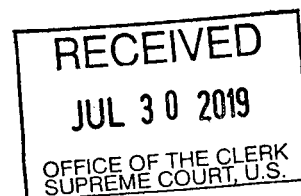


Mr. Samuel E. Austin
1370 Tersk Court
Patterson Ca, 95363.
510-927-1293
In Pro se:
Dated: July 25, 2019.

SUPREME COURT OF THE
UNITED STATES

Samuel E. Austin	)	APPEAL
Appellant, PLAintiff)	
	)	USCA 9th No. 18-16850.
	)	D. C. No. 17-cv-03284-YGR "Austin I."
Vs.	)	No. 18-cv-01329-YGR "Austin II."
City of Oakland, et. al., and Service)	
Employees International Union 1021,	)	RESPECTFULLY REQUEST MOTION to The Clerk
Et., al.,	)	File OUT- TIME PETITION for REVIEW.
)	
	)	Laws Occurred after case Submitted and Overlooked
	)	"EEOC" NOVEMBER 4, 2016. Legislative History
	)	Charges City of Oakland H.R.2273 ADA Act of JULY
	)	26, 1990, [42 usc 12213 sec. 514. SEVERABILITY]
	)	Employment Discrimination Violations .
)	
	)	[JUDICIAL CONFERENCE COMMITTEE Sept 2018;
	)	Oct 2018; February 2019; CODE of CONDUCT and
	)	DISABILITY for U.S. JUDGES REVISED BEFORE
	)	March 12, 2019). Adopted Revision to CANON 2A
	)	COMMENTARY, CANON 3, CANON 3A(3), CANON
	)	3B(4), COMMENTARY, CANON 3B(6) and CANON
	)	3B(6) COMMENTARY.

Comes now Appellant Samuel E Austin In Pro Se: RESPECTFULLY REQUESTING MOTION Directing the CLERK to file a OUT-TIME PETITION to The Honorable SUPREME COURT. Judicial Discretion to Exercise of this Court SUPERVISORY POWER in Preventing Preverision by the scales of Injustice "CONFLICT" Lower Court RULING in Filed EEOC STANDING ORDER in CIVIL CASES (FEBRUARY 24, 2017 UPDATED);(Dkt. No. 9-1), Cases Nos. 17-cv-03284-YGR ("Austin I"). and Case Nos. 18-cv-01329-YGR ("Austin II."). Id at (Dkt. No. 14.) Appellant Austin's Reconsideration AUGUST 21, 2017. Lower Court GRANTING Appellant Austin's Motion for Reconsideration of Appellant Austin IFP status under 1915 and Appellant Austin's EEOC Exhausted Administrative under 42 usc 2000e5(f)(1); 29 C.F.R 1601.28(e),id at (Dkt. No. 14. And Dkt. No. 13).).



On or about OCTOBER 23, 2018 "ORDER" The D.C Court Abused its Discretion by UNCONSTITUTIONAL IMPOSED Procedural RULES " LIMITED PURPOSE" Judicial Code Conduct and Disability OCTOBER 16, 2018. [REFERRAL INVOKE DECERTIFY Austin's IFP Status and Failure to exhaust Administrative Remedies 42 usc 2000e5(f)(1)].

On [October 23, 2017]. District Court Served Defendants By U.S Marshal see (Dkt. No. 26.) This ORDER States in Part ["Having considered the Application In Forma Pauperis and the Complaint, the Court Hereby DIRECT the U.S. MARSHAL for the NORTHERN DISTRICT COURT to serve without Payment of fees"]. Appellant Austin Provided address and names of defendants City of Oakland and S.E.I.U 1021. D.C Court Fail to Serve S.E.I.U.1021.

On or about April 9, 2018 in CHAMBER ORDER (Dkt. no 57-1 and Dkt. no 3-1) CANON 3B(4)(6), A Judge should accord to every person who has a Legal interest in a proceeding, and that person LAWyer, the full Right to Be Heard According to Law. Except as set Out Below and above a Judge should no Initiate, Permit, or Consider EX PARTE COMMUNICATION or Consider other COMMUNICATION CONCERNING PENDING MATTERS that are made OUTSIDE the Presence of "BOTH" the PARTIES INVOLVED. Id at Violation Code of Conduct (Dkt. no 3-1 and Dkt. No 57-1).

On [September 12, 2018]. District Court Dismissed with Prejudice Appellant Austin Averment Pleadings Claims (id.). On September 28, 2018. Appellant Austin Appeal to The Ninth Circuit, Clerk Order Plaintiff Austin write statement why appeal should go forward.

On [FEBRUARY 22, 2019], ORDER Circuit Appeal Court CONFLICT Judicial discretion Dismissed Austin Claims ORDER Limited Purpose to REVOKE IFP STATUS Policial grievance First Amendment Rights against Government Officers, Agent or Agency and Failure to Exhausting Administrative Remedies by Judicial Discretion Uniformity Ruling in Favor of District Court and Defendants City of Oakland Officers, Agents, and Agencies and Employees sued in their Official Capacity. Forced Appellant Austin to Write a Statement as to Why His Appeal Claims or not Frivolous and taken in Bad Faith. Id at (Dkt. No. 99.).

On [October 23, 2018]. D.C. ORDER 35-days to SUBMIT STATEMENT Why the APPEAL SHOULD GO FORWARD. Fed.R.App.P. 40 requires 45-days from ORDER Appellant Austin's Court of Appeal [Rehearing en Banc Fed. R. App 40]. Appellant Was WITHIN the 45 days from February 22, 2019 Appeal Court Ruling. March 29, en banc Appeal requested rule 28-1 MOTION for RECONSIDERATION REHEARING En BANC de novo all Claims Issues Herein. On May 23, 2019.

Appeal Court REJECT Overlooked them as UNTIMELY exercise of it's Court's Supervisory Power Ninth Circuit ORDER citation (Dkt. No 14) REFERENCE to The Lower Court WAS OVERLOOKED. That District Court ORDER States in Relevant part " The Reason for the twelve- day DELAY between mailing and docketing is unclear. However, it appears that the

DELAY was on the part of the COURT, there is no indication that the DELAY ATTRIBUTABLE to Appellant Petitioner Austin, The Court thus finds that Appellant Petitioner Austin Filed his suit Title VII and The ADA, an aggrieved person within 90 days of receiving his right- to-sue notice Is Within the Time Limitation guideline of The EEOC Id. at (Dkt. No. 14. And Dkt No. 13.).

Herein the State Court last resort has decided an important federal question EEOC Legislative History ADA Act of July 26, 1990 H.R.2273 charges against Defendants City of Oakland Violation of Appellant Petitioner Austin Civil Rights Editor's Note 42 u.s. Code 2000e5-ENFORCEMENT Power of The Commission as hereinafter provided against Intentional Employment Discrimination in a way that CONFLICT with the decision of another STATE COURT or of last resort or of a United States Court of Appeals May 23, 20119. ORDER.

[The U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Federal 'EEOC' LAWS]:
The EEOC Enforces All these Laws "EEOC also Provides OVERSIGHT and COORDINATION of All Federal Employment Opportunity REGULATION, PRACTICES, and POLICIES.

1. EDITOR'S NOTE: 5 usc 2302 (CSRA) Act of 1978, Prohibits Reprisal, exerising Appeals and Complaints or Grievances. Title VII of the Civil Rights Act of 1964, ADA Act of july 26, 1990, and the Rehabilitation Act of 1973. Which prohibits employment discrimination basis on Race, color, religion, sex, or national Origin.

2. Editor's Note: Title I. and V. of the ADA Act of (1990). As amanded (ADA), which prohibits employment discrimination against Qualified Individuals with disability in private sector, and in State and local Government,

3. Editor's note: section 501 thur 504 of the Rehabilitation Act of 1973, which Prohibits discrimination against Qualfifed individuals with disabilities who work in federal Government,

4. Editor's note: The Civil rights Act of 1991, which, among other things, provides MONETARY DAMAGES in Cases of INTENTIONAL Employment Discrimination.

5. Editor's note; INDIVIDUALS with Disabilities, section 503 of the Rehabilitation Avt o 1973. As amended, Protects Qualififed Individuals from discrimination on the basis of disability in HIRING, PROMOTION, DISCHARGE, PAY FRINGWE, JOB TRAINING, CLASSIFICATION, REFERRAL, and other aspects of EMPLOYMENT.

Editor's Note: Disability discrimination including not making Reasonable Accommodation to Appellant Austin's known Physical or mental Limiattions of an otherwise Qualified Individual with a disability who is a APPLICANT or EMPLOYEE, Barring Undue Hardship Plaintiff Austin REQUESTED a 'CHAIR" to sit on at Work Site as was DENIED by MEMORANDUM in MARCH 2016.

Editor's Note: Section 503, also requires that federal Contractors take, AFFIRMATIVE ACTIONS to Employ and Advance in Employment Qualified Individuals with Disabilities at all

levels of Employment, including EXECUTIVE LEVEL.

"JUDICIAL BACKGROUND"

The Background giving rise to this action is well-known and the Supreme Court Judicial Discretion is RELEVANT Federal EQUAL ADA/REHAB Protection from Intentional EMPLOYMENT DISCRIMINATION, Federal Question in a way that Conflict with the instant of Newly Implemented 42-The Public Health and Welfare Code 2000e, et. seq. Against the above named respondent. and 42- The Public health Welfare Code VI- Chapter DAMAGES 42 usc 1991 in The PUBLIC INTEREST.

On or about JANUARY 18, 2018, D.C. Court Dismissed to AMEND Complaint, Stemming From In CHAMBERS ORDER with Defendants Attorneys OLY (Dkt. No 3-1). id.

On FEBRUARY 28, 2018 Appellant Austin File a D.O.J Case No 18-cv-01329-YGR Austin II. RACE Discrimination Discharged Exclusion "Criminal Conviction" "Parolee Program" Discrimination "Equal Education" "Postsecondary Vocational School Student" Introduce by defendants Oakland Police Department in 2009. Government Agency receiving Federal assistance Funding to intentional violate 42 usc 2000d-1. Under the Rehabilitation Act of 1973. Appellant Austin FIRST informed the "EEOC" of Race Retaliation within his initial Charge Sheet NOVEMBER 15, 2016, Latest Discrimination Date NOVEMBER 4, 2016.

November 15, 2016, Austin SUBMITTED to EEOC STATEMENTS SWORN Affidavits 1. NOVEMBER 8, 2016. State of California Department Of Rehabilitation Letter, 2. A NOVEMBER 14, 2016 Academy of Truck Driving School STUDENT of Acknowledgement to The EEOC AHLAM ABDELLATIF Received Timely RELIABLE INFORMATION. Refused to Filed FORWARD Austin Averment Claims of Race Discrimination, EEOC States to the D.O.J the COMMISSION has determined that it WILL NOT be able to INVESTIGATE and CONCILIATE that CHARGE within 180 days of the DATE the COMMISSION assumed JURISDICTION over the charege and the Department has determined that it WILL NOT FILE any LAWSUIT(S) based theron within that TIME. id. U.S. DEPARTMENT of JUSTICE Civil Rights Division

On [May 30, 2018. The Court District Court Granted defendants' motions to dismiss plaintiff's Complaint (Dkt. No. 80.). Dismissed With Prejudice. In CHAMBERS ORDER with defendants ATTORNEY ONLY. (Dkt. no 57-1) id.

On [SEPTEMBER 12, 2018]. (Dkt. No. 94.) The District Court Dismissed Appellant Austin Claims under 1915(e) and 42 usc 2000e5(f)(1). Dissmed with Prejudice.

On [September 28, 2018]. Appellant Austin APPEALED to THE NINTH CIRCUIT CLERK ORDER this matter is REFERRED to the district court for the LIMITED PURPOSE of determining whether Appellant Austin's In FORMAL PAUPERIS STATUS should CONTINUE for

this APPEAL or whether the APPEAL is FRIVOLOUS or TAKEN in BAD FAITH see 28 usc 1915(a)(3). Dismissed With Prejudice.

On OCTOBER 16, 2018. Id at (Dkt. No. 100). The District Court Abuse of discretion by REFERRAL the matter to the NINTH CIRCUIT CLERK. ORDER REVOKING Knowingly Appellant Austin ADA EEOC filed November 15, 2016. CHARGES and Intentional violated Plaintiff Austin's Due Procedural Process and Equal Protection In Forma Pauperis Status (IFP) REVOKE. Id at (Dkt. No 99.).

On February 22, 2019. The Ninth Circuit Appeal Court affirmed Lower D.C Court to REVOKE Appellant Austin's [IFP STATUS]28 usc 1915(a), and Failure to Exhaust EEOC Remedies 42 usc 2000e5.

On MARCH 29, 2019. Appellant Austin Files a Requested A United States Court of Appeal Rehearing En Banc Fed.R. App.P. rule 40. On MAY 23, 2019. Circuit Court ORDER Ruling States as Follows: [WE Treat Austin's Filing (Dkt. No. 14) as a COMBINED MOTION for RECONSIDERATION REHEARING En Banc and REJECT them as UNTIMELY in The Lower Court (Dkt. No. 14.)].

Federal Question Conflict Raised in Austin Appeal No. 18-16850 Claims, among Many Others (Dkt. No. 14.), in addition The following text Editor's Note Title I and V. of the ADA Act of 1990 (Pub.L.101-336), In That ORDER The District Court GRANTING Appellant Petitioner Austin's Federal Claims as timely Pursuant to Title VII Act of 1964 and ADA Act of July 26. 1990, an aggrieved person has 90 days to bring a civil action after receives his Austin's right-to-sue letter case no 555-2017-01008C from Equal Employment Opportunity Commission ("EEOC"). See 42 usc 2000e-5(f)(1): 29 C.F.R. 1601.28(e).

On JUNE 4, 2019. Appellant Austin's File a Writ of Certiorari Under Supreme Court Rule 13.3. Appellant Austin Believe in Good Faith, it States in Part [But if a petition for rehearing is timely filed in the Lower court by any party, or if the lower court APPROPRIATELY ENTERTAINS an Untimely Petition for rehearing, or sua sponte considers rehearing, the time to file the petition for Writ of Certiorari for all parties ("RUNS") from the date of the DENIAL of REHEARING EN BANC De Novo, see The NINTH CIRCUIT case No. 18-16580 Ruling May 23, 2019. ORDER Rehearing En Banc states as follows: as a combined motion for reconsideration and for motion for reconsideration Rehearing En Banc and reject them as untimely.

On JUNE 4, 2019 Appellant Austin Appealed to This Supreme Court In Good Faith, Rule 13.3 Conflict under Rule 10. Resulting from Appellant Austin Previous Request Consideration Governing Review on Certiorari In the Public Interest. The Lower Courts Has decided an Federal Conflict Question as follows:

1. (Dkt. No 14 and 13). August 21, 2017. District Court Judge Granting Appellant Austin's

IFP and in a way that conflict with Judicial Discretion Decision Limited Purpose to ORDER October 16, 2018 REVOKE Appellant IFP 28 usc 1915(a), and 42 usc 2000e-5 Failure to Exhaust Administrative EEOC Remedies, Dismissed With Prejudice id at (Dkt. No 99.).

2. On JUNE 19, 2017. See D.C Court ORDER Case Management Conferences CONTINUALLY DISMISSED Herein The D.C. Court RECORDS Has so far departed from the accepted and usual course of judicial proceedings at the OUTSET to CONFORMITY to RULES STANDING ORDER In CIVIL CASES "EEOC" NOVEMBER 4, 2016. Lastest employment discrimination (UPDATE FEBRUARY 24, 2017);(Dkt. No. 9-1.). Dismissed With Prejudice August 7, 2017. Id at (Dkt. No. 12.).

3. Sct. Rule 10.(a) or to sanctioned such a departure by a lower court Intentional Failure to Prosecuted Government Officer Agents or Agencies EEOC Lastest Discrimination NOVEMBER 4, 2016, ADA Act of (1989-1990) Employment discrimination Violations Legislative History against The City of Oakland All Accompanying H.R.2273 pt (Comm. on Judicial);(Comm. on. Energy and Labor);(Comm. on Human and Labor Resources) [EQUIFAX WORKFORCE SOLUTION UNEMPLOYMENT INSURANCE Benefits DENIED by Defendants City of Oakland VERY SAME USAGE of pt. 3(Comm. On Judicial), and as to call for an Exercise of This Honorable Supreme Court's Supervisory Power. Id at U.S. Appeal why Should this Appeal Go FORWARD. No. 59 (c) (3), Page no. 67), (id).

4. Sct. Rule 10(c) The Northern D.C Court and United States Court of Appeal has decided an important question of federal Law [Has Appellant Met the Jurisdiction Court's Obligated, Rules and Regulation sec. 713(b)(a)]. Provision Requirement in 28 usc 1915(a) IFP Status. On September 28, 2018. Appellant Austin Affidavit Declaration State of California MONTHLY \$829.00 ADA SSI Supplemental Income Status. The One, Only Other Proceedings IFP Status Appellant Austin Has ever Filed was (May 17, 2004. Austin V. Terhune (For Publication) 9th cir. No. 02-16546 D.C, Eastern District No. cv-99-00529-OMP Senior District Court Judge State of Oregon). The Panel unanimously finds this Case Suitable for decision without oral argument pursuant to Fed. R. App. P. 34(a)(2)

This Supreme Court Has Ruled a U.S. Citizens has a Policial Right to First Amendment Protected Grievances against Government Officer agents, or Agencies as Filed in Austin's SAC, TAC including November 4, 2016 EEOC and Legislative History ADA Act of July 26, 1990 Violations. Exhausted Time Limitations under 42 usc 2000e5(f)(1): 29 C.F.R 1601.28(e), Raised on Appeal in Appellant Austin's May 23, 2019 Rehearing En banc pursuant to Fed. R. 40, Federal Questions that has not been Settled H.R.2273 All Accompanying, but should be, SETTLED by This Court supervisory power, To Dismiss Appellant Claims and Averment Pleadings a Dozen times EEOC UPDATE FEBRUARY 24, 2017, or has decided in a way that CONFLICT with decision of This Court Legislative History [42 usc 12213. Sec. 514. SEVERABILITY] relevant Decision Supreme Court Rule 34(5) provision States Code, Statutes at Large: see H.R.2273 Legislative and Senate Law 104 stat. 378 against the City of Oakland

All Accompanying Legislative-S.933 H.R.2273 May 22, 2017.

COMPILATION of PRESIDENTIAL Documents Signing ' Vol. 26, 2017. United States Statutes at Large Volume 107 Part 1. djvu/412. Additional or alternative citation are relevant necessary to the Appellant Austin Constitutional Protections that Conflict departed from accepted and usual course of Judicial discretion proceedings Federal Questions:

It is This Petitioner Appellant Austin Hope in that his Title VII and ADA/REHABILITATION Employment Discrimination Protections Granted by Our ForeFathers, Austin has Not Labor in vain, this Great Nation Provision having set Equal Constitutional Standards. Judges Code of Conduct and Disability should not be taken by vain Conflict, Judicial Discretion Call for an Exercise of this Court Motion to Respectfully Direct The Clerk of the Supreme Court Power in Conformity to OUR FOUNDING FATHERS of OLD, WHO VOICE still SPEAKS today by Newly Implemented Fair and unbiased, Impartial Provision for Judicial Discretion Proceedings Practices.

Dated: JULY 25, 2019.

I Samuel E. Austin Declare under the penalty of perjury that the foregoing is true and correct.

RESPECTFULLY SUBMITTED:

Mr. Samuel E. Austin

In Pro Se: Dated: JULY 25, 2019.

Mr. Samuel E. Austin

X
July 25, 2019

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 22 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SAMUEL E. AUSTIN,

Plaintiff-Appellant,

v.

CITY OF OAKLAND; et al.,

Defendants-Appellees.

No. 18-16850

D.C. Nos. 4:17-cv-03284-YGR

4:18-cv-01329-YGR

Northern District of California,
Oakland

ORDER

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

The district court certified that this appeal is not taken in good faith and revoked appellant's in forma pauperis status. *See* 28 U.S.C. § 1915(a). On October 23, 2018, the court ordered appellant to explain in writing why this appeal should not be dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

Upon a review of the record and response to the court's October 23, 2018 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 7) and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

Appellant's motion for the production of transcripts at government expense (Docket Entry No. 2) is denied as moot.

DISMISSED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 23 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SAMUEL E. AUSTIN,

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v.

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4:18-cv-01329-YGR

Northern District of California,
Oakland

ORDER

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

We treat Austin's filing (Docket Entry No. 14) as a combined motion for reconsideration and motion for reconsideration en banc and reject them as untimely.

No further filings will be entertained in this closed case.