No. 20-6239

In the
Supreme Court of the United States

Abdul Mohammed,

Petitioner,

v.

Prairie State Legal Services Inc. et.al,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the 7th Circuit

PETITION FOR WRIT OF CERTIORARI

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October 21, 2020

QUESTIONS PRESENTED

The question presented is:

1) whether a District Court can dismiss a Pro Se Plaintiff's complaint under Rule 8 without giving an opportunity to amend the complaint at least once after putting the Pro Se Plaintiff on notice that his/her complaint violates Rule 8;

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TABLE OF AUTHORITIES

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PETITION FOR WRIT OF CERTIORARI

This case is an ideal vehicle for resolving a question of first impression and as well as of national importance—whether a complaint can be dismissed by the District Court under Rule 8 without giving an opportunity to the Pro Se Plaintiff to amend his complaint after the District Court puts the Pro Se Plaintiff on notice that his complaint violates Rule 8.

OPINIONS BELOW

The October 14, 2020 opinion of the United States Court of Appeals for the 7th Circuit is reproduced at App. 1–2. The October 20, 2020 opinion of the United States Court of Appeals for the 7th Circuit is reproduced at App. 3–3.

JURISDICTION

The Court of Appeals issued its opinion on October 10, 2020, and October 20, 2020. This Court has jurisdiction under 28 U.S.C. § 1254(1) because 28 U.S.C. § 1254(1) states as follows:
"Cases in the courts of appeals may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree".

STATUTORY PROVISIONS INVOLVED

Title 28. Judiciary and Judicial Procedure; 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

On September 14, 2020, District Court denied the Petitioner's Application to proceed on his appeal In Forma Pauperis. District Court's reasoning for denying Petitioner's Application to proceed on his appeal In Forma Pauperis is that the instant case was, "Nevertheless, the Court denies Plaintiff's motion because he has not shown that the issues he seeks to raise on appeal have merit; nor has he demonstrated good faith in bringing the appeal. Indeed, Plaintiff's motion fails to state the issues he intends to present on appeal, as required by Federal Rule of Appellate Procedure 24(a)(1)(C)". The Petitioner was informed by the Clerk of United States District Court, Northern District of Illinois that he just need to file an affidavit accompanying a motion for permission to appeal and he does not need to file any motion. Further, the Petitioner has never filed a motion in the District Court along with the affidavit in the past. Now the Petitioner will describe the issues he seeks to raise on appeal have merit and that he is bringing this appeal in good faith. On May 18, 2020, Judge Blakey entered an order that he will review Petitioner's complaint pursuant to 28 U.S.C Section 1915A. 28 U.S.C Section 1915A only applies to prisoners and the Petitioner is not a prisoner and the Petitioner informed Judge Blakey that he is not a prisoner through various pleadings he filed in the District Court. Then on July 10, 2020, Judge Blakey dismissed the Case # 20-cv-50133 with prejudice for violation of Rule 8(a) in which Judge Blakey stated as follows in the pertinent part:

"MINUTE entry before the Honorable John Robert Blakey: Plaintiff's fifth amended complaint [40], which clocks in at 1,125 pages (with an additional 2,852 pages of exhibits), names more than 30 defendants, and asserts more than 63 counts (some

with numerous subparts and arguments), constitutes "an egregious violation of Rule 8(a)" and is, accordingly, dismissed. *Vicom, Inc. v. Harbridge Merchant Services, Inc.*, 20 F.3d 771, 775–76 (7th Cir. 1994). Additionally, in light of Plaintiff's prior filings and his willful conduct in violating court orders, the record confirms that leave to replead will not produce an improved sixth amended complaint (indeed, his most recent complaint is the longest yet, and the Court still cannot detect a viable federal claim); and thus, the most recent complaint is dismissed with prejudice, and this case is dismissed. See *Vicom*, 20 F.3d at 776 (noting that complaint should have been dismissed without leave to replead); *Davis v. Ruby Foods, Inc.*, 269 F.3d 818, 821 (7th Cir. 2001)(noting that dismissal of a 600–paragraph, 240–page complaint was appropriate under Rule 8); *Crenshaw v. Antokol,* 206 F. App'x 560, 563 (7th Cir. 2006) (the dismissal of a complaint on the ground that it is unintelligible and fails to give the defendant the notice to which it is entitled is "unexceptionable").

First Judge Blakey tried to fool a Pro Se Plaintiff to dismiss the Petitioner's complaint under 28 U.S.C. § 1915A but when the Petitioner informed him that he is not a prisoner and 28 U.S.C. § 1915A only applies to prisoners; Judge Blakey came up with another pretext and dismissed the Petitioner's complaint under Rule 8 (a). The only vague reason Judge Blakey gave for the dismissal of Case # 20-cv-50133 is that the Petitioner's Complaint is an egregious violation of Rule 8(a). Judge Blakey cited *Davis v. Ruby Foods, Inc.* in dismissing the Case # 20-cv-50133 but the 7th Circuit ruled as follows in *Davis v. Ruby Foods, Inc*: "The question we must decide, therefore — surprisingly one of first impression in this circuit — is whether a district court is authorized to dismiss a complaint merely because it contains repetitious and

irrelevant matter, a disposable husk around a core of proper pleading. As our use of the word "disposable" implies, we think not, and therefore that it is an abuse of discretion (the normal standard applied to decisions relating to the management of litigation, and the one by which dismissals for violation of Rule 8 are reviewed, *Kittay v.Kornstein,* 230 F.3d 531, 541 (2d Cir. 2000); In *re Westinghouse Securities Litigation,* 90 F.3d 696, 702 (3d Cir.1996); *Kuehl v. FDIC,* 8 F.3d 905, 908 (1st Cir. 1993); *Mangan v. Weinberger,* 848 F.2d 909, 911 (8th Cir.1988)) to dismiss a complaint merely because of the presence of superfluous matter. That would cast district Judges in the role of editors, screening complaints for brevity and focus; they have better things to do with their time. In our many years of judging, moreover, we cannot recall many complaints that actually met the standard of chaste, Doric simplicity implied by Rule 8, and the model complaints in the Forms Appendix. Many lawyers strongly believe that a complaint should be comprehensive rather than brief and therefore cryptic. They think the more comprehensive pleading assists the Judge in understanding the case and provides a firmer basis for settlement negotiations. This judgment by the bar has been accepted to the extent that complaints signed by a lawyer are never dismissed simply because they are not short, concise, and plain"." Signed by a lawyer . . ." But of course, Mr. Davis is not a lawyer, and so his complaint violates those commands with a baroque exuberance that sets it apart from lawyers' drafting excesses. But the complaint contains everything that Rule 8 requires it to contain, and we cannot see what harm is done to anyone by the fact that it contains more. Although the defendant would have been entitled to an order striking the irrelevant material from the complaint, Fed.R.Civ.P. 12(f), we doubt that

it would have sought such an order, unless for purposes of harassment, because the extraneous allegations, for example, that Davis is an FBI informant, cannot harm the defense. They are entirely ignorable. Excess burden was created in this case not by the excesses of Davis's complaint but by the action of the defendant in moving to dismiss the complaint and the action of the district court in granting that motion. The dismissal of a complaint on the ground that it is unintelligible is unexceptionable. *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988).Such a complaint fails to give the defendant the notice to which he is entitled. Dismissal followed by the filing of a new complaint may actually be a better response than ordering the plaintiff to file a more definite statement of his claim, Fed.R.Civ.P. 12(e), which results in two documents, the complaint and the more definite statement, rather than one compliant document. But when the complaint *821 adequately performs the notice function prescribed for complaints by the civil rules, the presence of extraneous matter does not warrant dismissal. "Fat in a complaint can be ignored." *Bennett v. Schmidt*, 153 F.3d 516, 517 (7th Cir. 1998). "If the [trial] court understood the allegations sufficiently to determine that they could state a claim for relief, the complaint has satisfied Rule 8." *Kittay v. Kornstein,* supra, 230 F.3d at 541. "Were plaintiffs' confessed overdrafting their only sin, we would be inclined to agree that dismissal was an overly harsh penalty." *Kuehl v. FDIC,* supra, 8 F.3d at 908. See also *Simmons v. Abruzzo,* 49 F.3d 83, 87 (2d Cir.1995). Indeed, the punishment should be fitted to the crime, here only faintly blameworthy and entirely harmless. To the principle that the mere presence of extraneous matter does not warrant dismissal of a complaint under Rule 8, as to most generalizations

about the law, there are exceptions. We can hardly fault the Third Circuit for dismissing the complaint in In *re Westinghouse Securities Litigation*, supra, 90 F.3d at 703, which contained 600 paragraphs spanning 240 pages. See also *Michaelis v. Nebraska State Bar Ass'n,* 717 F.2d 437, 439 (8th Cir. 1983). Have a heart! But Davis's complaint does not fall within any exception that we can think of to the principle sketched in Bennett and here repeated and elaborated". Judge Blakey's order which states that in *Westinghouse Securities Litigation* the complaint was dismissed because it was 600 paragraphs spanning 240 pages is incorrect and misleading because the complaint in *Westinghouse Securities Litigation* was dismissed because it was unnecessarily complicated, verbose, and rambling. Further Judge Blakey's order states that the Complaint is 1,125 pages long and Exhibits are 2,852 pages is incorrect and misleading. The Complaint is 558 pages long and the file in which the Petitioner submitted the Complaint is 1,125. Pages 559 to 1,125 are Exhibits. The Judge who has made the length of the complaint as an issue for dismissal of the Complaint under Rule (8), he himself does not know how many pages long the Complaint is and how many pages of Exhibits are included with the complaint. A Judge who cannot even differentiate the complaint and the Exhibits have never been heard off before. That means Judge Blakey has not even read the Complaint. He just looked at the filing stamp on top of the Complaint which shows the file consists of 1,125 pages which includes 558 pages of the Complaint and 567 pages of Exhibits. Further in *Vibe Micro, Inc. v. Shabanets*, the 11th Circuit ruled, "In the repleading order, the district court should explain how the offending pleading violates the shotgun pleading rule so that the party may properly avoid future shotgun pleadings. In the instant case, Judge

Blakey did not explain how the offending pleading violates the shotgun pleading rule so that the party may properly avoid future shotgun pleadings and none of the complaints were filed by the Petitioner after the court ruled that the complaint violates Rule 8(a). All the complaints in Case # 20-cv-50133 were amended and filed before the court ruled that the complaint violated Rule 8 (a) because the Petitioner filed all the amended complaints because he thought he could amend the complaint without leave of the court before the Defendants file their appearance. Further Judge Blakey also treats 28 State Law Counts as Federal Claims because the Complaint includes 28 State Law Counts. The fact that Judge Blakey ruled that the Complaint consists of 1,125 pages when the Complaint is 558 pages and the fact that Judge Blakey does not even know that the Complaint has 28 State Law Counts, clearly shows that Judge Blakey lied that he reviewed the Complaint. Hence Judge Blakey has no subject matter jurisdiction to dismiss Petitioner's Complaint.

REASONS FOR GRANTING CERTIORARI

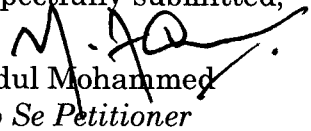
The orders of the District Court and the Court of Appeals for the 7th Circuit are not only incorrect but such orders shut the door of the court to the most vulnerable people such as this Petitioner who is an indigent and a disabled person who needs to seek redress in courts and orders of the District Court and the Court of Appeals for the 7th Circuit are violations of 1st, 4th, 5th and 14th Amendments of the Constitution of the United States. Hence the Petitioner requests this court to enter an order stating that Judge Blakey lied that he reviewed the Complaint, Judge Blakey has no subject matter jurisdiction to dismiss the complaint which he has not

even reviewed, the dismissal of the Case # 20-cv-50133 is reversed, and vacated in a summary manner based on the above-mentioned arguments including but not limited to the argument that Case # 20-cv-50133 cannot be dismissed without allowing the Petitioner to amend his complaint at least once after the court puts the Petitioner on notice that his complaint violates Rule 8 (a) or in the alternative grant Petitioner's Motion/Application to proceed on his appeal in the instant case In Forma Pauperis.

CONCLUSION

For the reasons set forth above, this Court should grant the petition for certiorari.

Respectfully submitted,



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