NO. 20-5045

IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 2020

IN RE: DANIEL H. JONES,
Petitioner

PETITION FOR EXTRAORDINARY WRIT OF PROHIBITION AND/OR WRIT OF MANDAMUS TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT AT CINCINNATI , OHIO
No.

APPLICATION FOR SINGLE JUSTICE REVIEW

BEFORE; ***Associate Justice Sonia Sotomayor*** *of the United State Supreme Court and Circuit Justice for the U.S.Sixth Circuit for the State of Ohio: [Date of denial in this Court, October 5, 2020]: Order attached. Appendix, [doc.1] Sup.Ct. R.26.1(4)*

Come the Petitioner, Daniel H. Jones, pro se, pursuant to the Rules of the United State Supreme Court, Rule 22.3, to state as follows;

1.] Petitioner submits for the Honorable Justice Sotomayor's consideration, amplified issue(s} of Constitutional-Laws, e.g. the 5th,8th and 14th Amendment where "this Court", See Appendix, [doc.1] as well as the lower Appellate Courts have instituted, as well as affirmed an unreasonable standard of law such as "adopted" in Martin v. District of Columbia Court of Appeals; See Appendix, id. and contrary to Congressional

*Legislation as enacted under Title 28 USC § 1915(a)(1)(2) &**(4);** Appendix [doc.2], creating the **"Pauperis Act",** formerly upheld in, **In Re:McDonald;** Appendix, [doc.3] in providing the petitioner thoroughfare to be heard in this forum, however, affirming the lower court's conclusions dismissing his [civil] matter under a [non] criminal pursuit: **See 42 USC § 1983,** by which distinguishes this petitioner's attempts from both the McDonald and Martin dispositions in having their/his (petitioner) issues heard "on the merit", and consistent with this forum's Rule 24.1(h)(i).*

*2.] Whereas, by other such Acts - State and U.S. - this petitioner is allowed to pursue "state-entities" for Injunctive, Declaratory and Monetary relief in [State] Courts, when, as here, having no other form - or courts - in which to do so. **See also 18 USC § 242, Tenn. Const. Art. I. §17** with TCA §§ 29-20-102(2) and 29-20-313(a), as well as this Court's Rule 20.1. For as long practiced In the State of Tennessee, the wisdom of a Rule - or Statute - is a matter for determination by the General Assembly "alone" and not by the courts; See House v. Creveling, 147 Tenn. 589. 250 S.W.357 (1923); State v. Marise, 197 S.W.3d.762.[Tenn.2006]*

*3.] Where all U.S. Appellate Circuits are vested with **"unlimited power"** in restoring the criminally accused to their right to be properly judged under the fifth amendment to the U.S. Constitution, being of itself an encroachment as previously indicated under Tenn. Constitution [Art. I & II, §§ 1 and 2.]. See also Petitioner's Original Appendices, [doc.1].with F.R.Civ.P. 62 (g) (1), all of which have need to be settled by "this Court", 28 USC §2101(e). Other such facts dispositive to this application may be found at p6-10 [Petition for Extraordinary Writ of Prohibition/Mandamus] with supporting*

memorandum of authorities and attached appendices. Additionally, that this application is forwarded in good-faith and "not "for delay.

Respectfully submitted,

Daniel H. Jones, Petitidner, pro se
Turney Center Industrial Complex
1499 R.W. Moore Memorial Hwy.
Only, Tennessee. 37140-4050.

SWORN DECLARATION OF OATH

I declare under penalty of perjury that the foregoing is true and correct. And executed on this 16th day of October 2020.

Daniel H. Jones, Petitioner, pro se

CERTIFICATION

I do hereby certify, that, a true and correct copy of the petitioner's Application for Single Justice's Review was placed in this Institution's mail box on this 16th day of October, 2020, to the clerk of the United States Supreme Court, located at 1 First Street, N.E. Washington, D.C. 20543 by depositing it in the U.S.Mail, postage to the Clerk, Scott S. Harris, and to the Tennessee State Attorney General, Herbert H. Slatrery,III, located at the Office of the Attorney General, 301 6th Ave.North, P.O. Box 20207, Nashville, Tennessee. 37202-020.

Respectfully submitted,

Daniel H. Jones, Petitioner, pro se
Turney Center Industrial Complex
1499 R.W.Moore Memorial Hwy.
Only, Tennessee. 37140-4050

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APPENDIX: DOCUMENT-1

U.S. Clerk;
Order Dismissing Extraordinary
Writ for Prohibition/Mandamus

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 5, 2020

Mr. Daniel Henderson Jones
Prisoner ID 443638
Turney Center Industrial Complex
1499 R.W. Moore Memorial Highway
Only, TN 37140

Re: In Re Daniel H. Jones
No. 20-5046

Dear Mr. Jones:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of mandamus and/or prohibition is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

Sincerely,

Scott S. Harris

Scott S. Harris, Clerk

DOC #1

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APPENDIX: DOCUMENT-2
Title 128 USC

Title28 USC §1915;
In Forma Pauperis Act

United States Code Annotated
Title 28. Judiciary and Judicial Procedure (Refs & Annos)
Part V. Procedure
Chapter 123. Fees and Costs (Refs & Annos)

Unconstitutional or Preempted Validity Called into Doubt by Rolland v. Primescurce Staffing, L.L.C. 10th Cir.(Colo.) Aug. 07, 2007

Proposed Legislation

Effective: April 26, 1996

28 U.S.C.A. § 1915

§ 1915. Proceedings in forma pauperis

Currentness

(a)(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.

(3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of--

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.

(c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b), the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate judge in any civil or criminal

Doc. 2

case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court, in the case of proceedings conducted pursuant to section 636(c) of this title. Such expenses shall be paid when authorized by the Director of the Administrative Office of the United States Courts.

(d) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.

(e)(1) The court may request an attorney to represent any person unable to afford counsel.

(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that--

(A) the allegation of poverty is untrue; or

(B) the action or appeal--

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

(f)(1) Judgment may be rendered for costs at the conclusion of the suit or action as in other proceedings, but the United States shall not be liable for any of the costs thus incurred. If the United States has paid the cost of a stenographic transcript or printed record for the prevailing party, the same shall be taxed in favor of the United States.

(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.

(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

(h) As used in this section, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 954; May 24, 1949, c. 139, § 98, 63 Stat. 104; Oct. 31, 1951, c. 655, § 51(b), (c), 65 Stat. 727; Pub.L. 86-320, Sept. 21, 1959, 73 Stat. 590; Pub.L. 96-82, § 6, Oct. 10, 1979, 93 Stat. 645; Pub.L. 101-650, Title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub.L. 104-134, Title I, § 101[(a)] [Title VIII, § 804(a), (c) to (e)], Apr. 26, 1996, 110 Stat. 1321-73 to 1321-75; renumbered Title I, Pub.L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.)

HISTORICAL NOTES

Revision Notes and Legislative Reports

1948 Acts. Based on Title 28, U.S.C., 1940 ed., §§ 9a(c)(e), 832, 833, 834, 835, and 836 (July 20, 1892, c. 209, §§ 1-5, 27 Stat. 252; June 25, 1910, c. 435, 36 Stat. 866; Mar. 3, 1911, c. 231, § 5a, as added Jan. 20, 1944, c. 3, § 1, 58 Stat. 5; June 27, 1922, c. 246, 42 Stat. 666; Jan. 31, 1928, c. 14, § 1, 45 Stat. 54).

Section consolidates a part of section 9a(c)(e) with sections 832-836 of Title 28, U.S.C., 1940 ed.

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APPENDIX: DOCUMENT-3

Court Order;
In Re:McDonald;

WESTLAW

In re McDonald
Supreme Court of the United States . February 21, 1989 . 489 U.S. 180 ; 109 S.Ct. 993 ; 103 L.Ed.2d 158 (Approx. 8 pages)

Distinguished by Miller v. Donald, ; 11th Cir.(Ga.), ; August 29, 2008

109 S.Ct. 993
Supreme Court of the United States

In re Jessie McDONALD, Petitioner.

No. 88-5890.
Feb. 21, 1989.

Synopsis

Habeas petitioner moved for leave to proceed in forma pauperis. The Supreme Court held that habeas petitioner who allegedly earned only $300 per month and had less than $25 in checking and savings accounts would not be permitted to proceed in forma pauperis in filing petitions for extraordinary writs in United States Supreme Court, based on his history of filing frivolous petitions.

So ordered.

Justice Brennan dissented and filed opinion, in which Justices Marshall, Blackmun and Stevens joined.

West Headnotes (2)

Change View

1 **Federal Courts** Habeas corpus

Habeas petitioner who allegedly earned only $300 per month and had less than $25 in checking and savings accounts would not be permitted to proceed in forma pauperis in filing petitions for extraordinary writs in the United States Supreme Court, where petitioner had already filed 22 petitions for such writs; and allowing him to proceed in forma pauperis would only encourage him to file additional frivolous petitions. U.S.Sup.Ct.Rule 46, 28 U.S.C.A.; 28 U.S.C.A. § 2241(a).

434 Cases that cite this headnote

2 **Federal Courts** Supervisory jurisdiction; writs in aid of jurisdiction

Extraordinary writs are drastic and extraordinary remedies, to be reserved for really extraordinary causes, in which appeal is clearly inadequate remedy.

31 Cases that cite this headnote

Opinion

**993 *180 PER CURIAM.

Pro se petitioner Jessie McDonald requests that this Court issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241(a). He also requests that he be permitted to proceed *in forma pauperis* under this Court's Rule 46. We deny petitioner leave **994 to proceed *in forma pauperis*. He is allowed until March 14, 1989, within which to pay the docketing fee required by Rule 45(a) and to submit a petition in compliance with this Court's Rule 33. We also direct the Clerk not to accept any further petitions from petitioner for extraordinary writs pursuant to 28 U.S.C. §§ 1651(a), 2241, and 2254(a), unless he pays the docketing fee required by Rule 45(a) and submits his petition in compliance with this Court's Rule 33. We explain below our reasons for taking this step.

Petitioner is no stranger to us. Since 1971, he has made 73 separate filings with the Court, not including this petition, *181 which is his eighth so far this Term. These include 4 appeals, [1] 33 petitions for certiorari, [2] 99 petitions for extraordinary writs, [3] 7 applications for stays and other **995 injunctive relief, *182 [4] and 10 petitions for rehearing. [5] Without recorded dissent, the Court has denied all of his appeals and denied all of his various

Dec. 3

petitions and motions. We have never previously denied him leave to proceed *in forma pauperis*.[5]

The instant petition for a writ of habeas corpus arises from petitioner's 1974 state conviction for obtaining title to a 1972 Ford LTD automobile under false pretenses, for which he was sentenced to three years' imprisonment. Petitioner appealed to the Tennessee Court of Criminal Appeals, which reversed his conviction on the ground that there was no evidence **183* that the alleged victim relied on petitioner's false statements. In January 1976, the Supreme Court of Tennessee reinstated his conviction. *State v. McDonald*, 534 S.W.2d 650. We denied certiorari, 425 U.S. 955, 96 S.Ct. 1733, 48 L.Ed.2d 200 (1976), and rehearing denied, 425 U.S. 1000, 96 S.Ct. 2219, 48 L.Ed.2d 826 (1976).

In the 13 years since his conviction became final, petitioner has filed numerous petitions and motions for relief in this Court and in the Tennessee courts, all of which have been rejected. In the instant petition, for example, he requests that the Court "set aside" his conviction and direct the State to "expunge" the conviction "from all public records." He is not presently incarcerated. He contends that his constitutional rights were violated by the State's failure to prove that the property to which he obtained title under false pretenses was valued at over $100, as required by the statute under which he was convicted. Petitioner has put forward this same argument—unsuccessfully—in at least four prior filings with the Court, including a petition for mandamus, which was filed 13 days before the instant petition and was not disposed of by the Court until more than a month after this petition was filed.[7]

***996* Title 28 U.S.C. § 1915 provides that "[a]ny court of the United States *may* authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefor." (Emphasis added.) As permitted under this statute, we have adopted Rule 46.1, which provides that "[a] party desiring to proceed in this Court *in forma pauperis* shall file a motion for leave to so proceed, together with his affidavit in the form prescribed in Fed.Rules App.Proc., Form 4 ... setting forth with particularity facts **184* showing that he comes within the statutory requirements." Each year, we permit the vast majority of persons who wish to proceed *in forma pauperis* to do so; last Term, we afforded the privilege of proceeding *in forma pauperis* to about 2,300 persons. Paupers have been an important—and valued—part of the Court's docket, see, *e.g.*, *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963), and remain so.

[1] [2] But paupers filing *pro se* petitions are not subject to the financial considerations—filing fees and attorney's fees—that deter other litigants from filing frivolous petitions. Every paper filed with the Clerk of this Court, no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the Court's responsibility is to see that these resources are allocated in a way that promotes the interests of justice. The continual processing of petitioner's frivolous requests for extraordinary writs does not promote that end. Although we have not done so previously, lower courts have issued orders intended to curb serious abuses by persons proceeding *in forma pauperis*.[8] Our order here prevents petitioner from proceeding *in forma pauperis* when seeking extraordinary writs from the Court.[9] It is perhaps worth noting that we have not granted the sort of extraordinary writ relentlessly sought by petitioner to any litigant—paid or *in forma pauperis*—for at least a decade. **185* We have emphasized that extraordinary writs are, not surprisingly, "drastic and extraordinary remedies," to be "reserved for really extraordinary causes," in which "appeal is clearly an inadequate remedy." *Ex parte Fahey*, 332 U.S. 258, 259, 260, 67 S.Ct. 1558, 1559, 91 L.Ed. 2041 (1947).

Petitioner remains free under the present order to file *in forma pauperis* requests for relief other than an extraordinary writ, if he qualifies under this Court's Rule 46 and does not similarly abuse that privilege.

It is so ordered.

Justice BRENNAN, with whom Justice MARSHALL, Justice BLACKMUN, and Justice STEVENS join, dissenting.

In the first such act in its almost 200-year history, the Court today bars its door to a litigant prospectively. Jessie McDonald may well have abused his right to file petitions in this Court without payment of the docketing fee; the Court's order documents that fact. I do not agree, however, that he poses such a threat to the orderly administration of justice that we should embark on the unprecedented and dangerous course the Court charts today.

The Court's denial not just of McDonald's present petition but also of his right to file for extraordinary writs *in forma* ***997** *pauperis* in the future is, first of all, of questionable legality. The federal courts are authorized by 28 U.S.C. § 1915 to permit filings *in forma pauperis*. The statute is written permissively, but it establishes a comprehensive scheme for the administration of *in forma pauperis* filings. Nothing in it suggests we have any authority to accept *in forma pauperis* pleadings from some litigants but not from others on the basis of how many times they have previously sought our review. Indeed, if anything, the statutory language forecloses the action the Court takes today. Section 1915(d) explains the circumstances in which an *in forma pauperis* pleading may be dismissed as follows: a court "may dismiss *the case* if *186 the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious." (Emphasis added.) This language suggests an individualized assessment of frivolousness or maliciousness that the Court's prospective order precludes. As one lower court has put it, a court's discretion to dismiss *in forma pauperis* cases summarily "is limited ... in every case by the language of the statute itself which restricts its application to complaints *found to be* frivolous or malicious." *Sills v. Bureau of Prisons*, 245 U.S.App.D.C. 389, 391, 761 F.2d 792, 794 (1985) (emphasis added). Needless to say, the future petitions McDonald is barred from filing have not been "found to be" frivolous. Even a very strong and well-founded belief that McDonald's future filings will be frivolous cannot render a before-the-fact disposition compatible with the individualized determination § 1915 contemplates.

This Court's Rule 46 governs our practice in cases filed *in forma pauperis*. No more than § 1915 does it grant us authority to disqualify a litigant from future use of *in forma pauperis* status. Indeed, Rule 46.4 would seem to forbid such a practice, for it specifies that when the filing requirements described by Rule 46 are complied with, the Clerk "will file" the litigant's papers "and place the case on the docket." Today we order the Clerk to refuse to do just that. Of course we are free to amend our own rules should we see the need to do so, but until we do we are bound by them.

Even if the legality of our action in ordering the Clerk to refuse future petitions for extraordinary writs *in forma pauperis* from this litigant were beyond doubt, I would still oppose it as unwise, potentially dangerous, and a departure from the traditional principle that the door to this courthouse is open to all.

The Court's order purports to be motivated by this litigant's disproportionate consumption of the Court's time and resources. Yet if his filings are truly as repetitious as it appears, it hardly takes much time to identify them as such. *187 I find it difficult to see how the amount of time and resources required to deal properly with McDonald's petitions could be so great as to justify the step we now take. Indeed, the time that has been consumed in the preparation of the present order barring the door to Mr. McDonald far exceeds that which would have been necessary to process his petitions for the next several years at least. I continue to find puzzling the Court's fervor in ensuring that rights granted to the poor are not abused, even when so doing actually *increases* the drain on our limited resources. Cf. *Brown v. Herald Co.*, 464 U.S. 928, 104 S.Ct. 331, 78 L.Ed.2d 301 (1983) (BRENNAN, J., dissenting). Today's order makes sense as an efficiency measure only if it is merely the prelude to similar orders in regard to other litigants, or perhaps to a generalized rule limiting the number of petitions *in forma pauperis* an individual may file. Therein lies its danger.

The Court's order itself seems to indicate that further measures, at least in regard to this litigant, may be forthcoming. It notes that McDonald remains free to file *in forma pauperis* for relief other than extraordinary writs, if he "does not similarly abuse that privilege." *Ante*, at 996. But if we have found his 19 petitions for extraordinary ***998** writs abusive, how long will it be until we conclude that his *33* petitions for certiorari are similarly abusive and bar that door to him as well? I am at a loss to say why, logically, the Court's order is limited to extraordinary writs, and I can only conclude that this order will serve as precedent for similar actions in the future, both as to this litigant and to others.

I doubt—although I am not certain—that any of the petitions Jessie McDonald is now prevented from filing would ultimately have been found meritorious. I am most concerned, however, that if, as I fear, we continue on the course we chart today, we will end by closing our doors to a litigant with a meritorious claim. It is rare, but it does happen on occasion that we grant review and even decide in favor of a litigant who previously had presented multiple unsuccessful *188 petitions on the same issue. See, *e.g.*, *Chessman v. Teets*, 354 U.S. 156, 77 S.Ct. 1127, 1 L.Ed.2d 1253 (1957); see *id.*, at 173–177, 77 S.Ct. at 1136–1138 (Douglas, J., dissenting).

This Court annually receives hundreds of petitions, most but not all of them filed *in forma pauperis*, which raise no colorable legal claim whatever, much less a question worthy of the Court's review. Many come from individuals whose mental or emotional stability appears questionable. It does not take us long to identify these petitions as frivolous and to reject them. A certain expenditure of resources is required, but it is not great in relation to our work as a whole. To rid itself of a small portion of this annoyance, the Court now needlessly departs from its generous tradition and improvidently sets sail on a journey whose landing point is uncertain. We have long boasted that our door is open to all. We can no longer.

For the reasons stated in *Brown v. Herald Co., supra*, I would deny the petition for a writ of habeas corpus without reaching the merits of the motion to proceed *in forma pauperis*. For the reasons stated above, I dissent from the Court's order directing the Clerk not to accept future petitions *in forma pauperis* for extraordinary writs from this petitioner.

All Citations

489 U.S. 180, 109 S.Ct. 993, 103 L.Ed.2d 158

Footnotes

1 See *McDonald v. Alabama*, 479 U.S. 1061, 107 S.Ct. 943, 93 L.Ed.2d 993 (1987); *In re McDonald*, 466 U.S. 957, 104 S.Ct. 2182, 80 L.Ed.2d 564 (1984); *McDonald v. Tennessee*, 432 U.S. 901, 97 S.Ct. 2943, 53 L.Ed.2d 1074 (1977); *McDonald v. Purity Dairies Employees Federal Credit Union*, 431 U.S. 961, 97 S.Ct. 2914, 53 L.Ed.2d 1057 (1977).

2 See *McDonald v. Tobey*, 488 U.S. 971, 109 S.Ct. 505, 102 L.Ed.2d 540 (1988); *McDonald v. Metropolitan Government of Nashville and Davidson County*, 481 U.S. 1053, 107 S.Ct. 2190, 95 L.Ed.2d 846 (1987); *McDonald v. Tennessee*, 475 U.S. 1088, 106 S.Ct. 1474, 89 L.Ed.2d 729 (1986); *McDonald v. Tennessee*, 474 U.S. 951, 106 S.Ct. 318, 88 L.Ed.2d 301 (1985); *McDonald v. Leech*, 467 U.S. 1208, 104 S.Ct. 2394, 81 L.Ed.2d 351 (1984); *McDonald v. Humphries*, 461 U.S. 946, 103 S.Ct. 2125, 77 L.Ed.2d 1304 (1983); *McDonald v. Metropolitan Government of Nashville and Davidson County*, 461 U.S. 934, 103 S.Ct. 2102, 77 L.Ed.2d 309 (1983); *McDonald v. Draper*, 459 U.S. 1112, 103 S.Ct. 744, 74 L.Ed.2d 964 (1983); *McDonald v. Thompson*, 456 U.S. 981, 102 S.Ct. 2253, 72 L.Ed.2d 858 (1982); *McDonald v. Metropolitan Government of Nashville and Davidson County*, 455 U.S. 957, 102 S.Ct. 1468, 71 L.Ed.2d 675 (1982); *McDonald v. Tennessee*, 454 U.S. 1088, 102 S.Ct. 649, 70 L.Ed.2d 625 (1981); *McDonald v. Draper*, 452 U.S. 965, 101 S.Ct. 3117, 69 L.Ed.2d 977 (1981); *McDonald v. Tennessee*, 450 U.S. 983, 101 S.Ct. 1521, 67 L.Ed.2d 819 (1981); *McDonald v. Draper*, 450 U.S. 983, 101 S.Ct. 1521, 67 L.Ed.2d 819 (1981); *McDonald v. Metropolitan Airport Authority*, 450 U.S. 1002, 101 S.Ct. 1713, 68 L.Ed.2d 206 (1981); *McDonald v. Metropolitan Government of Nashville and Davidson County*, 450 U.S. 933, 101 S.Ct. 1396, 67 L.Ed.2d 367 (1981); *McDonald v. United States District Court*, 444 U.S. 900, 100 S.Ct. 211, 62 L.Ed.2d 137 (1979); *McDonald v. Birch*, 444 U.S. 875, 100 S.Ct. 158, 62 L.Ed.2d 103 (1979); *McDonald v. United States District Court* and *McDonald v. Yellow Freight Systems, Inc.*, 444 U.S. 875, 100 S.Ct. 159, 62 L.Ed.2d 103 (1979); *McDonald v. Thompson*, 436 U.S. 911, 98 S.Ct. 2249, 56 L.Ed.2d 411 (1978); *McDonald v. Tennessee*, 434 U.S. 866, 98 S.Ct. 203, 54 L.Ed.2d 143 (1977); *McDonald v. Davidson County Election Comm'n*, 431 U.S. 958, 97 S.Ct. 2684, 53 L.Ed.2d 276 (1977); *McDonald v. Tennessee*, 431 U.S. 933, 97 S.Ct. 2642, 53 L.Ed.2d 250 (1977); *McDonald v. Tennessee*, 429 U.S. 1064, 97 S.Ct. 792, 50 L.Ed.2d 781 (1977); *McDonald v. Tennessee*, 425 U.S. 955, 96 S.Ct. 1733, 48 L.Ed.2d 200 (1976); *McDonald v. Tennessee*, 423 U.S. 991, 96 S.Ct. 404, 46 L.Ed.2d 309 (1975); *McDonald v. Tennessee*, 416 U.S. 975, 94 S.Ct. 2004, 40 L.Ed.2d 565 (1974); *McDonald v. Tennessee*, 415 U.S. 961, 94 S.Ct. 1493, 39 L.Ed.2d 576 (1974); *McDonald v. Wellons*, 414 U.S. 1074, 94 S.Ct. 589, 38 L.Ed.2d 481 (1973); *McDonald v. Metro Traffic and Parking Comm'n*, 409 U.S. 1117, 93 S.Ct. 926, 34 L.Ed.2d 702 (1973); *McDonald v. Wellons*, 405 U.S. 928, 92 S.Ct. 978, 30 L.Ed.2d 801 (1972); *McDonald v. Metropolitan Traffic and Parking Comm'n*, 404 U.S. 843, 92 S.Ct. 141, 30 L.Ed.2d 79 (1971).

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In re McDonald, 488 U.S. 940, 109 S.Ct. 381, 102 L.Ed.2d 370 (1988) (mandamus and/or prohibition); *In re McDonald,* 488 U.S. 940, 109 S.Ct. 381, 102 L.Ed.2d 370 (1988) (mandamus and/or prohibition); *In re McDonald,* 488 U.S. 940, 109 S.Ct. 381, 102 L.Ed.2d 370 (1988) (mandamus and/or prohibition); *In re McDonald,* 488 U.S. 813, 109 S.Ct. 197, 102 L.Ed.2d 167 (1988) (common law certiorari); *In re McDonald,* 488 U.S. 813, 109 S.Ct. 197, 102 L.Ed.2d 167 (1988) (common law certiorari); *In re McDonald,* 488 U.S. 813, 109 S.Ct. 197, 102 L.Ed.2d 167 (1988) (common law certiorari); *In re McDonald,* 485 U.S. 986, 108 S.Ct. 1303, 99 L.Ed.2d 513 (1988) (mandamus); *In re McDonald,* 484 U.S. 812, 108 S.Ct. 213, 98 L.Ed.2d 178 (1987) (common law certiorari); *In re McDonald,* 484 U.S. 812, 108 S.Ct. 214, 98 L.Ed.2d 178 (1987) (habeas corpus); *In re McDonald,* 484 U.S. 812, 108 S.Ct. 214, 98 L.Ed.2d 178 (1987) (common law certiorari and habeas corpus); *In re McDonald,* 479 U.S. 809, 107 S.Ct. 252, 93 L.Ed.2d 178 (1986) (habeas corpus); *In re McDonald,* 470 U.S. 1082, 105 S.Ct. 1857, 85 L.Ed.2d 154 (1985) (habeas corpus); *In re McDonald,* 464 U.S. 811, 104 S.Ct. 208, 78 L.Ed.2d 184 (1983) (mandamus and/or prohibition); *McDonald v. Leathers,* 439 U.S. 815, 99 S.Ct. 225, 58 L.Ed.2d 197 (1978) (leave to file petition for writ of mandamus); *McDonald v. Thompson,* 434 U.S. 812, 98 S.Ct. 237, 54 L.Ed.2d 161 (1977) (leave to file petition for writ of habeas corpus); *McDonald v. Tennessee,* 430 U.S. 963, 97 S.Ct. 1667, 52 L.Ed.2d 370 (1977) (motion to consolidate and for leave to file petition for writ of habeas corpus); *McDonald v. Thompson,* 429 U.S. 1088, 97 S.Ct. 1161, 51 L.Ed.2d 574 (1977) (leave to file petition for writ of habeas corpus and other relief); *McDonald v. United States Court of Appeals,* 420 U.S. 922, 95 S.Ct. 1150, 43 L.Ed.2d 416 (1975) (leave to file petition for writ of mandamus); *McDonald v. Mott,* 410 U.S. 907, 93 S.Ct. 975, 35 L.Ed.2d 280 (1973) (leave to file petition for writ of mandamus and other relief).

4 See *McDonald v. Metropolitan Government,* 487 U.S. 1230, 108 S.Ct. 2892, 101 L.Ed.2d 927 (1988) (stay); *McDonald v. Metropolitan Government of Nashville and Davidson County,* 481 U.S. 1010, 107 S.Ct. 1885, 95 L.Ed.2d 493 (1987) (stay); *McDonald v. Alexander,* 458 U.S. 1124, 103 S.Ct. 5, 73 L.Ed.2d 1395 (1982) (injunction); *McDonald v. Draper,* 451 U.S. 978, 101 S.Ct. 2311, 68 L.Ed.2d 837 (1981) (stay); *McDonald v. Thompson,* 432 U.S. 903, 97 S.Ct. 2946, 53 L.Ed.2d 1075 (1977) (application for supersedeas bond); *McDonald v. Tennessee,* 429 U.S. 1012, 97 S.Ct. 638, 50 L.Ed.2d 623 (1976) (stay and other relief); *McDonald v. Tennessee,* 415 U.S. 971, 94 S.Ct. 1558, 39 L.Ed.2d 870 (1974) (stay).

5 See *McDonald v. Alabama,* 480 U.S. 912, 107 S.Ct. 1362, 94 L.Ed.2d 532 (1987); *In re McDonald,* 479 U.S. 956, 107 S.Ct. 449, 93 L.Ed.2d 396 (1986); *McDonald v. Tennessee,* 475 U.S. 1151, 106 S.Ct. 1807, 90 L.Ed.2d 351 (1986); *In re McDonald,* 471 U.S. 1062, 105 S.Ct. 2129, 85 L.Ed.2d 492 (1985); *McDonald v. Leech,* 467 U.S. 1257, 104 S.Ct. 3550, 82 L.Ed.2d 852 (1984); *McDonald v. Draper,* 459 U.S. 1229, 103 S.Ct. 1240, 75 L.Ed.2d 472 (1983); *McDonald v. Thompson,* 457 U.S. 1126, 102 S.Ct. 2950, 73 L.Ed.2d 1344 (1982); *McDonald v. Draper,* 451 U.S. 933, 101 S.Ct. 2010, 68 L.Ed.2d 320 (1981); *McDonald v. Tennessee,* 425 U.S. 1000, 96 S.Ct. 2219, 48 L.Ed.2d 826 (1976); *McDonald v. Tennessee,* 417 U.S. 927, 94 S.Ct. 2636, 41 L.Ed.2d 230 (1974).

6 In the affidavit in support of his present motion to proceed *in forma pauperis,* petitioner states that he earns approximately $300 per month, is self-employed, and has less than $25 in his checking or savings account. He states that he has no dependents.

7 See *In re McDonald,* 488 U.S. 940, 109 S.Ct. 381, 102 L.Ed.2d 370 (1988) (petition for mandamus and/or prohibition); *In re McDonald,* 484 U.S. 812, 108 S.Ct. 214, 98 L.Ed.2d 178 (1987) (petition for common law certiorari or habeas corpus); *McDonald v. Tennessee,* 475 U.S. 1088, 106 S.Ct. 1474, 89 L.Ed.2d 729 rehearing denied, 475 U.S. 1151, 106 S.Ct. 1807, 90 L.Ed.2d 351 (1986) (petition for certiorari); *In re McDonald,* 479 U.S. 809, 107 S.Ct. 252, 93 L.Ed.2d 178 (1986) (petition for habeas corpus).

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See, e.g., *Procup v. Strickland*, 792 F.2d 1069 (CA11 1986); *Peck v. Hoff*, 660 F.2d 371 (CA8 1981); *Green v. Carlson*, 649 F.2d 285 (CA5 1981); cf. *In re Martin–Trigona*, 737 F.2d 1254, 1261 (CA2 1984) ("Federal courts have both the inherent power and constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions").

9 Petitioner has repeatedly ignored the letter and spirit of this Court's Rule 26, which provides in part that, "[t]o justify the granting of [an extraordinary writ], it must be shown that the writ will be in aid of the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be had in any other form or from any other court."

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