

No. 20-6649

**IN THE
SUPREME COURT OF THE UNITED STATES**

El Aemer El Mujaddid, Petitioner

v.

Andrew Brewer; et al

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

BRIEF IN OPPOSITION FOR RESPONDENTS

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QUESTIONS PRESENTED

Petitioner's brief in support of his petition for a writ of certiorari describes the questions presented as a series of legal issues he believes to be the core of his underlying complaint. However, the issues petitioner raises were addressed by neither the District Court of New Jersey, nor the United States Court of Appeals for the Third Circuit below.

Instead, the only question that could be presented, should the Court even consider same, is whether the United States Court of Appeals for the Third Circuit was correct in its affirmation of an April 1, 2019 dismissal by the District Court of New Jersey of petitioner's Complaint for violation of the Federal Rules of Civil Procedures requirement that a complaint "shall contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief. . ." Fed. R. Civ. P. 8(a), and the District Court's October 4, 2019 decision denying petitioner's motion to amend his complaint because the proposed amended complaint likewise violated Rule 8 of the Federal Rules of Civil Procedure.

(i)

PARTIES TO THE PROCEEDING

Petitioner is El Aemer El Mujaddid.

Respondents are Westampton Township police officers Andrew Brewer, Josh Rowbottom and Brian Ferguson; Westampton Municipal Court Prosecutor Gregg Perr; Westampton Municipal Court Administrator Susan Graubart; Westampton Municipal Court Judge Corey Ahart; Westampton Municipal Clerk Marion Kapp; the Honorable Denis P. McInerney, PJMC (presiding Judge of the Municipal Courts of Burlington County); and the Westampton Township Committee (under New Jersey law, the governing body of the municipality).

Contrary to Plaintiff's Petition (at page iii), there were no other parties to this proceeding.

RELATED CASES

El Mujaddid v. Brewer, No. 18-14021, U.S. District Court for the District of New Jersey. Judgment entered April 1, 2019.

El Mujaddid v. Brewer, No. 19-3328, U.S. Court of Appeals for the Third Circuit. Judgment entered July 10, 2020.

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OPINIONS BELOW

The Opinion of the Court of Appeals dismissing petitioner's case is reported at 808 Fed. Appx. 73, (April 9, 2020) and found within petitioner's appendix at Petitioner's Appendix, Document 7. The Opinions of the District Court are found within petitioner's appendix at Petitioner's Appendix, Document 10 (Civil No. 18-14021, Document 33) and Document 15 (Civil No. 18-14021, Document 50).

JURISDICTION

The Judgment of the Court of Appeals was entered on April 9, 2020. On July 2, 2020, the Court of Appeals denied Petitioner's Petition for Rehearing. The Petitioner's Petition for a Writ of Certiorari was filed in the United States Supreme Court on September 13, 2020. The Jurisdiction of this Court was invoked pursuant to 28 U.S.C. 1254 (1).

LEGAL PROVISIONS INVOLVED

Rule 8(a) of the Federal Rules of Civil Procedure provides:

“(a) Claim for Relief. A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the court's jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; and

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief.”

STATEMENT OF THE CASE

This case arises from a careless driving traffic citation issued to plaintiff by an investigating police officer, who concluded that plaintiff was at fault for a minor traffic accident. Plaintiff was never arrested; he was not hand-cuffed, nor restrained. He was not taken to the local police station. The traffic citation was mailed to him. The only consequence that he suffered is that a Municipal Court Judge - - not named in this litigation - - suspended his license sua sponte for his failure to appear in court.

1. After receiving a traffic citation, and before any Municipal Court hearing on that citation could be held, El Aemer El Mujaddid, filed suit in the Superior Court of New Jersey, Law Division, Burlington County. He named as defendants several Westampton Township officials including the Municipal Court Judge, Municipal Court Administrator, the Municipal Prosecutor, the members of the Township Committee (the municipal governing body), various Police Department personnel and the Presiding Municipal Court Judge for the entire venue in Burlington County. The 285-paragraph complaint alleged various violations of petitioner's constitutional rights as well as rights allegedly derived from an 18th century treaty between the United States of America and the then Sultanate of Morocco. (Petitioner's August 1, 2018 Complaint, Case 1:18-cv-14021-RBK-AMD; Document 1-1, PageID: 14-34).

2. Defendants removed the matter to Federal Court, following which removal petitioner filed numerous unsuccessful motions, including: to remand to New Jersey State Court; for the appointment of pro bono counsel; motions for writs of mandamus; and those to amend his complaint.
3. Ultimately, the District Court dismissed petitioner's Complaint without prejudice for failing to comply with the Rule 8(a) requirement that a complaint be a short and plain statement of the case. (Petitioner's Appendix, Document 10).
4. However, the District Court granted petitioner a further opportunity to amend his complaint. Petitioner did so. However, the proposed "Fourth Amended Complaint" was held to be equally non-compliant, and the District Court denied that motion. (Petitioner's Appendix, Document 15).
5. Petitioner appealed to the Third Circuit United States Court of Appeals, which ultimately affirmed the District Court's rulings and dismissed various other pleadings by petitioner, including renewed motions for court appointed pro bono counsel and a petition for en banc review.

SUMMARY OF THE ARGUMENT

Petitioner's appeal results from decisions by the United States District Court for the District of New Jersey, and the United States Third Circuit Court of Appeals terminating his case by dismissing his Complaint and denying his motion to submit a Fourth Amended Complaint. The District Court dismissed petitioner's complaint because it violated Rule 8(a) of the Federal Rules of Civil Procedure and his proposed amended complaints all failed to cure the violations. Indeed, not one of the many versions of the complaint petitioner attempted to file came remotely close to complying with the pleading standard described in *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). Petitioner failed to meet the minimum pleading standards required to state a claim upon which relief can be granted. The Court should deny the petition for a writ of certiorari.

The Court may find it useful to note that throughout the litigation petitioner has maintained a steady stream of vexatious, meritless, and nonsensical pleadings, including five amended complaints, complaints against motion judges, defense counsel, and administrative personnel, and motions for injunctions against government officials not party to the litigation. This now-dismissed traffic citation has resulted in three separate actions, which are only the latest from a long career of petitioner's cottage industry of bringing harassing litigation against public entity

defendants. (See Point II, infra.)

REASONS FOR DENYING THE WRIT

The District Court and the Third Circuit Court of Appeals were correct in holding that petitioner's Complaints were in clear violation of Rule 8(a).

I. THE DISTRICT COURT AND THE COURT OF APPEALS CORRECTLY RULED THAT PETITIONER’S COMPLAINT FAILED TO COMPLY WITH RULE 8(a) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

Rule 8(a)(2) of the Federal Rules of Civil Procedure requires that a pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” As the Court held in *Twombly*, the factual allegations made in a proper complaint “must be enough to raise a right to relief above the speculative level.” 550 U.S. 544, 555. In this case, petitioner submitted a 285-paragraph complaint that was neither short nor plain, but labyrinthian and incomprehensible. (Petitioner’s August 1, 2018 Complaint, Case 1:18-cv-14021-RBK-AMD; Document 1-1, PageID: 14-34). On April 1, 2019, the District Court dismissed the complaint on its own motion. (Petitioner’s Appendix, Document 10).

While the District Court acknowledged the relaxed pleading standard applicable to pro se litigants, *Tillio v. Spies*, 441 Fed. Appx. 109, 110 (3d Cir. Aug. 4 2011), the Court’s Order recognized the Court’s patience does not extend to pleadings that constitute a “euphoric harassment of [the defendants] . . . [i]mpossible for any party or court to understand.” *Koll v. Wayzata State Bank*, 397 F.2d 124 (8th Cir. 1966). Specifically, the Court found that petitioner’s complaint “alleges legal conclusions, devoid of requisite factual support, and therefore fails to comply with the Federal Rules of Civil Procedure.” (Petitioner’s Appendix, Document 10, page 2). The Court’s Order also stated that the complaint included “long and meandering legal conclusions and general and vague assertions.” *Id.* A cursory review of petitioner’s

complaint supports the Order’s description. (Petitioner’s August 1, 2018 Complaint, Case 1:18-cv-14021-RBK-AMD; Document 1-1, PageID: 14-34).

The District Court gave petitioner fourteen (14) days to file a motion to amend the complaint. (Petitioner’s Appendix, Document 10). Petitioner filed that motion, accompanied by his newly proposed complaint. (Petitioner’s April 8, 2019 Fourth Amended Complaint, Case 1:18-cv-14021-RBK-AMD; Document 36-1, PageID: 1136). The Court denied petitioner’s motion to amend, noting that rather than simplifying his pleading, he added three new defendants, including a third municipal court judge and a second court administrator, and the proposed complaint still contained 67 pages and 163 lengthy paragraphs. (Petitioner’s Appendix, Document 15.) The Court’s Order noted that the complaint still consisted of many bare legal conclusions lacking any factual support. *Id.* The Order cited an example from the complaint, alleging the respondents “fabricated evidence” and ‘used the threat of prosecution for the purpose of extortion,’ ‘conspired to frame him for careless driving in a conspiracy to deny him equal protection under the law because he is a Moor,’ and engaged in a ‘Jim Crow revenue scheme to gain a \$200.00 debt’ and states that [respondents] ‘distorted the even-handed pursuit of justice,’ all without factual support.” (*Id.*, page 2, fn. 1).

The United States Court of Appeals for the Third Circuit agreed with the conclusions reached by the District Court, and affirmed the denial of petitioner's motion to again amend his complaint. (Petitioner's Appendix, Document 7.) Again, the appellate panel acknowledged its obligation to construe the pro se petitioner's allegations liberally, and again the Court held that the complaint did not meet the minimum standards required by the rules. *Id.* at page 4 (citing *Erickson v. Pardus*, 551 U.S. 89, 94 (2007)).

The reviewing panel described the newly proposed amended complaint as "so excessively voluminous and unfocused as to be unintelligible." *Id.* The panel further noted the complaint makes conclusory statements with no factual basis, including accusing the respondents of subjecting petitioner to the conditions of slavery, despite the fact that petitioner was never detained or arrested. *Id.* at par. 5, fn. 3. Importantly, the panel found the District Court was not required to entertain yet another attempt at an amended complaint, stating: "[o]ver the course of the litigation, El Mujaddid attempted to file three different amended complaints, none of which were drafted in accordance with Rule 8. The District Court need not have entertained another complaint containing only meandering and conclusory allegations." *Id.* at page 6.

The District Court and the Court of Appeals were both correct in dismissing petitioner's proposed complaints.

II. PETITIONER'S PRACTICE OF HARASSING AND VEXATIOUS LITIGATION SHOULD LEAD THE COURT TO DENY THE PETITION FOR A WRIT OF CERTIORARI.

The present litigation is only the latest in a long series of harassing and vexatious litigation filed by petitioner in federal courts. In this action alone petitioner has filed, or attempted to file, dozens of voluminous and meritless pleadings arising from the same facts, including four (4) amended complaints, complaints against defense counsel and motion judges, and motions for preliminary injunctions against government officials not parties to the case. In prior actions, petitioner had brought at least ten (10) separate matters before both State and Federal Courts in New Jersey. In these cases, petitioner has a demonstrable record of bombarding public entity defendants with a steady barrage of lengthy and meritless pleadings. This pattern forces public entity defendants to spend time and resources reading and responding to every senseless filing while petitioner operates at no cost due to the granting of fee waivers.

Since his first complaint in this matter on July 12, 2018, petitioner has filed at least 20 pleadings, totaling over 1500 pages. Petitioner has filed multiple versions of his complaint, each hundreds of paragraphs long and with ever-changing defendants, legal theories, and causes of action. These numbers do not reflect the pleadings from four related complaints plaintiff attempted, but failed, to file since July 2018 in the Superior Court of New Jersey and the District Court of New Jersey. *See e.g. El Mujaddid v. Westampton Township Committee, et al.* Docket No.

Camden-004486-18 (Law Div. 2018); *El Mujaddid v. Donna Florich and William Golden*, Docket No. Camden-004514-18 (Law Div. 2018) (filed against the Gloucester City municipal judge assigned as conflict judge and court administrator prior to their hearing the case); *El Mujaddid v. John C. Gillespie and Parker McCay*, Docket No. Camden-004516-18 (Law Div. 2018) (Filed against defense counsel after removing the case to federal court), *El Mujaddid v. Anthony M. Pugliese*, Civil Action 00097 (D.N.J. 2018) (filed after defendant New Jersey Superior Court, Law Division, Judge Anthony M. Pugliese denied plaintiff's application for a fee waiver). The concern is not simply with the number of petitioner's complaints; it is rather the fact that they patently lack any grounding in the law. Petitioner's Fourth Amended Complaint claims a traffic citation, allegedly improperly served, resulted in violations of his "freedom of thought" and his right to be free from "the relics of slavery." (Petitioner's April 8, 2019 Fourth Amended Complaint, Case 1:18-cv-14021-RBK-AMD; Document 36-1, PageID: 1136). Petitioner also accuses Respondents of violating human trafficking laws, despite the fact Petitioner was never arrested, or even detained. (Petitioner's April 8, 2019 Brief in Support of Motion for Leave to Amend Complaint, Case 1:18-cv-14021-RBK-AMD; Document 36-9, PageID: 1226).

Petitioner's past vexatious litigation practices are well documented in respondents' prior motions before the District Court. One particularly egregious example of petitioner's harassing litigation tactics was in *Aemer K.C. El v. Wehling, et al.* Civil Action No. 12-7750 (D.N.J. 2015), where Chief District Court Judge Jerome E. Simandle, dismissed plaintiff's motions for reconsideration in an Opinion Memorandum that sheds light on petitioner's conduct as a litigant. *Aemer K.C. El v. Wehling, et al.* Civil Action No. 12-7750, (D.N.J. 2015). In his opinion, Judge Simandle noted that plaintiff had filed eight separate motions for reconsideration, all meritless and burdened with lengthy, jargon-filled arguments. In that same opinion, the Court rejected several versions of petitioner's complaints for violations of court rules until finally agreeing to accept his Fifth Amended Complaint, which itself was 537-pages long, with 49 distinct counts. Then, the Court, with infinite patience, undertook the considerable effort to distill, interpret, and address this massive complaint, before ultimately dismissing the case. *El Aemer El Mujaddid*, 663 Fed. Appx. 115 (3d. Cir. 2016). Throughout that case, Plaintiff was repeatedly warned that his verbose, unfocused, and vexatious litigation tactics would not be tolerated in the future. Specifically, the Court warned:

"Plaintiff's deluge of submissions (See Docket Items 100, 101, 103, 104, 105, 106, 107, 117, 118, 120, 122, 124, 125, 126, 127, 128, and 129) in opposition to Defendant's three motions to dismiss total nearly 800 pages, and, so far as

the Court can interpret them, are largely inapposite to the points raised in Defendants' motions. A brief in opposition to a dispositive motion is limited to 40 pages of ordinary type (12-point non-proportional font or 14-point proportional font). L. Civ. R. 7.2(b). Instead, Plaintiff's briefs share his Complaints' flaws of incoherence, redundancy, and total disregard of both the Local Rules and this Court's previous warnings. Rather than address Defendants' points, Plaintiff's briefs continue to rehash his Complaint and the digressions contained therein.

Mujaddid v. Wehling, Civil Action 12-7750, at *1, n.1. (D.N.J. January 25, 2016).

Our Courts have repeatedly warned this individual against further abuse of the judicial process; yet he continues to ignore those warnings. It is respectfully urged that the Court deny this petition for a writ of certiorari and put an end to this particular chapter of petitioner's campaign of harassment.

CONCLUSION

Based upon the above, Respondents respectfully urge the Court to deny the Petition.

Respectfully submitted,

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