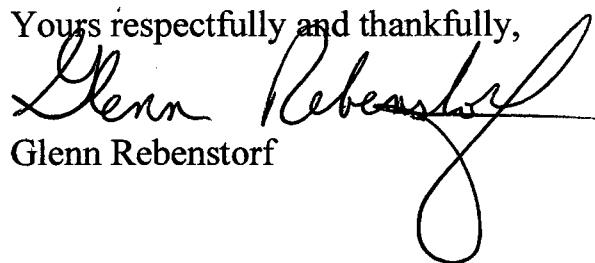
This is my last stop I am legally allowed to get the Justice I deserve. I know you are overloaded with applicants. I respect that and understand. However, I am one person who never gave up and kept moving forward through Court after Court and your Court is my last stop allowed to me to file.

Please help. Please GRANT me favor.

May The Lord always bless and guide those in authority in The United States Supreme Court in Washington D.C. to make the decisions you need to make. I am trusting DUE JUSTICE FOR ME.

Thank you so very much.

Yours respectfully and thankfully,

A handwritten signature in black ink, appearing to read "Glenn Rebenstorf". The signature is fluid and cursive, with "Glenn" on the left and "Rebenstorf" on the right, connected by a flourish.

Glenn Rebenstorf

16-4169-cv
Rebenstorf v. Grant

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second Circuit,
2 held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the
3 City of New York, on the 6th day of September, two thousand nineteen.
4

5 PRESENT: BARRINGTON D. PARKER,
6 REENA RAGGI,
7 RAYMOND J. LOHIER, JR.,
8 *Circuit Judges.*

9
10 GLENN W. REBENSTORF,

11
12 *Plaintiff-Appellant,*

13
14 v.

No. 16-4169-cv

15
16 CORRECTION OFFICER JEFFREY GRANT,
17 SHIELD # 18559,

18
19 *Defendant-Appellee.**

* The Clerk of Court is directed to amend the official caption to conform with the above.

1 FOR APPELLANT:

MADIHA M. MALIK (Proloy K.
2 Das, *on the brief*), Murtha
3 Cullina LLP, Hartford, CT.

4 FOR APPELLEE:

5 JEREMY W. SHWEDER, Assistant
6 Corporation Counsel (Richard
7 Dearing, Deborah A. Brenner,
8 *on the brief*), for Zachary W.
9 Carter, Corporation Counsel of
10 the City of New York, New
11 York, NY.

12 Appeal from a judgment of the United States District Court for the Eastern

13 District of New York (Brian M. Cogan, *Judge*; Marilyn D. Go, *Magistrate Judge*)

14 entered on December 9, 2016.

15 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,

16 AND DECREED that the judgment of the District Court is AFFIRMED.

17 Glenn W. Rebenstorf appeals from a judgment of the District Court

18 (Cogan, L.) denying his motion to vacate the parties' written settlement

19 agreement. On appeal, Rebenstorf claims that the District Court abused its

20 discretion in (1) denying his motion to vacate the parties' settlement agreement

21 and (2) failing to conduct a competency evaluation. He also contends that the

22 District Court should have reviewed the Magistrate Judge's report and

1 recommendation de novo. We assume the parties' familiarity with the
2 underlying facts and the record of prior proceedings, to which we refer only as
3 necessary to explain our decision to affirm.

4 First, Rebenstorf claims that in deciding his motion to vacate the parties'
5 written settlement agreement under Federal Rule of Civil Procedure 60(b)(6), the
6 District Court should have considered his mental illness and his pro se status.

7 However, relief under Rule 60(b) "may be granted only in extraordinary
8 circumstances," United States v. Bank of N.Y., 14 F.3d 756, 759 (2d Cir. 1994)

9 (quotation marks omitted), and Rebenstorf's circumstances were not
10 "extraordinary." Rebenstorf's pro se status alone did not render him incapable

11 of entering a settlement agreement. Nor was there adequate evidence that
12 Rebenstorf's mental condition rendered him incapable of comprehending the

13 nature of the settlement agreement. To the contrary, the transcript of the
14 settlement conference shows that Rebenstorf cogently responded to each of the

15 Magistrate Judge's questions and clearly indicated that he understood the terms
16 of the agreement. The District Court therefore did not abuse its discretion in

17 denying Rebenstorf's motion to vacate. See Manning v. N.Y. Univ., 299 F.3d

1 156, 162 (2d Cir. 2002) (reviewing motion to vacate settlement agreement for
2 abuse of discretion).

3 The District Court also was not required to sua sponte conduct a
4 competency evaluation under Federal Rule of Civil Procedure 17(c) before
5 denying Rule 60(b) relief. Such a hearing is required only if evidence is
6 presented to the court showing that a party has been adjudicated incompetent or
7 "treated for mental illness of the type that would render him . . . legally
8 incompetent." Ferrelli v. River Manor Health Care Ctr., 323 F.3d 196, 201 (2d
9 Cir. 2003). The mental health evidence adduced by Rebenstorf does not make
10 this showing. In the absence of such evidence, a district court is not obligated
11 "to monitor a pro se litigant's behavior for signs of mental incompetence." Id.

12 Finally, Rebenstorf contends that the District Court erred in reviewing his
13 objections to the Magistrate Judge's report and recommendation for clear error
14 rather than de novo. Because Rebenstorf's objections would not prevail under
15 either standard of review, we need not decide which standard the District Court
16 should have applied. See Moss v. Colvin, 845 F.3d 516, 519 n.2 (2d Cir. 2017).

1 We have considered Rebenstorf's remaining arguments and conclude that
2 they are without merit. For the foregoing reasons, the judgment of the District
3 Court is AFFIRMED.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

A circular stamp with the words "UNITED STATES" at the top, "COURT OF APPEALS" at the bottom, "SECOND CIRCUIT" in the center, and "OCTOBER 10, 1967" at the bottom. The stamp is surrounded by a handwritten signature in blue ink that reads "Catherine" and "Harold Wolfe".

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 26th day of September, two thousand and nineteen,

Before: Barrington D. Parker,
Reena Raggi,
Raymond J. Lohier, Jr.,
Circuit Judges.

Glenn W. Rebenstorf,

ORDER
Docket No. 16-4169

Plaintiff - Appellant,

v.

Correction Officer Jeffrey Grant, Shield # 18559,

Defendant - Appellee.

Glenn W. Rebenstorf having filed a petition for panel rehearing and the panel that determined the appeal having considered the request,

IT IS HEREBY ORDERED that the petition is DENIED.

For The Court:
Catherine O'Hagan Wolfe,
Clerk of Court

Catherine O'Hagan Wolfe



**Additional material
from this filing is
available in the
Clerk's Office.**