

No. 20-1320 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
FEB 08 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

WAEL LASHEEN PETITIONER

vs

JILL LASHEEN RESPONDENT

ON PETITION FOR AWRIT OF CERTIORARI TO
OHIO SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

WAEL LASHEEN PRO SE

PO BOX 202555

CLEVELAND, OHIO 44120

TEL: 216-414-8759

EMAIL: WAELLASHEEN1@PROTONMAIL.COM

RECEIVED
FEB 19 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED
FEB 14 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED
FEB 14 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

1-Can a case proceed if the petitioner argues that the administrative judge, appointing judges to the petitioner's case, lacked jurisdiction to do so without having his petition of lack of Jurisdiction addressed?

2-Did the Ohio Supreme Court err when they declared that Administrative Judges are not subject to disqualification under Ohio Revised Code (O.R.C). 2701.03? Therefore is the O.R.C. 2701.03, as interpreted by the Ohio Supreme Court, unconstitutional?

3-Was the petitioner given the opportunity to be heard by the Ohio Supreme Court on every question involving his rights and interests, in their September 11th, 2020 decision?

LIST OF PARTIES

Attorney for Respondent

BARBARA K. ROMAN (0014607)

Meyers, Roman, Friedberg & Lewis

28601 Chagrin Boulevard, Suite 600

Cleveland, Ohio 44122

Tel: (216) 831-0042

Fax: (216) 831-0542

Email: broman@meyersroman.com

Petitioner

WAEL LASHEEN PRO SE

PO BOX 202555

CLEVELAND, OHIO 44120

TEL: 216-414-8759

EMAIL: WAELLASHEEN1@PROTONMAIL.COM

RELATED CASES

"In re Disqualification of Jones and Celebrezze, ___ Ohio St.3d ___, 2020-Ohio-4954." - designated for publication.

JURISDICTION

The date on which the highest state court decided my case was **09/11/2020**. A copy of that decision appears at **Appendix A**

No rehearing is permitted

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix A to the petition and

[X] has been designated for publication but is not yet reported;

INDEX OF APPENDIXES

APPENEDIX A 09/11/2020 OSC Decision That Is the Subject of This Writ

APPENEDIX B Prior Affidavit of Disqualification

APPENEDIX C Not Used

APPENEDIX D Ohio Revised Code (O.R.C). 2701.03

APPENEDIX E Supreme Court of Ohio Rules of Practice 21.02(e)

APPENEDIX F Not Used

APPENEDIX G Affidavit of Disqualification Related to the Decision Subject
of This Writ

APPENEDIX H Court's Case Information with Administrative Judge Acting
as the Case's Judge (Court's Website)

APPENEDIX I 28 U.S. Code § 455

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Ohio Revised Code (O.R.C). 2701.03 (Appendix D)

“(A) If a judge of a municipal or county court allegedly is interested in a proceeding pending before the judge, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the judge or to a party's counsel, or allegedly otherwise is disqualified to preside in a proceeding....”

Supreme Court of Ohio Rules of Practice. 21.02(E) (Appendix E)

“(E) Motion for Reconsideration

“No motion for reconsideration may be filed and the Clerk of the Supreme Court shall refuse to file a motion for reconsideration regarding an affidavit of disqualification. Ohio. S.Ct.Prac.R. 21.02”

28 U.S. Code § 455 - Disqualification of justice, judge, or magistrate

judge (Appendix I)

“(a)Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.....”

The U. S. Constitution Fifth and Fourteenth Amendments provides that no person shall be deprived of life, liberty, or property, without **Due Process of Law** nor deny any person within its jurisdiction the equal protection of the laws and that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
-Baldwin v. Hale, 68 U.S. (1 Wall.) 223, 233 (1863) -----	4
- Basso v. Utah Power & Light Co., 495 F 2d. 906, 910 (10 th Cir. 1974) -----	2
- In re Disqualification of Morrissey, 77 Ohio St. 3d 1252, 674 N.E.2d 360 (1996). -----	3
- Joyce v. United States, 474 F.2d 215 (3d Cir.1973) -----	2
- Main v Thiboutot 100. S. Ct 2501 (1980) -----	2
-Mathews v. Eldridge, 424 U.S. 319, 333 (1976) -----	4

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari is issued to review the judgment below.

STATEMENT OF THE CASE

The petitioner is involved in a divorce case. After repeated irregularities the petitioner submitted an affidavit of disqualification (Appendix B and Appendix C) to the Ohio Supreme Court (OSC). Under Ohio State law, affidavits of disqualification are submitted directly to the OSC, ORC 2701.03 (Appendix D). The decisions of the OSC are final, Supreme Court of Ohio Rules of Practice. 21.02(E) (Appendix E). The presiding Judge passed an order to halt all further action on the case and consequently recused themselves. Before the OSC issues a Judgment (Appendix F), the Administrative Judge reassigned the case to a New Judge. Due to the untimely New Judge reassignment, various other issues, weary of underlying prejudice, and given the nature of the case, the petitioner submitted a second affidavit of disqualification (Appendix G) to disqualify the Administrative Judge and disqualify the New Judge (as a void assignment). The next morning on September 11th, 2020 the OSC rejected the petition (Appendix A), which is the object of this Writ.

1-Can a case proceed if the petitioner argues that the appointing administrative judge, appointing judges to cases, lacked jurisdiction to do

so without having his petition for lack of jurisdiction addressed?

The petitioner argued in his affidavit of disqualification (Appendix G) that the Administrative Judge lacked Jurisdiction to make a New Judge appointment to the case at the time it was made. The OSC did not address the question of Jurisdiction in its judgment (Appendix A), which is the object of this writ.

If a court has no Jurisdiction a judgment entered adjudicate nothing.

There is no discretion to ignore lack of jurisdiction. *Joyce v U.S.* 474 2d 215; The law provides that once State and Federal jurisdiction have been challenged, it must be proven. *Main v Thiboutot* 100. S. Ct 2501 (1980); "Jurisdiction can be challenged at any time" and "jurisdiction, once challenged, cannot be assumed and must be decided". *Basso v Utah Power and Light Co.* 495 F.2d 906,910.

2-Did the Ohio Supreme Court err when they declared that administrative judges are not subject to disqualification under Ohio Revised Code (O.R.C. 2701.03? Therefore is the O.R.C. 2701.03, as interpreted by the Ohio Supreme Court, unconstitutional?

In their Judgment the OSC declared "*Further, Judge Celebreeze is not assigned to the underlying divorce case, and O.R.C. 2701.03 does not authorize a litigant to disqualify a court's administrative judge from performing his or her duties.*" (Appendix A).

An administrative Judge, in a common pleas court, wields great influence over court staff, hiring, firing, day to day operations, duties delegation, policy, finances, in addition to supervisory role over other Judges, judge assignments, etc.

We argue that by the mere act of assigning a Judge, an Administrative Judge is involved in the case. In fact, in emergencies the Administrative Judge might have to chair the court (Appendix H), as they should. An Administrative Judge may influence the case through court staff, family evaluation services, court reporters, etc. all within his/her sphere of influence. Indeed, the OSC recognized the gravity of an Administrative officer's position, and the difficulty of maintaining the appearance of partiality, and ruled to disqualify all county Judges when the defendant's former counsel subsequently became the county court administrator, a role far less influential than our Administrative Judge. *In re Disqualification of Morrissey*, 77 Ohio St. 3d 1252, 674 N.E.2d 360 (1996).

We disagree with the OSC interpretation that ORC 2701.03 (Appendix D) “*does not authorize a litigant to disqualify a court's administrative judge from performing his or her duties*”. ORC 2701.03(A) states “(A) If a judgeis disqualified to preside in a proceeding pending before the court, ...” We would argue that “preside in” means to “exercise guidance, direction, or control (Merriam Webster Dictionary)”, all actions exercised or potentially exercised by an Administrative Judge. Only the term “to preside over” is used exclusively to mean “to be a chairperson” in any dictionary. As such an Administrative Judge would qualify for disqualification

under ORC 2701.03. Furthermore nothing specifically in the language of ORC 2701.03 precludes a litigant from disqualifying a court's administrative judge. The OSC holds that ORC 2701.03 (Appendix D) does not authorize a litigant to disqualify a court's Administrative Judge for any reason, regardless of appearance of bias or actual bias; setting a dangerous precedent. This is at odds with 28 U.S. Code § 455 - Disqualification of justice, judge, or magistrate judge (Appendix I) which makes no such exception; and as such, ORC 2701.03, is unconstitutional. If the Ohio Supreme Court Opinion stands it will set a dangerous precedent. For example, if an Administrative Judge has a child, who is a litigant in the same court, according to the OSC, ORC 2701.03 does not allow for that or any Judge's disqualification, going against OSC precedent itself.

3-Was the petitioner given the opportunity to be heard by the Ohio Supreme Court on every question involving his rights and interests, in their September 11th, 2020 decision?

The petitioner submitted to the OSC the following in his petition for consideration (Appendix G): A) Jurisdiction question B) Question of Misconduct by the Administrative Judge (Judge Celebrezze).

SCOTUS deemed repeatedly that "Parties whose rights are to be affected are entitled to be heard." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863). In addition it is a violation of the Fifth & Fourteenth Amendment, and constitutional guarantee of due process that both

questions were ignored went unanswered or ruled on, in the 09/11/2020 OSC decision (Appendix A).

CONCLUSION

The petition for a writ of certiorari should be granted for the reason outlined above.

Respectfully submitted,

Wael Lasheen (S)

Date:02/08/2021

No._____