

No. 20-1578

**In The
Supreme Court of the United States**

William “Will” Andrew Graven,

Plaintiff, Appellant, Petitioner,

v.

State of Arizona (*but in-fact Defendants*: [Former] Asst Attorney General Michael Bailey; [Former] Chief, Criminal Division Don Conrad; [Former] Chief Prosecutor Paul Ahler; Asst Attorney General Joe Waters; Criminal Division Legal Administrator Lisa Rodriguez; and [Former] Chief, Special Investigations Section Mark Perkovich; *all 6 of whom the State prevented me from Serving* [which see later] *and so the State by default* [which see later]),

Defendants, Appellees, Respondents.

_____ (please note use of plural, which see more about later) _____

PETITION FOR REHEARING

But “in-fact,” a Petition for Summary Reversal of a long settled issue/obvious error by the Court of Appeals for the Ninth Circuit.

(Citing: *CSX Transp., Inc. v. Hensley*; *Allen v. Siebert*; and *Gonzales v. Thomas*; all SCOTUS.)

Note: I believe a Reversal is appropriate as the issue here is long settled by precedent, except for the District Court and Ninth Circuit who simply refused to address the issue: the injuries in my Complaint were caused by the documented Criminal Act of these 6 State Officials, and so my Complaint is in-fact against the 6 Officials, not the State [“documented” by their own records, which see later]).

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PETITION FOR REHEARING

I. The Ninth Circuit's Obvious Error

Clearly, in my ineptness as an In Pro Se, and my being intimidated by filing a Petition for Certiorari with this respected Supreme Court (actually, a Petition for Summary Reversal), I missed noting/highlighting the simplicity of the Ninth Circuit's errors:

1.) they incompletely quoted/misquoted/misapplied a precedent case, leaving out another; and
2.) they erred in seeing my Complaint as being against the State (while the State's name appears as "Defendants," that was *by default*...the result of the State of Arizona AGO not allowing its Officials being served at their offices, even for officials acts committed while on the job, and also hiding these Officials' home addresses from the public...so there is no way to serve them, blatantly violating Due Process)

In the Ninth Circuit's Affirmation (which did not include a Standard of Review of the Facts, as I requested in my Appeal), they (only) quoted the first of the two sentences that define *Pennhurst State Sch. & Hosp. v. Halderman* (while leaving out the second sentence, which is based on and cites *Ex Parte Young*, which is the case law/precedent *they should have applied to my* Complaint, as *my* Complaint *is against six Arizona State AGO State Officials, not the State* [Petition for Cert. Ex 13, Ex 1, here pg 2 at Ref 1; and Cert. Ex 16, Ex 2 here]):

"The district court properly dismissed Graven's action against the State of Arizona as barred by the Eleventh Amendment. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984) (Eleventh Amendment immunity applies to states and their agencies or departments "regardless of the nature of the relief sought")." (bold/underline emphasis added by Petitioner)

This Affirmation *is wrong from the get-go*, as *my Complaint is not against the State of Arizona*, and their citation is regarding actions against a state and its agencies or departments, but this does not apply to *my* Complaint as *my action is against the six Officials/individuals (in spite of the AGO playing games with preventing service of its Officials, and the State's name appearing by default)*.

Note: Please *see* Sec II for the makeup of the Defendants/Appellees/Respondents and why/how the State's name appears, *by default*, as "Defendants/Appellees/Respondents."

The Ninth Circuit failed to mention/include that *Pennhurst* measures itself against the semiole precedent case regarding exceptions to the 11th Amendment: *Ex parte Young*.

Had the Ninth Circuit finished quoting *Pennhurst*, fairly (along with their having fairly seen my Complaint as being against the 6 Officials), by including *the very next sentence* after what they did quote, they would have added/included: "The Court in *Ex parte Young, supra*, recognized an important exception to this general rule: "a suit challenging the federal constitutionality of a state official's action is not one against the State." Pp. 465 U. S. 97-103." (bold/underline emphasis added by Petitioner)

This missing quote from the Ninth Circuit's Affirmation is what they should have applied to my Complaint as my action is against the 6 Officials/individuals who are documented (by their own records, which see throughout my Petition for Cert.) to have committed Criminal Acts against me as they "exonerated" the most powerful law firm in Arizona, following the firm and 3 of its attorneys having been approved for criminal charging by the just previous Attorney General (their acts injured me and so my Complaint against them followed) (One of the 6 Officials, Paul Ahler, who was the then AGO's Chief Prosecutor, has a son who is an attorney with Snell, and Snell is AG Brnovich's personal political sponsor. And Snell was working for the AGO at relevant times [noting the Governor's relationship with Snell as described in my Petition for Cert.]).

Had the Ninth Circuit fairly quoted *Pennhurst*, by including *Young*, and fairly seen my Complaint as being against the 6 Officials, but yet ruled against me, I would have simply and clearly asked this Supreme Court for a Summary Reversal for their misapplying *Young* as my Complaint is not against the State or a State agency or department, it is against the 6 Officials (which see throughout my Petition for Cert.).

Actually, had the Ninth Circuit fairly and accurately quoted *Pennhurst*, and so *Young*, and also acknowledging that my Complaint is in fact against the 6 Officials (in spite of the AGO's playing games with preventing service of its Officials), they would have had to rule in my favor and there would have been no need for this Petition.

Also noteworthy for *Pennhurst* is that it was not for state officials committing documented Criminal Acts violating the US Constitution and Federal Law...as mine is...*Pennhurst* was a "mandamus-like" action against a state official who the plaintiff felt was not following state law, for which the plaintiff was attempting to use a US Federal Court to force that state official into following state law...but that state official had not committed any crimes nor violated the US Constitution and Federal law as the Respondents have done in my Complaint. [e.g., see Footnote 1 and referenced exhibits in Question Presented on pg 2]).

So, obviously, *Pennhurst* is almost nothing like my Complaint, made simply clear by the "Held" section of *Pennhurst*: "Held: The Eleventh Amendment prohibited the District Court from ordering state officials to conform their conduct to state law." Pp. 465 U. S. 97-124." (bold/underline emphasis added by Petitioner)

The Ninth Circuit was unfair and in error by only quoting the limited portion of (a): "regardless of whether the suit seeks damages or injunctive relief," thereby creating a distraction to my case, as my case is against the 6 Officials/individuals (not the State) who committed documented Criminal Acts against me, thereby injuring me. Again, as *Pennhurst* states: "The Court in *Ex parte Young*, *supra*, recognized an important exception to this general rule: "a suit challenging the federal constitutionality of a state official's action is not one against the State." Pp. 465 U. S. 97-103. (bold/underline emphasis by Petitioner)

The Ninth Circuit not citing and not applying *Ex parte Young*, particularly as my case is against the 6 Officials/individuals who committed "Criminal and Supporting Acts," and not

against the State of Arizona as “the real, substantial party in interest,” is an obvious error.
The Ninth Circuit should have simply cited Ex Parte Young in my Appeal.

Or, is the Ninth Circuit suggesting that the 11th Amendment can be used to protect state officials when they commit criminal acts?

Young is a 1908 case, *Pennhurst* is a 1984 case before and since which this Supreme Court and the Ninth Circuit itself have established even more exceptions to the 11th Amendment.

II. The Makeup of the Defendants/Appellees/Respondents

Finally, please do not forget: as the AGO does not allow its Officials being served at their offices, not even for acts committed while on the job, and as these Officials have their home addresses hidden from the public, I (rather, my licensed process server) could not serve let alone find these 6 Officials/individuals outside of their offices, and so I had to amend their names out of my Complaint (which see my Petition for Cert., a partial explanation of this can be seen in Cert. Ex 16, **Ex 2** here), leaving the State named **by default** (but I continued to use the plural form of defendants et al), as I had no other defendants to name (which see throughout my Petition for Cert. [I tried Arizona State Court, but was assigned a Judge who came from the law firm representing the State and the 6 Officials, and that Court would not Order these 6 Officials Served at their offices while on the job [as the Judge in this Complaint also refused to do], and so again, I had to Amend the 6 Officials out of my Complaint]).

Isn't the Arizona AGO clever, as they prevent its Citizens from access to offending AGO Officials...thereby forcing its Citizens to sue the State...so the State can then hide behind the 11th Amendment...isn't this a violation of Due Process, if not a fraud scheme?

Will this respected Supreme Court accept such a scheme to thwart Justice, thereby creating a shield for criminal acts by Arizona State Officials (and soon other states)?

Regardless of the AGO's schemes to prevent Citizens from access to offending officials, my Complaint **is in fact against these 6 Officials/individuals**. So, in fact, the State was named **by default**, as I had to use the State's name as “defendants” as the State had prevented me serving the *in-fact* defendants (which see throughout my Petition for Certiorari), and the State was also named for its potential *Respondeat superior* liabilities.

III. CONCLUSION

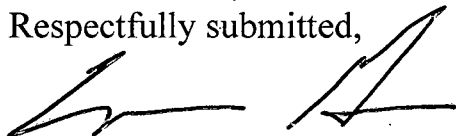
Concluding this Petition for Rehearing, I ask this Supreme Court for a Summary Reversal of the Ninth Circuit's obvious error in its misapplication of *Pennhurst State Sch. & Hosp. v. Halderman*; and *Young*; while not citing other exceptions to the 11th Amendment...as **my** Complaint was and is against 6 Officials/individuals who committed documented Criminal Acts against me (thereby injuring me, and so my Complaint against them followed).

This Supreme Court's own summary reversal precedents makes clear that Summary Reversal is for circumstances like this one that do not decide any new or unanswered question of law, but simply corrects a lower court's demonstrably erroneous application of federal law or binding precedent. See *CSX Transp., Inc. v. Hensley*, 556 U.S. 838, 840

(2009) (summarily reversing where court of appeals committed “clear error” when applying a prior decision of the Supreme Court); *Allen v. Siebert*, 552 U.S. 3, 7 (2007) (summarily reversing where prior decision of Supreme Court “preclude[d]” the “Court of Appeals’ approach”); *Gonzales v. Thomas*, 547 U.S. 183, 185 (2006) (summarily reversing because error was “obvious” in light of binding precedent).

Dated: June 18, 2021

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Will A. Graven', with a stylized flourish at the end.

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**On Petition for a Writ of Certiorari to the
United States Court of Appeals For the Ninth Circuit**

A PETITION FOR REHEARING

**RULE 44.2 GOOD FAITH CERTIFICATION REGARDING
PETITION FOR REHEARING OF DENIAL OF
PETITION FOR WRIT OF CERTIORARI**

William “Will” A. Graven, In Pro Se, pursuant to Supreme Court Rule 44.2 hereby certifies that the forgoing attached Petition for Rehearing and Request for Suspension of Denial of Petition for Writ of Certiorari is limited to other substantial grounds not previously considered, and is made in good faith and not for delay.

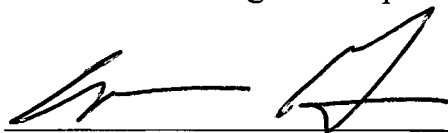
Specifically, the grounds not previously considered includes that I did not demonstrate how the Ninth Circuit incompletely quoted/misused/misapplied a precedent case, *Pennhurst State Sch. & Hosp. v. Halderman* (which **does not** directly apply to my Complaint), while leaving out another precedent case, *Ex Parte Young* (which directly **does apply** to my Complaint); nor did I fully cover the Respondents' violations of Due Process, which prevented my serving all Defendants, leaving my Complaint, by default, to appear as if it is against the State rather than the 6 Arizona State AGO State Officials that committed documented Criminal Acts against me, thereby injuring me, and so this respected Supreme Court was poorly informed, and thereby denied my Petition.

I also failed to note/highlight the Ninth Circuit errored in seeing my Complaint as being against the State, as now explained in this Petition.

Without this Supreme Court acting to reverse the Ninth Circuit, it will have become established that States can block their Citizens from being able to serve to offending Officials, so the Officials and their state can then hide behind the 11th Amendment...and states will then no longer have reason to monitor their Officials' behaviors...and errant state Officials will become ever more aggressive in their criminality.

I would very much appreciate your granting my Petition for Rehearing.

Thanking this respected Supreme Court in advance.



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