

No.

in the
Supreme Court of the United States

Edward J. Mierzwa
Petitioner

vs.

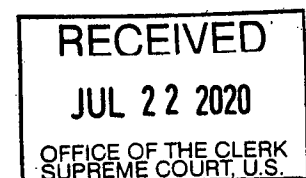
Arkadiusz M. Dudek
Respondent(s)

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the 3rd Circuit

Petition for Writ of Certiorari

By:

Edward J. Mierzwa, *pro se*
11 Brook Street
Hackensack, NJ 07601-1509
Telephone: (201) 342-4840



Question Presented

As the Court of Last Resort, will the Supreme Court of the United States exercise its supervisory powers to remedy the unlawful process, enacted by the Lower Courts, to substitute racketeering-based court manipulation in lieu of the prescribed Federal Rules of Civil Procedure?

List of Parties

All parties do not appear in the caption on the cover page.
A list of all parties to the proceeding in the court whose
judgment is the subject of this petition is as follows:

John Ashcroft
Alberto Gonzalez
Paul Clement
Peter Keisler
Michael Mukasey
Christopher Christie
Ralph Marra, Jr.
Paul J. Fishman
Arkadiusz M. Dudek
Diane Gaffney
James Gaffney
United States of America
John Does 1-100
Jane Does 1-100

Table of Contents

	<i>Page No.</i>
Opinions Below:	1
Jurisdiction:	2
Constitutional & Statutory Provisions Involved:	3
Statement of the Case:	4
Reasons for Granting the Writ of Certiorari:	5
Conclusion:	9

Index to Appendices

	<i>Page No.</i>
A USSC Letter citing filing deficiencies, dated 14 May 2020, updated deadline	11
B USSC Order, dated 19 February 2020, No. 19A895, granting filing extension to 27 April 2020	12
C Petitioner's Application for Filing Extension, dated 29 January 2020 [attachment: Appendix D-E-F]	13
D USCA Order/Opinion [Per Curiam], dated 29 November 2019, USDC Order affirmed	17
E USCA Letter of Transmittal to USDC re: Mandate, dated 21 January 2020 [attachment: Appendix D]	23
F USCA Order re: Judgment, dated 21 January 2020	24
G Motion for Mediation, dated 22 October 2019, filed by Petitioner/Appellant, denied see Appendix D	25
H Reply Brief, dated 09 August 2018, filed by Petitioner/Appellant	29
I Informal Brief, dated 05 June 2018, filed by Petitioner/Appellant, [attachment: Appendix J thru N]	35

	<i>Page No.</i>
J Notice of Appeal, dated 07 May 2018, filed by Petitioner/Appellant, [attachment: Appendix J-K]	37
K Motion for Leave to File Interlocutory Appeal, dated 18 April 2018, filed by Petitioner/Appellant [attachment: Appendix L]	38
L USDC Order [unpublished], dated 06 April 2018, dispositive	39
M USMJ Order, dated 08 April 2018, dispositive	43
N USMJ Order, dated 08 May 2018, dispositive	45
O USCA/USDC Letter, dated 02 May 2018, motion papers forwarded [attachment: Appendix K]	85
P Notice of Non-participation re: Appeal, dated 08 May 2018, filed by Diane Gaffney, Defendant	86
Q Notice of Non-participation re: Appeal, dated 23 May 2018, filed by James Gaffney, Defendant	87
R Civil Appeal Information Statement, dated 07 May 2018, filed by Petitioner/Appellant	87

		<i>Page No.</i>
S	USCA General Docket, dated 04 May 2018	89
T	USCA Motion to Proceed on Original Record and Waiving Transcript, dated 07 May 2018, filed by Petitioner/Appellant	89
U	Amended Complaint, ECF No. 24, dated 23 August 2017, filed by Petitioner/Appellant	90

in the
Supreme Court of the United States

Petition for a Writ of Certiorari to the United States Court
of Appeals for the 3rd Circuit

Petitioner respectfully prays for a Writ of
Certiorari regarding the Opinions Below:

Opinions Below:

Federal Courts

The Opinion of the United States Court of Appeal for the
Third Circuit is incorporated in Order, dated 29 November
2019, appearing at Appendix C; to the Petitioner's best of
knowledge and belief is designated for publication and not
yet reported.

The Opinion of the United States District Court for the
District of New Jersey, Vicinage of Newark is incorporated
in Order, dated 06 April 2018, appearing at Appendix L;
and, is unpublished.

Jurisdiction:

Federal Courts

The date on which the United States Court of Appeal for the Third Circuit decided my case was 29 November 2019; no petition for rehearing was filed in my case.

On 14 May 2020, the Clerk of the United States Supreme Court notified Petitioner of filing deficiency regarding Application No. 19A895; copy of letter appears at Appendix A.

An extension of time to file for a Writ of Certiorari was granted to and including 27 April 2020 on 19 February 2020 in Application No. 19A895; appearing at Appendix B.

The jurisdiction of this court, The Supreme Court of the United States, is invoked under 28 USC § 1254(1).

Constitutional & Statutory Provisions Involved:

Fourth, Fifth, Sixth and Fourteenth Amendments to the
Constitution of the United States

18 U.S.C. § 241, Conspiracy Against Civil Rights
18 U.S.C. § 1001, Statements and Entries Generally
18 U.S.C. § 1343, Civil Rights & Elective Franchise
18 U.S.C. § 1961, Racketeering
28 U.S.C. § 1367, Supplemental Jurisdiction of State Claims
28 U.S.C. § 1331, Federal Question
28 U.S.C. § 1343(a), Deprivation of Civil Rights
28 U.S.C. § 1346(b)(1), Federal Tort Claims Act
28 U.S.C. § 1391(b)(2), Jurisdiction and Venue matters
28 U.S.C. § 2403(a)(b), Notice to US Solicitor General
28 U.S.C. § 2412, Recovery of Plaintiff's Litigation Costs
28 U.S.C. § 2672, Administrative Adjustment of Claims
28 U.S.C. § 2674, Liability of United States
28 U.S.C. § 2675, US Agency Disposition Prereq; Evidence
28 U.S.C. § 2677, Compromise
42 U.S.C. § 1983, Civil Action for Deprivation of Rights
42 U.S.C. § 1985, Conspiracy to Interfere with Civil Rights
42 U.S.C. § 1986, Action for Neglect to Prevent
42 U.S.C. § 1988, Vindication of Civil Rights
N.J.S.A. 2C:33-4, of Vindictive and Malicious Harassment
N.J.S.A. § 10:6-1 et seq., New Jersey Civil Rights Act
N.J.S.A. Title 59, New Jersey Tort Claims Act

Statement of the Case:

Please refer to Amended Complaint, Appendix U, page 91 and ¶ 01, Nature of Complaint. The merits and contentions were properly presented on the filing date of 13 April 2017. Clerk of USDC wrongfully entered the filing date of complaint and refused to make any corrections prior to the issuance of Final Order by the presiding judge; said Order based significant decisions upon the error that affected the Statute of Limitations. Procedurally, the merits of the case were properly pleaded, Appendix U, and wrongfully terminated; upon appeal, Petitioner requested a trial de novo. A series of procedural errors were brought to the attention of the USCA for the 3rd Circuit and disregarded. The panel of judges made light of the entire situation. The well-founded pleadings are based upon Defendants blatant abuse of federal and state laws that would be augmented with Discovery findings that would identify the government employees working within the United States Department of Justice and put to question as to why: (1) the United States Department of Justice refused to intervene in 2005 and ignored subsequent United States Department of Justice Duty Forms; (2) Glenn A. Fine, as the Inspector General of the United States Department of Justice was contacted on 27 March 2007, demonstrated contempt regarding the inaction by said Department; (3) the current lead attorney for the United States Department of Justice would be granted an Order to Stay Discovery and create unwarranted hubbub about a SF-95 Form not being filed, while the transgressions of the Justice Department commencing in 2005 are allowed to continue to the present. Upon resolve, a SF-95 will follow. As of this filing date, 14 July 2020, the United States Department of Justice remains mum on its obligations to investigate and prosecute the "honorable public servants" within their Department and federal judiciary.

Reasons for Granting the Writ of Certiorari:

Prior to approaching the United States Supreme Court, Petitioner beckoned the United States Court of Appeal for the Third Circuit to grant an Order for Mediation; thus, sparing any embarrassing scenarios. For dubious reasons all their own, the panel of judges opted to wrongfully affirm the imprudent Order of the District Court and perpetuate institutional bias to benefit the reprobates. The principle of long-term self-interest was sorely compromised; thus, producing undesirable Magnitude of Consequences that caused further injury to the Petitioner. This degree of unlawful and unethical behavior does not translate into civilized society's accepted principles of do's and don't/s. Understandably, state and federal courts are bound to provide a fair and impartial tribunal, to all parties concerned, by ensuring that laws, regulations, and court policies are followed. From the outset, the Complaint immediately drew the wrath of the Clerk of the United States District Court for the District of New Jersey, Chief Judge, Presiding Judge and Magistrate Judge. In short order, a concerted administrative arrangement tainted the pre-trial proceedings. Court personnel were instructed to: falsify the date sensitive filing date for the complaint, whitewashing entries into the Docket Report [DR], entering an Order into the DR from a non-related proceeding, entering an Order without a motion hearing, refusal to file Petitioner's documents, permit non-conforming filings from defendants to comport with whimsical DR entries, refusal to make corrections to the DR until the final order was entered, making false assurances that errors committed by the Clerk were remedied, diligent inquiry to case related matters by the Petitioner were stonewalled, motion hearings were not calendared, the Clerk also refused to make entries of default as the pleadings were not contested by several Defendants, partial summary judgment was justified and

not granted. The magistrate judge impeded all Discovery by refusing to vacate a wrongful Order entered for that purpose. Within the Complaint, demand for Discovery was made as personal papers from the USDOJ needed to be correlated with department records. The egregious conduct of the Chief, Presiding and Magistrate Judges were documented in a Complaint of Judicial Misconduct. The Executive Committee for the Third Circuit dismissed the complaint, unearthing no actionable fault, all without following the guidelines of Court Canons and the Code of Professional Conduct.

Court personnel, government departments and agencies need to follow the principles of government requirements regarding ethical conduct, in the least, to enhance the general public's perception of the services rendered. The endless pages of job descriptions written into employee manuals can be summarized with the phrase "do the right thing." All too frequently, cubicle wisdom will dictate workplace Rules; (1) the boss is always right; (2) when the boss is wrong, see rule #1. On the upside, error of judgment does occur in the workplace and becomes fair rationale for the various levels of immunities. Businesses in the private sector utilize errors and omissions insurance policies, while government entities self-insure for these bloopers. The immunities afforded to public employees for job performance are conditional; the criteria consisting of honesty, integrity, ethics and morals being deployed when performing officially recognized employment duties and responsibilities. The scandalous activities outlined herein evidence that a myriad of United States employees acted in bad faith, debasing official job responsibilities to the level of criminality; instigated by superiors exercising their political deviance, bullying tactics and disregard towards the employee rights whose poor job performance did impact the outcome of the entire proceedings.

Whistleblower statutes are meaningless in this type of workplace environment; theoretically, these conventional safeguards are designed so that employees can focus on their employment responsibilities without fear of negative consequences. Petitioner, proceeding pro se, did not expect court personnel to compromise 28 U.S.C. § 955 regarding legal advice, neither expecting any special exceptions, privileges or deviation from local and federal court rules. A Motion for Interlocutory Appeal was submitted on 18 April 2018; the Office of the USDC Clerk adamantly refused to file appeal related papers, necessitating intervention by personnel of the Human Resources Department of the United States Courts. The United States Court of Appeal for the Third Circuit received courtesy copies of the Motion for Interlocutory Appeal; subsequently, it was determined that the challenged Order was final. A Notice of Appeal was immediately filed. Within the Informal Brief, Petitioner cited the misapplied filing date of the complaint together with the innumerable procedural errors and convoluted proceedings generated by the court below, all challenging the wrongful one-sided skewing of “findings.” Petitioner made demand for Trial De Novo. The Panel of Circuit Judges strongly supported the Presiding Judge and the proceedings within their Order and Opinion, demonstrating contempt towards the many recommendations of judicial committees, court rules, Internal Operating Procedures, case law and overall fairness. In the eyes of the public, the court is expected to emanate honor, fairness and dignity; in contrast, the secret proceedings, obstruction and cyberbullying tactics of the United States District and Appellate Courts for the Third Circuit calls for a scathing, comprehensive audit by the Administrative Office of the United States Courts [AO] with the view that government resources entrusted to the stewardship of the United States Courts of the Third Circuit are being used to subsidize racketeering activities, i.e. case-fixing on the public’s dime. The federal courts bear a

dear cost to taxpayers as annual congressional appropriations for the operations budget are in the vicinity of \$7.5 billion plus wide-ranging facilities and overhead costs. The combined salaries of the controverted Circuit Judges; Chief, Magistrate, Presiding Judges and USDC Clerk amounts to \$1.5 million annually. It is befitting to imprison this crew of malfeasors at an annual expenditure of \$280k, certainly a cost-effective remedy in monetary terms. Behind the fortress like confines of the court facilities, these court officers are given the opportunity to freely operate without effective oversight, overextending the tenets of judicial immunity, lacking the integrity for dealing with the public, all the while ignoring the Canons as a moral compass. The proper discipline and prosecution of these corrupt court officers, to include any outside parties of influence is honorable as it increases the public trust of the courts. Fundamentally, courts are service organizations that decide criminal and civil matters, ranging from the complex to the minor infractions that befall more than a few Americans during a lifetime. Decisions rendered by the courts impact the public with great magnitude of ethical intensity.

Case-fixing is taboo and quickly broadcast in the current environment of instant communications where publicity of scandalous actions and/or inactions of public officials are gladly exposed in newspapers, television and internet based news media, especially when spin doctoring of the facts is not necessary to get the truth reported. A personal observation of the United States Court website the listing of priorities, as viewed by the courts, are: (1) the court; (2) lawyers; (3) the public. Whatever the order of priorities, an outcome is to be determined with fair administration of the laws; whereby, the United States District and Appellate Courts for the Third Circuit failed this Petitioner with its shameless dysfunctionalities.

Conclusion:

A well-pleaded, actionable Complaint, with jury demand, that exceeded the criteria set forth in the Federal Rules of Civil Procedure was commandeered by officers of the court committing repeated racketeering activity during the course of their employment with the United States District and Appellate Courts of the Third Circuit, utilizing taxpayer funded resources for their wrongful antics. Frivolous motions to dismiss were filed out of time by the Defendants and in a couple of instances not filed at all. Meritorious papers filed by the Petitioner were either dissed or censored by non-entries to the docket sheet, even with hand carries to the Office of the Clerk at the US Courthouse. The presiding and magistrate judges rubber stamped the meaningless papers filed by the Defendants into Orders with Opinions best characterized as superfluous statements of disorganized nonsense. It shocks the conscience that the Circuit Judges took offense to Petitioner's reference to the capers of the District Court as kangaroo court antics. Shamefully, this Panel of Circuit Judges treated the appeal with the demeanor of the proverbial three wise monkeys. This entire matter is a total breakdown of ethics and legal responsibilities. As a Petitioner, I consider it a privilege and citizen's duty to bring this to the attention of the Supreme Court of the United States for proper disposition and corrective measures. My approach required many hours of intensive research, correlating legal matters with transferable skills from my professional background and medical supervision for the stresses endured; also, no assists from contributing ghost writers are involved. There appears to be some type of understanding in the legal community that civil actions involving "high ranking government officials" subjects the potential client to the bum's rush out the door; Petitioner had no choice and was compelled to go the pro se route, enduring the indignities associated with the do-it-yourself plan:

(1) being denied a fair and impartial tribunal; (2) court mandated lack of access to electronic document filing; (3) mediation being off limits.

By virtue of the demonstrated institutional bias caused by the USDC and USCA, Petitioner entreats the Honorable US Supreme Court Justices to ensure the functions entrusted to the Courts Below are carried out, with directives upon remand to: (1) vacate the final USDC Order, ECF No. 40 in its entirety; (2) concerning Defendants: Arkadiusz Dudek, Diane Gaffney and James Gaffney, Default and granting Order for Summary Judgment; (3) concerning: United States of America and US Department of Justice personnel, unimpeded Discovery without any delays; (4) mandate a Change of Venue to the nearby USDC for the District of Southern New York at Foley Square; (5) grant Order to allow electronic court filings by the Petitioner/Plaintiff; (6) any other equitable relief as good conscience dictates. This accommodative strategy is reasonable and justifiable, all in the honorable pursuit of justice.

Respectfully submitted,

Dated: ¹³~~14~~ July 2020

By:



Edward J. Mierzwa, Petitioner

