

No. 20-6649

IN THE
SUPREME COURT OF THE UNITED STATES

El Aemer El Mujaddid, Petitioner

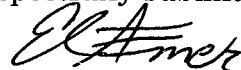
v.

Andrew Brewer; et. al

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

PETITION FOR REHEARING

Respectfully submitted,



El Aemer El Mujaddid, Pro Se
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Willingboro Nj 08046

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PETITION FOR REHEARING

The undersigned, with respect, desires to make the following suggestion in the nature of a petition rehearing herein, pursuant to Sup. Ct. R. 44.2, petitioner El Aemer El Mujaddid ("petitioner" or El Mujaddid") respectfully petitions this Court for an order (1) granting rehearing, (2) vacating the Court's February 22, 2021, order denying certiorari, and (3) re-disposing of this case by granting the petition for a writ of certiorari, vacating the judgment, and remanding to the lower court for further consideration in light of *Trump v. Vance*, District Attorney Of The County Of New York, et al No. 19–635. Argued May 12, 2020—Decided July 9, 2020, for the purpose of determining whether the Fifth Amendment¹, Thirteenth Amendment² and Fourteenth Amendment categorically precludes the issuance of a state criminal subpoena [Exhibit "A"] to an accused party in a state municipal action and rehearing

¹The Fifth Amendment by its terms prevents a person from being "compelled in any criminal case to be a witness against himself." *Mitchell v. United States* 526 U.S. 314 (1999)

² *United States v. Kozminski*, _ U.S. __, __, 108 S.Ct. 2751, 2765, 101 L.Ed.2d 788 (1988), which said that "the jury must be instructed that compulsion of services by the use or threatened use of physical or legal coercion is a necessary incident of a condition of involuntary servitude. " The language and legislative history of the federal acts indicate that their scope "should be limited to cases involving the compulsion of services by the use or threatened use of physical or legal coercion." *Id.* at __, 108 S.Ct. at 2763. In, *Cudahy Packing Co.*, the Supreme Court provided: the subpoena is in form an official command, and, even though improvidently issued, it has some coercive tendency, either because of ignorance of their rights on the part of those whom it purports to command or their natural respect for Page 315 U. S. 364 what appears to be an official command, or because of their reluctance to test the subpoena's validity by litigation. *Cudahy Packing Co., Ltd. v. Holland*, 315 U.S. 357 (1942)

is also sought, to permit argument of the proposition, that the privilege against compulsory self-incrimination extends to an accused in a state municipal action against himself.

El Mujaddid submits that this Court granted petitions for writ of certiorari raising similar issues as that raised in El Mujaddid's case with respect to statutory privilege and subpoena practice. El Mujaddid seeks rehearing on that part of the issue raised his petition for a writ of certiorari. The Fifth Amendment, Thirteenth Amendment³ and Fourteenth Amendment aspect of El Mujaddid's argument as it relates to the respondent's subpoena practice as to an accused party was ignored, rather than rejected. Key facts regarding subpoena practice discussed in the underlying civil rights complaint were omitted from the lower court opinions. The lower courts overlooked the fact that the subpoena to testify which formed the basis of this suit, was attached to the complaint and its contents quoted therein, as well. Judgments at law have been rendered on subpoenas of the same class here sued. El Mujaddid still contends that constitutional and statutory privilege did bar

³ ("Eight Southern legislatures were in session at some time in December 1865. Each addressed itself to the status of the Negro. . . . The Southern States had spoken, and the impact was felt in Congress from the moment it assembled. In a major aspect, the problem was economic"); K. Stampp, *The Era of Reconstruction 1865-1877*, p. 123 (1965) ("This condition of economic helplessness . . . enabled the white landholders, with the aid of the Black Codes, to re-establish bondage in another form. The Congressional Committee on Reconstruction heard a great deal of convincing testimony about the use of southern vagrancy laws and various extra-legal coercive devices to force Negroes back into agricultural labor under strict discipline. This testimony suggested that there was a close relationship between the securing of civil and political rights on the one hand and the establishment of economic independence on the other").

enforcement of the subpoena. El Mujaddid contends that the subpoena to testify was unconstitutionally enforced. El Mujaddid has searched for Supreme Court cases directly addressing this issue, it appears that this case involves—so far as El Mujaddid can tell—the first state criminal subpoena directed to an accused party of the criminal case against himself, to testify against himself and punished for invoking that right. *Trump v. Vance* appears to be the first state criminal subpoena directed to a President. In *Trump v. Vance*, District Attorney Of The County Of New York, et al. the Supreme Court stated:

Harassing state criminal subpoenas could, under certain circumstances, threaten the independence or effectiveness of the Executive. But here again, the law already seeks to protect against such abuse. First, grand juries are prohibited from engaging in "arbitrary fishing expeditions" or initiating investigations "out of malice or an intent to harass," United States v. R. Enterprises, Inc., 498 U. S. 292, 299, and federal courts may intervene in state proceedings that are motivated by or conducted in bad faith. First, grand juries are prohibited from engaging in "arbitrary fishing expeditions" or initiating investigations "out of malice or an intent to harass," United States v. R. Enterprises, Inc., 498 U. S. 292, 299, and federal courts may intervene in state proceedings that are motivated by or conducted in bad faith.

In *Trump v. Vance*, this Court surveyed several federal criminal proceedings in analyzing the subpoena practice in that matter and noted the Court was faced with a subpoena issued to the President by a local grand jury operating under the supervision of a state court. El Mujaddid here has provided the Court with a subpoena to testify issued to him (an accused party) under the supervision of a state court (respondents). Like the President, El Mujaddid is a Citizen of the United States and relies on the Constitution of the United States, notably the Fifth Amendment, Thirteenth Amendment, and Fourteenth Amendment. The lower court decisions

impair the functioning of 42 U.S. Code § 1983, the Fifth Amendment, Thirteenth Amendment, and Fourteenth Amendment substantive due process rights to be free from coercive questioning⁴ and have demonstrated no real protection against the abuse of the legal process by state actors. In Justice Alito's dissent, in *Trump v. Vance* he stated:

"The subpoena at issue here is unprecedented. Never before has a local prosecutor subpoenaed the records of a sitting President. The Court's decision threatens to impair the functioning of the Presidency and provides no real protection against the use of the subpoena power by the Nation's 2,300+ local prosecutors. Respect for the structure of Government created by the Constitution demands greater protection for an institution that is vital to the Nation's safety and well-being." (Pg. 24)

CONCLUSION

For the foregoing reasons, El Mujaddid") respectfully petitions this Court for an order (1) granting rehearing, (2) vacating the Court's February 22, 2021, order denying certiorari, and (3) re-disposing of this case by granting the petition for a writ of certiorari, vacating the judgment, and remanding to the Third Circuit for further consideration in light of *Trump v. Vance*, District Attorney Of The County Of New York, Et Al. No. 19-635. Argued May 12, 2020—Decided July 9, 2020, to decide whether the Fifth Amendment and the Fourteenth Amendment categorically preclude the issuance of a state criminal subpoena to testify to an accused party (defendant) in the case against the accused party.

⁴ It is well established that the government may compel witnesses to testify at trial or before a grand jury, on pain of contempt, so long as the witness is not the target of the criminal case in which he testifies. See *Minnesota v. Murphy*, 465 U.S. 420, 427 (1984); *Kastigar v. United States*, 406 U.S. 441, 443 (1972) *Chavez v. Martinez* 538 U.S. 760 (2003)

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CERTIFICATE OF COUNSEL

As a pro se petitioner who met the Tabron factors [Exhibit B], but was not appointed counsel, I hereby certify that this petition for rehearing is presented in good faith and no for delay and is restricted to the grounds specified in Rule 44.2.



El Aemer El Mujaddid, Pro Se

No. 20- 6649
IN THE SUPREME COURT OF THE UNITED STATES

El Aemer El Mujaddid,
Petitioner,
Andrew Brewer; et. al.,
Respondent.


PROOF OF SERVICE

I El Aemer El Mujaddid served by U.S. Mail a copy of the Petition for Rehearing to the Clerk of the Supreme Court of the United States and

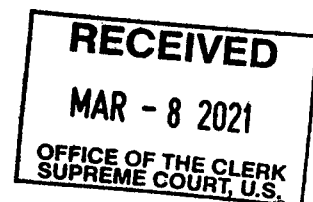
TO: PARKER McCAY
John C. Gillespie, Esquire
Atty ID # 030831980 P.O. Box 5054
9000 Midlantic Drive, Suite 300
Mount Laurel, NJ 08054

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false. I am subject to punishment.

Dated: 03/ 04 / 2021



El Aemer El Mujaddid, Pro Se



**Additional material
from this filing is
available in the
Clerk's Office.**