

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL WARD,

Petitioner,

USSC: 20-5671

v.

STATE OF MICHIGAN;
MICHIGAN SUPREME COURT;
MSC DEPUTY CLERK, INGER MEYER;
MICH. ATTY. GRIEV. COMM'N, et al., 1/

Respondent(s).

PETITION FOR REHEARING

[By Pro-se State Prisoner/Petitioner]

NOW COMES Petitioner, MICHAEL WARD, a prisoner of the State of Michigan, confined; proceeding pro-se (unless this Court appoints legal counsel to represent his interests), and pursuant to USSC Rule 44.2, moves the Court by majority to rehear his claim initially bought on by way of Petition for a Writ of Certiorari, that was DENIED upon issuance of a letter dated 11/2/20, and signed by USSC Clerk Scott S. Harris. Thereafter rehearing granted, Petitioner Ward moves the Court majority to vacate and set aside its 11/2/20 denial of certiorari; to reinstate the case to the Court's active calendar; appoint counsel to represent this indigent prisoner Petitioner; order Respondent's to respond; and/or summarily declare Michigan's statute, MCL 600. 2963(8) unconstitutional on its face, and/or as applied to this indigent state prisoner unable to pay fee's said statute requires in order to access any of Michigan's state court's. Burns v Ohio, 360 U.S. 252 (1959).

1/ Petitioner Ward believes the assigned CASE CAPTION, as assigned by case management in this USSC case to be in error (i.e., Michael Ward v Mich. Atty Griev. Comm'n.). See discussion at pp. 2-3, ¶ 1(a), Infra.

A. The Michigan Supreme Court, and persistent pattern of all levels of all court's in the State of Michigan, as it concerns MCL 600.2963(8), have decided an important question of federal law that has not been, but should be, settled by this Court; and the Mich. Supreme Court, and all court's at all levels in the State of Michigan have decided an important federal question in a way that conflicts with relevant decisions of this Court.

B. Petitioner Ward restates and incorporates the whole of his Petition for a Writ of Certiorari that was FILED 7/17/20, and placed on the docket 9/11/20, as USSC No. 20-5671.

1. CIRCUMSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT:

a) Over Petitioner's written objection, the USSC case management captioned this case as "Michael Ward v Michigan Attorney Grievance Commission." This matter is before this Court on Petition for a Writ of Certiorari from the final decision of the Michigan Supreme Court (MSC), its Deputy Clerk ^{2/} having invoked the challenged state statute, MCL 600.2963(8), summarily refusing Petitioner Ward access to the MSC, on the sole basis that: 1) he is a prisoner; 2) he had demonstrated his financial inability to pay "outstanding" fee's owed the MSC. The case caption in the MSC was Michael Ward v Mich. Atty Griev. Comm'n, et al., however, due to the MSC Clerk's summary refusal to file (due to Ward's inability to pay outstanding fee's), the Clerk never filed; hence no MSC case# was assigned, and of course, there was no decision by the MSC on the merits of the case against Mich. Atty. Griev. Comm'n. Petitioner Ward's challenge is squarely against and focused upon the CONSTITUTIONAL VALIDTY OF MCL 600.2963(8) on its face, and/or as

^{2/} A state court CLERK'S rejection letter is to be considered a FINAL ORDER for purpose of USSC certiorari jurisdiction. Burns v Ohio, 360 U.S. 252, 256-57 (1959).

applied to Ward who has demonstrated his inability to pay fee's. Therefore, the CASE CAPTION should be: Michael Ward v Michigan Supreme Court; or Michael Ward v State of Michigan, given his claim challenges the "state" statute; an unconstitutional statute invoked by the Deputy Clerk of the MSC, as sole reason to deny Ward access.

b) The statute, MCL 600.2963(8) is unconstitutional because:

1) it is focused on, and applies ONLY to Michigan prisoner's; constituting a denial of EQUAL PROTECTION and DUE PROCESS of the laws, U.S. Const., Am's 1, 14 (see, Harper v Va. State Bd. of Elections, 383 U.S. 663, 670 (1996)(holding strict scrutiny applied where the right involved was "fundamental," even though the class of persons affected was otherwise non-suspect). See also, Boddie v Connecticut, 401 U.S. 371 (1971)(concluding that due process did prohibit a state from denying access to it's courts, solely because of inability to pay fee's). In Michigan, a rich prisoner can access the State's court's, whereas a poor prisoner (such as your Petitioner Ward) cannot, only because he has no money to pay fee's, current or outstanding.

2) MCL 600.2963(8) is UNCONSTITUTIONAL on its face, and/or as applied to Ward who is financially unable to pay entry or outstanding fee's; where the MSC Deputy Clerk's rejection ^{3/} of Ward's attempted appeal based solely on the verbiage of MCL 600.2963(8), denied Ward "access." U.S. Const., Am's 1, 14. Burns v Ohio, 360 U.S. 252, 256-58 (1959); Boddie v Connecticut, 401 U.S. 371 (1971). See also, Bridges v Collette, 2008 U.S. Dist. LEXIS 58, at *7 n.3 (WD Mich., 1/2/08)("... the court is nevertheless TROUBLED that this prisoner, and other's like him, appear to be indigent and

^{3/} Again, a state court CLERK'S rejection letter is to be considered a FINAL ORDER for purpose of USSC certiorari jurisdiction. Burns v Ohio, 360 U.S. 252, 256-57 (1959).

appear to have lawsuits dismissed due to FEE BALANCES which they cannot cure given their indigency. Should this pattern persist, then eventually the U.S. SUPREME COURT WOULD BE OBLIGED TO ADDRESS why defendant judge's are not providing EQUAL ACCESS to the courts to indigent prisoner's.").

c) As said by Hon. Judge Richard Enslen in Bridges v Collette, all state court's across the State of Michigan have and continue to invoke MCL 600.2963(8) as a "PATTERN PERSISTENT," as a means to keep poor prisoner's out of all levels of Michigan's court system; whereas a "rich" prisoner has easy and ready access.

A) Your Petitioner, Michael Ward has experienced a denial of access (due to his inability to pay fee's) not only in the Mich. Supreme Court, but numerous other state circuit court's, INCLUDING the Michigan Court of Appeals. Should this USSC by majority grant rehearing, reinstate the case, and order full briefing of the parties, at that time Petitioner Ward will provide this USSC with a volume of documentary evidence, establishing a "persistent pattern" of Michigan's several and various state court summary denials of access. Surely the constitutional challenge to MCL 600.2963(8) is deserving of this high Court's attention ON THE MERIT'S? The constitutional issue affects not only Ward, but any and all prisoner's in the State of Michigan, who have demonstrated an inability to pay fees (current or outstanding), yet DENIED court access persistently, only because he/they are "poor." Certainly, the challenge to MCL 600.2963(8) presents a "COMPELLING reason," significant and substantial to jurisprudence, worthy of this USSC attention; and relief in need.

2. All named/relevant Respondent parties were served a copy of the original Petition for a Writ of Certiorari in this case #20-5671; and were served the USSC Clerk's "NOTICE" that "Pursuant to Rule 15.3, the due date for a brief in opposition is Tuesday, October 13, 2020." Respondent's failed/refused to file a brief or any other pleading opposing Petitioner Ward's allegations. Rather, on 9/16/20 B. Eric Restuccia (Office of Mich. Atty General) filed a "WAIVER," of right to respond/oppose, in behalf of State of Michigan, Mich. Governor, Mich. Atty General, Mich. Supreme Court, and MSC Deputy Clerk; and on 9/25/20, Deputy Administrator, Robert E. Edick filed a "WAIVER" in behalf of Mich. Atty Griev. Comm'n. Your Petitioner Ward submits to this USSC that Respondent's "waiver" of right to respond, constitutes their "ADMISSION of the ALLEGATIONS in the Petition for Writ of Certiorari. Cristini v McKee, 526 F 3d 888, 894 n.1 (CA6 2008)("When a States return to a habeas corpus petition fails to dispute the factual allegations contained within the habeas petition, it essentially admits the allegations."); and see, Dickens v Jones, 203 F Supp 2d 354, 360 (ED Mich. 2002)(same)

WHEREFORE, your Petitioner, MICHAEL WARD respectfully prays the USSC majority, in good faith, decide to grant his petition for rehearing, given the "liberal construction," to which it deserves (Boag v MacDougall, 454 U.S. 364, 365 (1982); Denton v Hernandez, 504 U.S. 25, 33 (1992)("Petitioner's allegations are to be accepted as true, unless they are clearly irrational or wholly incredible.")); and thereafter:

1. Vacate and set aside its 11/2/20 letter/order denying the original Petition for a Writ of Certiorari;

2. Appoint legal counsel to represent Petitioner Ward's interests in this case;

3. Summarily find and declare MCL 600.2963(8) is unconstitutional on its face, and/or as applied to Petitioner Ward; or,

4. Order that counsel's for Respondent's file their brief or other pleading, responding to Petitioner Ward's claim/allegation;

5. That the constitutional challenge to MCL 600.2963(8) be put before all Justice's of the USSC for their decision, on the merits;

6. That the Court fashion and award Petitioner Ward any other or further relief or instruction, deemed appropriate and just in the premises.

Date: 11/9/20

Respectfully submitted,



Michael Ward #128267

Macomb Corr Fac

34625 26 Mile Rd

Lenox Twp., MI 48048

Petitioner/Pro-per

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RULE 44.2 "CERTIFICATION"

Pro-se, state prisoner Petitioner, MICHAEL WARD, certifies that his hereto attached Petition for Rehearing is restricted to the grounds in Rule 44, paragraph 2 (i.e., "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented"), and that it is presented in good faith and not for delay.

28 U.S.C. § 1746

Respectfully submitted,


Michael Ward #128267

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34625 26 Mile Rd

Lenox Twp., MI 48048

Date: 11/9/20

Petitioner/Pro-per

^{1/} Petitioner Ward believes the CASE CAPTION to be in error. See discussion at pp. 2-3, § 1(a), of hereto attached Petition for Rehearing, supra.