

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Robert J. Doyle, Jr.
Petitioner

v.

Jacqueline Vigilante
Respondent

On Petition for a Writ of Certiorari
to the United States Court of Appeals for the Third Circuit.

PETITION FOR A WRIT OF CERTIORARI

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Dated: October 30, 2020

Questions Presented

The Right to Sue and access to the courts are basic and fundamental rights provided for in the United States Constitution. The Fourteenth Amendment also provides procedural due process protections, ensuring that litigants are treated equally and given the opportunity to be heard.

In this case, a civil plaintiff's legal malpractice lawsuit was dismissed by the district court without addressing one the claims alleged by the plaintiff. On appeal, the plaintiff squarely asked the Court of Appeals for the Third Circuit to remand so the unaddressed claim could be adjudicated. Despite this issue being the Plaintiff-Appellant's primary claim of error on appeal, it was entirely unaddressed by the Third Circuit's written decision.

This Court has never, to the best of Petitioner's research, decided what Constitutional violations are implicated when a claim by a civil litigant was unaddressed both in the District Court and on review by a Court of Appeals.

It is of the utmost importance that citizens have confidence that the courts will *fully* hear and resolve the disputes in front of them. The questions presented in this case, which are a matter of first impression, are:

Whether or not the Right to Sue, Right to Access Courts to Be Heard, and Procedural Due Process Rights in the US Constitution require that a Court of Appeals, upon issuing a written opinion, address and resolve every issue raised and necessary to a final disposition of the appeal?

Whether or not the Third Circuit Court of Appeals violated Petitioner's due process rights, right to sue, and right of access to the courts by dismissing his appeal

without addressing his primary claim of error which was necessary to the adjudication of the appeal?

Parties to the Proceedings

The Petitioner, Robert J. Doyle, Jr., was the Appellant below before the United States Court of Appeals for the Third Circuit.

The Respondent is Jacqueline Vigilante, an attorney barred in New Jersey and Pennsylvania.

Statement of Related Proceedings

Doyle v. UAW Local 1069, 2:11-cv-06185 (EDPA Mar. 30, 2018); Doyle v. Vigilante, 2:18-cv-3740 (EDPA June 14, 2019); Doyle v. UAW Local 1069, 18-1912 (3d Cir. Jan. 25, 2019).

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PETITION FOR A WRIT OF CERTIORARI

The Petitioner, Robert J. Doyle, Jr. respectfully petitions this Court for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Third Circuit.

OPINIONS BELOW

The Order of the United States Court of Appeals for the Third Circuit denying Petitioner's petition for rehearing is dated June 2, 2020. (App. 18). The Order of the United States Court of Appeals for the Third Circuit denying Petitioner's appeal is dated May 6, 2020. (App. 1). The summary judgment order and judgment of the district court dismissing the case is dated June 14, 2019. (App. 7, 17).

JURISDICTION

Jurisdiction in this Court is founded under 28 U.S.C.A. 1254(2) since it is a question for Writ of Certiorari from the United States Court of Appeals for the Third Circuit.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitutional provisions that apply are: Art. IV § 2, Constitution of the United States (the right to sue); Amendment I, US Constitution (right to court access); and Amendment XIV, US Constitution (procedural due process). The statutory provision is 28 U.S.C. § 1291.

STATEMENT OF THE CASE

The petitioner, Robert J. Doyle, Jr., is asking that a writ of certiorari be granted in this case to determine whether the US Constitution requires that written opinions of the Courts of Appeal address and resolve every issue raised and necessary to a final disposition of the appeal. Restated, are a litigant's constitutional rights violated if an appellate court ignores or overlooks an issue necessary to fully resolve and adjudicate the appeal.

Mr. Doyle's due process rights were violated in such a manner by the Third Circuit Court of Appeal's handling of his case. The legitimacy of the courts is premised on how fairly and openly they address the disputes before them, which militates in favor of this Court granting a writ of certiorari to protect the reputation of the judiciary.

Mr. Doyle's legal malpractice lawsuit was dismissed at summary judgment by the district court without any consideration of one of his main claims: that his attorney Jacqueline Vigilante had engaged in a blatant conflict of interest and hid a serious litigation error for many years. Defendant Vigilante never moved for summary judgment on this claim, nor did the district court address it in the opinion; despite this, the entire case was dismissed anyway.

When Mr. Doyle appealed to the Third Circuit ***squarely and unambiguously asking that the case be remanded to address the unaddressed conflict of interest claim***, the Third Circuit inexplicably failed to address his complained-of error. This claimed error could not have been more plainly and prominently placed before the Third Circuit by Mr. Doyle.

By failing to address this error on appeal, Mr. Doyle was denied his right to sue, his right to adequate appellate review, his right to access to the courts, and his right to procedural due process.

This Court has held that it is:

“a monstrous absurdity in a well organized government, that there should be no remedy [for an aggrieved party], although a clear and undeniable right should be shown to exist.”

Franklin v. Gwinnett County Pub. Sch., 503 U.S. 60, 67 (U.S. 1992) (quoting Kendall v. United States ex rel. Stokes, 12 Pet. 524, 624 (1838)). Mr. Doyle has a clear and undeniable right to have his claims adjudicated; it is an absurdity that one of his claims remains unaddressed to this day.

Counsel has never seen a claim entirely overlooked by the district court, and then similarly ignored on review by the appellate court. If Mr. Doyle’s conflict of interest claim had been addressed by the courts, but still dismissed, then at least he would know why it was dismissed and the process would be open. Instead, he is left wondering what happened and why his legal filings are being ignored. Mr. Doyle has asked his undersigned counsel why the Courts dismissed his conflict of interest claim without ever addressing it; it is unacceptable that undersigned counsel not have an answer for him.

These types of opaque actions and omissions by courts are precisely what undermines trust in the judiciary, and precisely what the right to sue, the right of court access, and procedural due process are supposed to prevent.

The fact that Vigilante is herself an attorney Petitioner sued for misconduct creates the perception—rightfully or wrongfully—that the legal industry is protecting one of their own.

This Court obviously can only grant very few petitions, and generally only does so on issues that have broad implications. Here, those implications are present. The Court should make it clear that the right to sue and procedural due process require that an appellate court, if it issues a written opinion, resolve every issue raised and necessary to a final disposition of the appeal.

That the appellate courts continue to be trusted institutions—which fully, fairly, and openly decide cases and controversies before them—is a compelling reason to clarify the scope of procedural due process and the right to sue as applied to appellate opinions.

I. Factual Background

Doyle is Retaliated Against by his Union’s President for Opposing the President’s Corrupt Election Campaign

Petitioner Robert Doyle worked at Boeing Rotorcraft as an hourly production and maintenance worker for twenty years, as a member of UAW Local 1069. In 2009, he was illegally fired in retaliation for campaigning against the union presidential campaign of Anthony Forte, Jr. See Opening Br., at 10, Doyle v. Vigilante (3d CA 19-2538). Petitioner has little formal education and is not legally sophisticated. Id.

Mr. Doyle spoke out against Forte during the campaign because he learned that Forte was under investigation for a massive fraud. Id. Forte lied and denied this, but became obsessed with hurting Doyle and having him fired. Id. at 11-17.

Forte won the election in May 2008. Id. Thereafter, Doyle was demoted and severely harassed over the next year. Id. at 14-15. Forte falsely reported Doyle to the State Police for drug dealing, and fraudulent work complaints were made against Doyle by Forte and his cronies. Id. at 11. One of these contrived accusations was in fact used to fire Doyle on July 11, 2009—it was factually and procedurally baseless¹—and the Forte-led union did nothing to properly defend Doyle or properly grieve the termination. Id. at 15-17.

Doyle was right about Forte's corruption. On September 5, 2008, after the election, Forte was indicted by a federal grand jury for misappropriating more than \$100,000.00 in kickbacks on loans to unqualified borrowers while he served as executive Vice President and marketing director of Boeing Helicopters Credit Union. Id. at 11, 14-15. He later pled guilty. Despite his indictment and guilty plea, Forte remained President of Local 1069 and an employee of Boeing—while he viciously targeted Doyle—until Forte resigned in April 2010. Id. at 11 fn1. Incredibly, other members of Forte's administration were later arrested and jailed for running a drug ring on Boeing property. Id. at 15.

Doyle had many witnesses who supported him, who said that Forte was targeting him. A former district justice for Folcroft and Tinicum, Pa., Deborah Truscello, offered a signed declaration stating that Forte made a false allegation to her that Doyle was selling drugs, which a State Police investigation determined was

¹ Forte's right hand man accused Doyle of driving a golf cart at him. This did not happen, nor was there ever any evidence produced that it did. Moreover, Doyle's termination was erroneously treated as though he was on a "last chance," which the union knew was false.

false. Id. at 11. Ms. Truscello further stated: “I advised Mr. Forte that an investigation was done of Mr. Doyle and that there was no wrong doing on his part. Mr. Forte stated ‘I will get him another way.’” Id. Ms. Truscello also observed that “Mr. Forte indicated on numerous occasions that he would in some way get Mr. Doyle as he did not like Mr. Doyle.” Id.

The president of Local 1069 preceding Forte, John DeFrancisco, who was also a president of the Norwood Borough Council, bluntly offered in a statement provided for the litigation: “I can say with absolutely certainty that I have never met or dealt with a more ruthless, self-serving, dishonest group of people in my life than the group that took over Local 1069 in [2008]. ... It is obvious to any of the 3,000 employees, Labor Relations and Boeing management that Mr. Forte’s administration was intent on removing Mr. Doyle out of the Plant.” Id. at 11-12. Mr. DeFrancisco stated “Considering the total lack of character and morals displayed by this devious group, setting up Bob Doyle to be discharged was easy.” Id.

Forte’s opponent in the election, Joe Phillips, also supported Doyle. Phillips stated that he had told Boeing H.R. during the election: “I stated that Anthony Forte was mad at Bobby Doyle because he not only supported me, but he also had information about an investigation with a Federal Agency in the banking field.” Id. at 12-14. Mr. Phillips made it clear what the plan was: “Forte was using H.R. to get revenge against Bobby.” Id.

A former vice president of Local 1069, Charles Evans, offered in a statement for the litigation: “For the longest time, Anthony Forte, Jr. acted like Bob was a stone

in his shoe, a constant source of irritation. Mr. Forte and his cohorts tried to intimidate anyone with ambitions of a union nature.” Id.

In other words, Doyle was the victim of an egregiously corrupt union boss.

Doyle Hires Defendant Attorney Jacqueline Vigilante to Prosecute a Case Against the Union; Vigilante Misses the Deadline and then Lies to Plaintiff

Mr. Doyle hired defendant attorney Jacqueline Vigilante to protect his rights. Doyle approached Vigilante in 2010 and a representation agreement was signed in October 2010. Id. at 17.

Vigilante informed Doyle that the deadline to file was July 2011, the date of his termination. Id. at 19-20. She told Doyle that as of March 2011 she already had a draft complaint done. In June 2011, she said that she was on track to file on time. Id.

However, Vigilante inexplicably did not file the complaint until September 30, 2011—nearly *three months late*. Id. at 20. At no point did she tell Doyle she had missed the deadline, but instead falsely told him that the real deadline was October 5, 2011 (the date the Union failed to appeal his termination). Id. at 20-21. Doyle is not legally savvy and trusted Vigilante.

She then continued to represent Doyle over the next five years, as the case wound its way through the courts. Id. at 21-26. At all points Vigilante told Doyle the case was timely and that she did everything properly. Id. In fact, Vigilante was delaying the case for as long as possible, and misleading Doyle, *to run out the clock on the malpractice statute of limitations*. Id. During these five years she never told Doyle that she missed the deadline, or that Doyle had a potential claim against her, to avoid being sued. Id.

In essence, Vigilante was placing her interests above that of her client, while hiding the malpractice from Doyle. This is, at its very core, a conflict of interest, as Vigilante's interests directly conflicted with that of Doyle's. Id.

On September 12, 2016, Vigilante withdrew from the case after Doyle refused to settle for a fraction of what he was owed. Id. At no point did she tell Doyle that she had missed the statute of limitations or that his case was frivolous because it was filed late. Doyle continued up to this date to incur expenses and pay Vigilante up through September 2016. Id. at 47-48.

The conflict of interest Vigilante was engaged in ***extended to September 12, 2016***, as did her misrepresentations and failure to inform Doyle of the malpractice.

The district court dismissed Doyle's case in March 2018 against the Union, holding that Doyle's case had been filed past the statute of limitations by Vigilante.

II. Procedural Background

Doyle Files a Legal Malpractice Case against Vigilante Alleging *Inter Alia* Conflict of Interest Claims; the Case is Dismissed at Summary Judgment Without Addressing the Conflict of Interest Claims

Upon review of the March 2018 district court opinion, Doyle then filed a malpractice claim against Vigilante on August 30, 2018, in the Philadelphia Court of Common Pleas. (App. 11). Respondent Vigilante then removed the case to the Eastern District of Pennsylvania based on diversity jurisdiction. Id.

Critically, not only was this malpractice case filed just months after the case was dismissed, but it was filed ***within two years*** of Vigilante's withdrawal on September 12, 2016.

Doyle's complaint pled and alleged two sets of claims: (1) that Vigilante had negligently missed the July 8, 2011 filing deadline for Doyle's lawsuit against his Union, and (2) that, after missing the deadline, Vigilante had engaged in an ongoing conflict of interest until 2016, lied to him, and continued to charge him for unnecessary legal services to cover up for her misfeasance until she withdrew from the case in 2016. See Opening Brief, at 40-41. The complaint stated in alleging the second set of ongoing claims that Vigilante had:

“fraudulently induced the plaintiff to pay [her] large sums of money by making representations regarding the legal matter which were untrue.”

Id. at 41.

After discovery, Vigilante moved for summary judgment only on the first set of claims regarding her missing the 2011 deadline, claiming they were time barred. (App. 12). Her motion for summary judgment did not mention the conflict of interest claim, and Doyle was therefore not on notice it had to be addressed. See FRCP 56(f). Doyle was proceeding *pro se* at this time.

In ruling on Vigilante's motion, the district court held that the claim based on Vigilante missing the July 2011 statute of limitations was itself time barred. (App. 11-15). The district court's summary judgment opinion, however, did not address the ongoing conflict of interest malpractice claims, which were discrete from the claim that concerned the initial 2011 missed deadline. In contrast, the conflict of interest

claims and resulting harm to Mr. Doyle indisputably continued into the limitations period.²

Then, despite the fact that Vigilante had not moved to dismiss all the claims alleged in the complaint, the district court then dismissed the entire case without ever having addressed the claims for the ongoing conflict of interest which were timely filed. (App. 17).

Doyle Appealed to the Third Circuit Court of Appeals and asked for Remand so the District Court Could Address the Conflict of Interest Claim; the Third Circuit Failed to Address this Claim of Error

Following the district court's dismissal of the case, Mr. Doyle timely appealed to the Third Circuit Court of Appeals.

As Mr. Doyle's opening brief in the Third Circuit made clear in the Statement of Issues, the failure of the district court to address the ongoing conflict of interest claim was Mr. Doyle's first and primary claim of error:

The District Court opinion finding that the instant malpractice and fraud lawsuit was time barred only addressed one set of claims filed against Defendant Attorney Jacqueline Vigilante. There were a second set of claims for ongoing malpractice and fraud which were not time barred, which the District Court erroneously failed to address. This requires reversal and remand to address the unaddressed claims.

Opening Brief, at 9. The rest of Mr. Doyle's briefing also made it expressly clear that Petitioner was asking the Third Circuit to remand so the claims filed for the ongoing malpractice could be properly addressed.

² Maritrans GP Inc. v. Pepper, Hamilton & Scheetz, 529 Pa. 241, 257 (1992) ("At common law, an attorney owes a fiduciary duty to his client; such duty demands undivided loyalty and prohibits the attorney from engaging in conflicts of interest, and breach of such duty is actionable."); Formal Opinion 481, American Bar Association, at FN1 (April 17, 2018) (stating that hiding a litigation error breaches the common law standard of care and citing numerous cases)

It was explained in the briefing that the claims for ongoing conflict of interest did not require Plaintiff to prove a case within a case, and that the damages were instead the time, money, and lost opportunities Doyle spent frivolously litigating the case because of Vigilante's lies:

To the extent the ongoing conflict of interests and lies [by the defendant attorney] caused damage to Doyle independent of losing the case against the Union (such as unnecessary fees, legal costs, and other damages), ***proving a case within a case is not at issue***. Coleman v. Duane Morris, LLP, 58 A.3d 833, 838 (Pa. Super. Ct. 2012) (ongoing fees, costs, and damages caused by attorney malpractice recoverable under tort and contract when underlying case is civil in nature). Note that these damages were not addressed by the defendant or the court in the matter below, and that they must addressed on remand.

Opening Brief, at p.61 (emphasis added)

Yet, when the Third Circuit issued its opinion dismissing Petitioner's appeal, it did not address or mention Doyle's primary claim of error in any fashion. Instead, in an error filled and confusing opinion, the Court of Appeals held that because it did not think Doyle could prove the underlying case against the union on the merits (the one dismissed because Vigilante had filed late), all malpractice claims had to be dismissed as well. (App. 5) (stating "Doyle cannot prove damages because he did not have a viable case against his union").³

Yet, whether Doyle could prove a case-within-a-case for the missed deadline claim ***had nothing to do with whether Vigilante was liable for the ongoing***

³ It should be noted that the Third Circuit erroneously claimed that the case against the Union was dismissed on the merits; in actuality almost the entire case was dismissed on limitations grounds. (App. 5-6).

conflict of interest and monies she had charged him up to September 12, 2016.

Remember, Doyle filed a malpractice suit less than two years later on August 30, 2018, within the applicable two-year limitations period for Pennsylvania legal malpractice suits. See 42 Pa.C.S. § 5524.

Restated, the Third Circuit’s opinion did not address and resolve every issue raised and necessary to the disposition of the appeal.

REASONS FOR GRANTING THE PETITION

The Court Should Grant the Petition for the Purpose of Declaring that the Failure of A Court of Appeals to Address and Resolve all Raised and Necessary Issues to the Disposition of an Appeal Violates a Litigant’s Procedural Due Process Rights, Right to Sue, and Right to Access the Courts to Be Heard under the US Constitution

Petitioner Robert Doyle’s constitutional rights were violated by the Third Circuit’s failure to address his claimed error on appeal.

It is basic civil procedure that a lower court’s dismissal of a claim while failing to give notice that the claim or issue would be considered during summary judgment is reversible error. Couden v. Duffy, 446 F. 3d 483, 500 (3d Cir. 2006) (stating that the opposing party and Court must notice the aggrieved party “of all the issues that the District Court would reach” and give that party “a fair opportunity to address them in full”); FRCP 56(f) (requiring notice be provided of issues to be adjudicated at summary judgment).

Congress has granted litigants who lose in the district courts the right to appeal all final orders of the district courts. See 28 U.S.C. § 1291. Having granted that right, the protections in the United States Constitution—including procedural due process under the Fourteenth Amendment—attach to appeals. See North

Carolina v. Pearce, 395 US 711, 725-26 (1969); Blackledge v. Perry, 417 US 21, 28 (1974); Griffin v. Illinois, 351 US 12 (1956). It is fundamental to procedural due process that a litigant has the right to be heard. Armstrong v. Manzo, 380 U.S. 545, 552 (1965).

Accordingly, on review of a district court decision, a Court of Appeals failure to address a dispositive issue on appeal is grounds for reversal. See Harrington v. Richter, 131 S. Ct. 770, 786 (2011).

This Court has similarly held that "the right of access to the agencies and courts to be heard . . . is part of the right of petition protected by the First Amendment." See Cal. Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 513 (1972). Moreover, as this is a diversity case, "[t]he right to sue and defend in the courts of the states is one of the privileges and immunities comprehended by § 2 of Art. IV of the Constitution of the United States" Chambers v. Baltimore & O.R.R., 207 U.S. 142, 148 (1907); McKnett v. St. Louis & S.F. Ry., 292 U.S. 230, 233 (1934). The right of access and to sue necessarily entails that the claims sued upon will be fully adjudicated and resolved.

This Court has held that it is:

“a monstrous absurdity in a well organized government, that there should be no remedy [for an aggrieved party], although a clear and undeniable right should be shown to exist.”

Franklin v. Gwinnett County Pub. Sch., 503 U.S. 60, 67 (U.S. 1992) (quoting Kendall v. United States ex rel. Stokes, 12 Pet. 524, 624 (1838)).

Various states have recognized that it is critical that, if an appellate opinion is going to be issued, it should address every issue raised and necessary to a final disposition of the appeal. See, e.g., Texas Rule of Appellate Procedure 47.1; Alvarez v. Texas, 13-04-040-CR (13th Dist. Tex. Dec. 7, 2006) (*Castillo, J. dissent*). A litigant's constitutional right to sue, right to access the courts, and due process rights to be heard require no less.

Here, Robert Doyle alleged a conflict of interest claim against his former attorney, respondent attorney Jacqueline Vigilante, for her ongoing malpractice from 2011 to 2016. His complaint also specifically stated that the damages from Vigilante's conflict included:

“fraudulently induc[ing] the plaintiff to pay [her] large sums of money by making representations regarding the legal matter which were untrue.”

Opening Brief, at p.41.

Yet, as described through this petition, the District Court never addressed the conflict of interest claim based on Vigilante's conduct from 2011 to 2016, and instead dismissed the entire case while only addressing and ruling that claims stemming from the 2011 missed deadline were time barred. (App. 12-16). This failure to address the conflict of interest claim when dismissing the case was reversible error, as explained in Couden, 446 F. 3d at 500. See Couden, supra (stating that the opposing party and Court must notice the aggrieved party “of all the issues that the District Court would reach” and give that party “a fair opportunity to address them in full”); FRCP 56(f) (requiring notice be provided of arguments at summary judgment).

Doyle timely and expressly appealed this exact issue as his first and primary claim of error to the Third Circuit Court of Appeals:

The District Court opinion finding that the instant malpractice and fraud lawsuit was time barred only addressed one set of claims filed against Defendant Attorney Jacqueline Vigilante. There were a second set of claims for ongoing malpractice and fraud which were not time barred, which the District Court erroneously failed to address. This requires reversal and remand to address the unaddressed claims.

Opening Brief, at 9.

Doyle's appeal asked for remand to the district court to be able to fully litigate the unaddressed claims in the district court. Perhaps Doyle will ultimately lose those claims, ***but he has the absolute right to have all his claims adjudicated***. If his claims are not adjudicated, he had been denied the opportunity to be heard guaranteed by:

- procedural due process (inclusive of the right of notice and be heard), under the Fourteenth Amendment,
- the right to sue, in clause § 2 of Art. IV, US Constitution
- the right to court access to be heard, under the First Amendment.

Restated, if an appellant raises Issue A and Issue B on appeal, then when the appellate court resolves the appeal it has to explain how its opinion resolves each and every raised issue. It cannot only address one of the issues. If the court ignores or overlooks an issue necessary to the resolution of the appeal, then the constitutional rights of the appellant have been violated.

Given how clearly the argument was made to the Third Circuit, it is baffling that the opinion failed in any way to address Doyle's first and primary claimed of error. In fact, the opinion nowhere contains the language "conflict of interest,"

nowhere alludes to the fact that Doyle had alleged ongoing malpractice by Vigilante from 2011 to 2016, and nowhere acknowledges that Doyle was claiming on appeal that the district court improperly failed to address a set of malpractice claims. (App. 1-7).

The Third Circuit's opinion affirmed the lower court, holding only that Doyle could not prove a case-within-a-case for the claims pertaining to the 2011 missed deadline. (App. 5). Mr. Doyle respectfully disagrees that he did not have enough evidence to prove the case within a case, ***but that is not the issue here***. Whether or not Doyle could prove the underlying case is unrelated to whether he was damaged by Vigilante's ongoing malpractice and conflict of interest ***which continued into all applicable limitations periods***. These were separate, independent, and ongoing acts of malpractice. As with any other tort, each act of malpractice resulting in an injury accrues on a different date and has its own limitation period. See Aryeh v. Canon Business Solutions, 55 Cal. 4th 1185 (2013) ("[W]e have long settled that separate, recurring invasions of the same right can each trigger their own statute of limitations."). Perhaps some of Doyle's claims were untimely, ***but not all of them***.

Not only is the failure of an appellate court to address a necessary issue reversible error, see Harrington v. Richter, 131 S. Ct. at 786, but the failure to even acknowledge that the issue was raised violates Doyle's due process rights, right to sue, and right of access to the courts to be heard. See Art. IV § 2, US Constitution (right to sue and defend); Amendment I, US Constitution (right to access courts and be heard); Amendment XIV, US Constitution (guaranteeing procedural due process);

Chambers, 207 U.S. at 148 (recognizing right to sue); McKnett, 292 U.S. at 233 (accord).

If the right to sue and the right to access the courts mean anything, they must be premised on the claims alleged actually being addressed, heard, and decided. See Cal. Motor Transport Co., 404 U.S. at 513 (stating that right to access courts includes the right to be heard).

There is no requirement that a court of appeals issue a written opinion; but, if a court of appeals is going to issue an opinion, then it needs to fairly and fully adjudicate every raised and necessary dispute needed to resolve the appeal. An incomplete and disjointed appellate opinion, such as the one present here, further indicates that matter was not properly and completely reviewed by the Court of Appeals.

If an appellate court can unilaterally refuse to address a dispositive issue on appeal, then the constitutional rights to sue, appeal, access the courts, and be heard are illusory paper tigers; the “monstrous absurdity” this Court spoke of in Franklin is realized as Petitioner has no remedy to pursue alleged violations of his rights. Franklin, 503 U.S. at 67.

CONCLUSION

For the reasons set forth in this Petition, Robert J. Doyle, Jr. respectfully requests this Honorable Court grant his Petition for a Writ of Certiorari. It is an issue of first impression whether the right to sue, the right to appeal, the right to access the courts, and procedural due process require that a written opinion address and resolve every issue on appeal raised and necessary to the disposition of an appeal.

This matter is one of national significance and, if a writ is granted, it will promote and protect not only litigant rights, but also the quality and reputation of the judiciary.

Respectfully submitted,

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