ORIGINAL

20-6696
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

LA VERNE KOENIG,

Petitioner

-vs.-

ANDREW WHEELER, ADMINISTRATOR OF UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ET AL.,

Respondent.

On Petition For Writ Of Certiorari To The United States Court of Appeals For The Eighth Circuit

PETITION FOR WRIT OF CERTIORI

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November 30, 2020

QUESTIONS PRESENTED

Question 1: **(A)** Does the Federal Rule, [Fed. R. Civ. Pro. Rule 4] significantly affect the result of a litigation for a Federal Court to disregard a law of a State that would be controlling in an action upon the same claims by the same parties in a State Court? **(B)** Are the Federal Rules of Civil Procedure, contrary to or inconsistent with the Rules Enabling Act [28 U.S.C. 1652], Houston v. Lack, 487 U. S. 266 (1988); Mullane v. Central Hanover Bank, 339 U. S. 306, 320 (1950), depriving Plaintiffs of State created rights and privileges contrary to the Erie Railroad Co. v. Tompkins, 304 U. S. 64 (1938) doctrine; **(C)** does the Fed. R. Civ. Pro. Rules 3 and 4 *sub silento*, overrule the afore-mentioned Supreme Court decisions, depriving Plaintiffs of substantive State created rights and privileges in violation of the Full Faith and Credit Clause of the U. S. Constitution, Article IV, Section 1?

Question 2: Whether the U.S. Court of Appeals for the Eighth Circuit may disregard and totally ignore this Court's precedent, by utilizing it's Rule 47A(a) to dismiss a pro se indigent litigants' appeal without permitting the litigant the opportunity to present the issues, present argument and brief the issues, before the Court renders a decision, violate the Due Process, Equal Protection Clauses and the First Amendment of the United States Constitution? **(B)** Thus violating 28 U.S.C. 1915; 28 U.S.C. 2072 and this Court's precedent?

PARTIES TO THE PROCEEDINGS AND CORPORATE DISCLOSURE STATEMENT

Petitioners La Verne Koenig; Gerald and Sharon Radebaugh, are private individuals whom own real estate in the State of North Dakota; and/or other State's, are not publicly traded enterprises, have no parent corporation(s), no stocks, and no publicly held company owns any stock therein, ownership is wholly owned individually and/or through contract for deed.

RELATED PROCEEDINGS

United States District Court (D. of Columbia):

La Verne Koenig v. Scott Pruitt, Administrator of Environmental Protection Agency, et al, Civ. No. 1-18-cv-01169

United States Court of Appeals, District of Columbia Circuit:

In re La Verne Koenig, No. 18-5183 [Mandamus Petition]

United States District Court, (D. of North Dakota);

La Verne Koenig v. Scott Pruitt, Administrator of Environmental Protection Agency, et al., Civ. No. 3-18-cv-00102

United States Court of Appeals, Eighth Circuit:

In re La Verne Koenig, No. 19-2014 [Mandamus Petition]

La Verne Koenig v. Andrew Wheeler, Administrator of Environmental Protection Agency, et al., No. 19-3723

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In the Supreme Court of the United States

LA VERNE KOENIG, ET AL., PETITIONERS

v.

ANDREW WHEELER, ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, ET AL.,

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ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT FO APPEALS FOR THE EIGHTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

LA VERNE KOENIG; GERALD AND SHARON RADEBAUGH,

respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App. D) was not reported. The opinion of the district court (App. A) was not reported.

JURISDICTION

The judgment of the Eighth Circuit Court of Appeals was entered on July 16, 2020. The jurisdiction of this Court is invoked under 28 U.S. C. 1254(1).

STATUTORY PROVISIONS INVOLVED

Section 1652, of Title 28 of the United States Code provides:

"The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply."

Section 2072, of Title 28 of the United States Code provides:

"(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.

(b) *Such rules shall not abridge, enlarge or modify any substantive right.* All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect." [Emphasis added]

Article IV, Section I of the United States Constitution provides:

"Full Faith and Credit shall be given in each State to the public Acts, Records, and Judicial Proceedings of every other State. And the Congress may be general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the effect thereof."

STATEMENT

This case presents two separate, recurring and indisputably important questions of national importance, regarding conflicts in federal/state procedural rights and the Eighth Circuits practice of blatantly ignoring Supreme Court precedent; refusal to recognize that State created rights, which would control in a state court action between the same parties, must be recognized as controlling under 28 U.S.C. 1652; the Full Faith and Credit Clause of the United States Constitution, Article IV, Section 1, and Acts of Congress, as provided by 28 U.S.C. Section 2072, when the Federal Rules stands as an obstacle to achieving the goal, that this Supreme Court has long held to be required to meeting the Due Process standards of Notice of Complaint and service of Summons and the rights of the indigent litigants to be treated equally in the Courts of this Nation, of being allowed to be heard and with the assistance of legal counsel to brief and argue the issues presented for Appellate review, before a decision is rendered.

A. Background

In 2002, Petitioner purchased a rural farm property that straddles a branch of the Elm River, a federally designated waterway, in the State of North Dakota. Petitioner's property consists of semi rolling grassland, and is used for the raising and pasturing of livestock and contains the farm house and other outbuildings. Petitioner is an organic farmer, utilizing non chemical, non poisonous methods to control weeds etc.

A couple years later, the adjoining land owners, posted warning signs upon their property, that Stated they were using poisons, that were hazardous to livestock. The annual snowmelt and rains, runs off this land onto Petitioner's land and ultimately into the federal waterway, the Elm River. Under the Federal Clean Water Act, the

Administrator of the Environmental Protection Agency, is mandated to implement rules, regulations, practices and procedures to protect the Federal Waterways from the introduction of poisons and hazardous chemicals into the waters of these United States. Scott Pruitt, the Administrator thereof, has deliberately refused or failed to implement such rules and regulations.

The adjoining landowner, was caught spraying poisonous chemicals into Petitioner's tree grove, during the evening hours, darkness had arrived and without the use of lights on the vehicle. Spraying on the East side of the property then crossing the River and spraying on the West side. No other areas were being sprayed. As a result of this criminal activity, over 200 of Petitioners trees, some 70 to 80 foot tall, were killed. This is not a remote incident, having killed other land owners trees in the past. The local sheriff department has refused to investigate and the local prosecuting attorney refuses to prosecute. State Statute mandates that every person is bound, without contract to abstain from injuring the person or property of another.

The following day, the State Department of Agriculture was contacted, investigated but failed to take any form of corrective or preventative action. State Statute prohibits the investigator from the giving of evidence or findings in any legal actions.

The Federal Clean Water Act, mandates that the Administrator of the Environmental Protection Agency implement rules, regulations and procedures to carry out the Act. The Administrator has failed to do so, apparently delegating this duty upon the States. The State of North Dakota refuses to implement rules, regulations or procedures to prevent the introduction of poisons or hazardous chemicals into the Federal Waterways; protect the interest of the organic farmers, and refuses to prosecute the rich farmers or others who deliberately and

intentionally introduce poisons and hazardous chemicals into the federal waterways. Water is deemed a liability in the State of North Dakota, not an asset, statutorily creating water resource districts to effect a more expeditious removal thereof, regardless of the harm or adverse consequences to other landowners rights.

The adjoining landowner represented that he intends to poison Petitioner's livestock, representing that this is no longer livestock country, and is suspected of poisoning some of Petitioner's livestock. He has knowingly and deliberately destroyed partition fences separating the lands of Petitioners and himself. Resorting to aerial spraying, flying low and directly over Petitioner's livestock terrorizing them and causing health issues from flying directly over this elderly Petitioner's farm home.

In 2017, the adjoining land owner filed a complaint with the local water resource district alleging that Petitioner had installed or constructed an obstruction to a natural drain or watercourse, the water resource district, without any form of notice to Petitioner and co-owners, investigated the allegation, determined an obstruction existed and ordered its removal by May 1, 2018, or they would remove and assess the costs to Petitioner. Petitioner was provided no opportunity to present evidence or witnesses that he had never performed any form of land restructuring or dirt work, the land lays in its native state. State Statute provides no requirements of Notice or Opportunity to be informed or even heard, before the Water resource district acts or renders a decision. The State Statutes provide virtually Chevron deference with no limits on power and authority to the Water Resource Districts and virtually no due process or equal protection of law protections for the aggrieved land owners.

Conversely, the adjoining land owner has annually scrapped his land in an attempt to effect a faster draining of water, creating a dam-like illusion on his land. North Dakota statute defines what

an obstruction to a natural drain or watercourse consists of as: "a defined ditch with banks and a continuous flow of water" of which, the alleged obstruction did not comport with said definition. Seasonal run-off from snow melt or rains, does not constitute a natural drain or watercourse.

The State statute gives an aggrieved land owner thirty days, from the date of the Water Board renders a decision, to appeal the decision of the water board to the district court or request a hearing before the board. Petitioner was not notified of this decision until after the thirty day period had expired, and when notified, did timely file a request for hearing. Legal counsel for the water board represented that they had not "received" the request within that thirty day time period, thus the appeal was "untimely."

Petitioner thereafter consulted approximately 20 different lawyers, law firms in an attempt to take legal action. Unable to obtain legal counsel, due to conflicts of interest, don't handle that types of cases, undertook to file a federal civil rights, etc action in the U.S. District Court, District of Columbia, the proper district against the Environmental Protection Agency, its Administrator, as mandated by 28 U.S.C. 1392(e)(1), and the various State, local officials and others involved in this ongoing deliberate, intentional polluting and poisoning of the Petitioner's organic farm and the federal waterway. This practice is widespread throughout the States, as more and more farmers are utilizing hazardous chemicals and poisons and digging more and deeper ditches to drain the surface runoff of rains and snowmelt, which ends up in the federal waterways of this nation.

The failure to implement rules and regulations to carry out the Federal Clean Water Act, occurred in Washington DC, by then Administrator of the Environmental Protection Agency, Scott

Pruitt. Scott Pruitt has since left the position and Andrew Wheeler has taken over.

The Signs, Poisons, chemicals in use, hazardous to livestock, one within 300 foot of the alleged obstruction, remains in place for all to see, to this present day, 15 plus years after installation.

B. Facts and Procedural background.

Petitioner, in compliance with State practice and procedures, served each named defendant with a copy of Summons, Complaint, Motion for Temporary Restraining Order and Proposed Order, by Certified Mail, return receipt, restricted delivery, third party service of process, simultaneously filing with the Clerk of the U. S. District Court, on April 27, 2018.

None of the named Defendants complied with the Summons, failing to file any form of responsive answer thereto, nor made any form of appearance in these proceedings, are in default.

On July 18, 2018, the U.S. District Court, District of Columbia, representing that all the acts or omissions occurred in the State of North Dakota, thus it's Court in Washington, DC, was the wrong jurisdiction to file in, *sua sponte* immediately transferred to the U. S. District Court for the District of North Dakota. Contrary to precedent of this Supreme Court.

Petitioner challenged that action in a Mandamus Petition to the Court of Appeals for the District of Columbia. Petitioner requested the Court of Appeals order the district court to retrieve the case from the District of North Dakota, as the acts or omissions by the Environmental Protection Agency in failing to implement rules and regulations to carry out the Federal Clean Water Act, occurred in Washington DC, the only permitted jurisdiction to proceed in pursuant to Federal Statute *e.g.*, 28

U.S.C. 1392(e)(1). The District of Columbia Circuit Court of Appeals, refused to grant petitioner relief.

Simultaneously, on July 18, 2018, the U. S. District Court, District of North Dakota, entered an order denying the Motion for Temporary Restraining Order, holding that Petitioner had not properly served the Defendants, or given them notice of the Complaint, and that Petitioner had failed to show cause why he was entitled to the Temporary Restraining Order without affording notice to the defendants. The District Court did not inform, pro se what or how the service of process was defective. Petitioner argued that the record proved otherwise, the district court refused to alter its decision.

Petitioner challenged that action in a Mandamus Petition to the Eighth Circuit Court of Appeals, requesting the Court to order the District Court to vacate its Order and remand the case back to the District of Columbia, where it was originally filed. Petitioner was granted *in forma pauperis* status to pursue the mandamus action.

Approximately one year later, the U.S. District Court Judge, assumed senior status, the case was assigned to the newly appointed U. S. District Judge.

That Judge, in an Order, stated that Petitioner had performed service of process upon defendants in compliance with the State Rules, practices and procedures, those rules were inconsistent with the Federal Rules, pointing out that, the State Rules permits service of process *before* the filing with the clerk of the courts, the Federal Rules permits service of process only *after* the filing with the clerk of the courts.

The District court thereafter dismissed the complaint without prejudice, permitted Petitioner to appeal *in forma pauperis*. Petitioner requested the assistance of legal counsel, which motion

was never acted upon. The Eighth Circuit, without permitting Petitioner an opportunity to identify the issues, or submit a brief of the issues, without any hearing, denied Petitioner relief, on March 30, 2020. Petitioner timely requested an extension of time to petition for rehearing and rehearing en banc, submitted a pro se petition for rehearing and rehearing en banc, which was denied on July 16, 2020. The Eighth Circuit Court does not recognize this Court's Corid-19 virus extension of filing deadlines. This Appeal follows from that decision.

The Notice of Appeal to the Eighth Circuit Court of Appeals set forth the following questions to be presented:

1. Does the Federal Rule, significantly affect the result of a litigation for a Federal Court to disregard a law of a State that would be controlling in an action upon the same claims by the same parties in a State Court?;

2. Are the Federal Rules of Civil Procedure, contrary to or inconsistent with the Rules Enabling Act [28 U.S.C. 1652], Houston v. Lack, 487 U. S. 266 (1988); Mullane v. Central Hanover Bank, 339 U. S. 306, 320 (1950), depriving Plaintiffs of State created rights and privileges contrary to the Erie Railroad Co. v. Tompkins, 304 U. S. 64 (1938) doctrine?;

3. Does the Fed. R. Civ. Pro. Rules 3 and 4 *sub silento*, overrule the aforementioned Supreme Court decisions, depriving Plaintiffs of substantive state created rights and privileges and violate the Full Faith and Credit Clause of the U.S. Constitution, Article IV, Section 1?

The federal district court granted Petitioner *in forma pauperis* status to appeal to the Eighth Circuit, as provided by 28 U.S.C. 1915, failed to act on Petitioner's request for the appointment of legal counsel. The Eighth Circuit, contrary to the dictates of

Coppedge v. United States, 369 U.S. 438 (1962) did not appoint appellate counsel; did not permit Petitioner the opportunity to identify the issues and did not permit any form of briefing, prior to rendering a decision.

A compelling reason to grant relief is that this amounts to the Eighth Circuit Court totally ignoring this Courts precedent, by and through the denial of meaningful access to the Courts by it's discriminating against the class of indigent pro se appellants, denying them of their First Amendments rights and the right of due process and equal protection of law, the right to identify the issues; right be heard on the issues before a decision; and by and through the use of its Rule 47A(a) procedures to dispose of pro se indigent appeals, contrary to this Court's precedent. The Petition for Rehearing, Rehearing En Banc, raised this issue also. Without any form of ruling or Argument on the issues, the Eighth Circuit denied the Petition on July 16, 2020.

This Court recognized the impact of the Corid-19 virus and granted an automatic extension of time to petition this Court for relief. This Court should have mandated that all the lower courts subscribe to the same standard. The Eighth Circuit clearly denied the Pro Se indigent an extension of time to Petition for Rehearing, even though, it knew that the Court houses were closed to the general public; Schools, Colleges and Universities and other public libraries, that may have law libraries were closed to the public and it knows or should have known, that not all people have computer/internet access to do legal research and thus do not have the ability to meaningful access to the law to meet the short time frame of fourteen (14) days to petition for Rehearing and or Rehearing En Banc. A additional reason this Court should grant this Petition for Certiorari, is to re-enforce the right to access of the courts, in all courts of this nation, is to mandate that all courts must recognize the abilities of the people and the circumstances that surrounds them in their ability to comply with court deadlines

and order the granting of exceptional extensions of time on every case, not just those to this Supreme Court, so that the people have meaningful access to the courts, not just perfunctory representation thereto. *Cf.* Weeks v. North Dakota Workforce Safety & Ins. Fund, 2011 ND 188, 803 N.W. 2d 601 (recognizing that not all litigants have equal access to resources)(J. Crothers, concurring).

ARGUMENT

This Court has held since Erie Railroad v. Tompkins, 304 U. S. 64, state law governs substantive matters; Federal courts are not entitled to create their own common law for issues that properly fall within state law... Applying state substantive law would lead to more predictable outcomes for litigants and greater efficiency for courts...." *Id.*

Congress used the word "***shall***" in Sec. 1652 --State law ***shall*** be the rule of decisions; in Sec. 2072(b) --court rules *shall* not abridge, modify or enlarge any substantive right. 'Shall' denotes the law is mandatory. Obeying the law is not 'discretional'.

28 USC 1652 'mandates', and this Court said, "the federal court enforcing a state-created right, in a diversity case is, as we said in Guaranty Trust Co. v. York, 326 U. S. 99, 108, in substance is "only another court of the State." The federal court therefore may not "substantially affect the enforcement of the right as given by the State." Bernhard v. Polygraphic Co. of America, 350 U. S. 198, 203 (1956). Since the federal courts are just another state court, the federal judge's are bound to ascribe to the Rules of Decision, practices and procedures authorized by the State's highest Courts.

Here the State's practices, and laws should have prevailed in the service of process and filing of a civil action, pursuant to 28

U.S.C. 1652, that conflicts with the Federal Rules of Civil Procedure, when the Federal Rules violate 28 U.S.C. 2072 and the U. S. Supreme Court precedent.

The District Court, District of North Dakota ruled, upon the case being *sua sponte* transferred from the District Court, District of Columbia that Petitioner had not properly performed service of process of the Summons and Complaint with A Motion for Preliminary Restraining Order upon the named defendants. See Appendix A, pp. 1-2

The record before the District Court clearly and conclusively proved that the named Defendants had been properly served with the Summons, Complaint and the Motion for Temporary Restraining Order by Certified Mail, Restricted Delivery, Return Receipt by a Third Party as provided and permitted under State Law, practice and procedure. The record further proves that the Clerk of the Courts was served with the same pleadings at the same time, April 27, 2018. See Appendix B, pp. 3-5

It wasn't until the District Court Judge, took senior status, and a new Judge was assigned to the case, that the new Judge identified the alleged procedural issue. *E.g.* that the State laws, practices and procedures, and the Rules of Civil Procedure, permitting the service of process of the Summons and Complaint may take place ***before*** the filing with the clerk of Courts, while the Federal Rules only permit's the service of process of Summons and Complaint to take place ***after*** the filing with the Clerk of Courts. See Order, Appendix C, pp. 6-8

IS THIS A "LIMITATION THAT QUALIFIES A RIGHT SO THAT IT BECOMES A PART OF THE SUBSTANTIVE LAW RATHER THAN PROCEDURAL??

Raising a number of Constitutional and Statutory questions.

Under North Dakota's mandatory laws, there is no discretion for the Court to find a waiver of the right to counsel, as that would imply the usage of the word "or" instead of "and" thus hybrid representation is mandatory, clearly distinguishable from Faretta.

In 1971, this Court did grant James Blumstein the right to represent himself before the Court. Mr. Blumstein argued that the one year residency requirement for voter registration in Tennessee, was unconstitutional, which mandated a one year residency before anyone was permitted to register to vote. Blumstein won his case on a 6-1 decision. Dunn v. Blumstein, 405 U. S. 330 (1972).

In Haines v. Kerner, 404 U.S. 519 (1972) the Court merely held that the pro se complaint be held to less stringent standards than formal pleadings drafted by lawyers, yet failed to establish any meaningful "standards" by which the lower courts were to follow.

The State Court of Ohio in 2006 under Chief Justice Thomas J. Moyer announced the appointment of a task force to recommend improvements to the programs assisting pro se and indigent litigants, he noted, "Providing indigent representation at all levels of the state court system has become a challenge." The impetus behind formation of the task force is the recognition that access to justice is a fundamental right that is not being afforded to all citizens, especially indigent and pro se litigants. The 52 recommendations of th[eir] report are based on one simple premise: to fulfill its duty of "justice for all", our legal system must become "user friendly" to the pro se litigant and afford timely access to effective legal counsel for indigent parties.

Yet, this U.S. Supreme Court's 200 year history, provides no meaningful standards for the lower courts to comply with, at best, only confusing the issues, rather than defining a meaningful standard. *Cf.* Strickland v. Washington, 466 U. S. 668 (1984) a

cause and prejudice standard, with United States v. Cronic, 466 U. S. 648 (1984) a specific acts and omissions standard. Quite obviously, a cause and prejudice standard, is more arbitrary and less stringent or defined that the specific acts and omissions standard. In Yarborough v. Gentry, 540 U. S. 1 (2003), when addressing ineffective counsel claims, the court yet again established a different standard of "objectively unreasonable."

Deferring to the State Courts determination, and holding that the right to effective assistance of counsel "is denied when a defense attorney's performance falls below an objective standard of reasonableness." Clearly overlooking the political bias(es) of the State Court's in their determination of what is objectively reasonable, since what is "objectively reasonable" in one person's eyes may be totally unreasonable in another's and the fact that, for instance, in the State of North Dakota, the North Dakota Supreme Court COULDN'T FIND A CONSTITUTIONAL VIOLATION IF ITS LIFE DEPENDED ON IT. *Cf.* Koenig v. State of North Dakota, 789 N. W. 2d 731 (N.D. 2010) (summary dismissal of appeal) *with* Koenig v. North Dakota, No. 12-2260 (8th Cir. 2014) (holding violation of right to legal counsel on appeal). The state district court judge, was also a sex offender. *Cf.* In re Wickham Corwin, N.D. S. Ct. No. 20130328 (Decided March 14, 2014) *with* Concerned Women of America, Legislative Action Committee reporting that "Judge Corwin Cannot be Trusted" (Revealing his desire to legislate from the bench). Why would a Federal Court even consider or be mandated to defer to the judgment of a State sex offender judge--his findings of fact or conclusions of law--since his judgment is clouded by his own criminal actions, intents and objectives?

This Court's DISCRIMINATION practice against the indigent is further evident and documented in comparing its decisions in Powell v. Alabama, 287 U.S. 45 (1932) and United States v. Gonzales-Lopez, 548 U. S. 140 (2006). The Powell Court held

that the right to legal counsel existed under Article III of the U. S. Constitution, the First, Fifth, Sixth and Fourteenth Amendments. Only the Sixth Amendment, specifically refers to "criminal" defendants, the others, read in context with other protected rights, applies to the civil context as well.

Under the First Amendment, the people have a number of Constitutional rights/safeguards. The right to petition; [right to petition, includes the right to be heard, fairly and impartially] the right to freedom of speech; the right to freedom of choice; the right to freedom of association; the right to freedom of the press, in addition to numerous other rights.

The Court specifically reasoned that the right to be represented by a lawyer was fundamental to a fair trial, if the defendant cannot afford a lawyer, the court must appoint one. *Id.*

Conversely, in Gonzales-Lopez, the Court held that the erroneous deprivation of a defendant's attorney of choice entitles him to a reversal of his conviction under the Sixth Amendment. Clearly implying that only the affluent had the right to freedom of choice of legal counsel. Quite obviously this right flows from the First Amendment, the right of freedom of choice and the right to freedom of association, in addition to the right to meaningful and effective access to the courts, the right to petition. Yet, no place in the US Constitution does it even imply that the affluent people have greater rights than the indigent people. This leads to the unmistakable conclusion that this UNITED STATE SUPREME COURT DISCRIMINATES AGAINST THE INDIGENT PEOPLE. Contained in that group is obviously the PRO SE PERSON.

It may well be past time to term limits for all, including the judiciary, all branches, federal and state; to constitutionally mandate that [all] the Courts be equally divided --politically--

mandated to render one brief unanimous decision on all cases and issues presented for review; all prior inconsistent decisions being overruled, by vote of the people and all future unanimous decisions being subjected to being overturned by a simple majority vote of the people; and furthermore, the people should decide and vote whether any person may sit the bench after fully being investigated and qualified. In addition, all citizens shall have the right to legal counsel of their choice, those whom cannot afford shall have the assistance of the clerk of courts to obtain legal counsel of choice, in all legal proceedings, civil, criminal or others; prosecuting or defending and no evidence shall be used against any person in any court, however obtained, if they did not have legal counsel of choice before the taking of such evidence.

This is the true meaning of the Bill of Rights that "All men are created Equal" and "a government by the people, for the people."

CONCLUSION

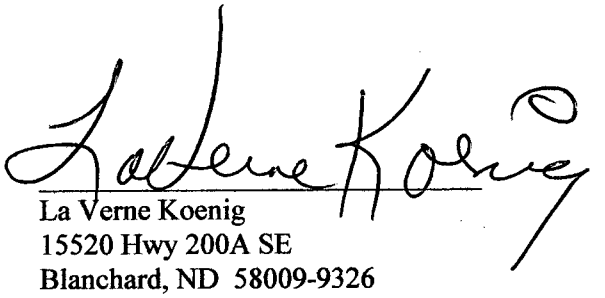
The record proves the district courts applied the federal rules contrary to the dictates of federal statute, depriving plaintiffs of their substantive due process procedural rights, granted under State laws, practices and procedures, which were consistent with the federal statutes, 28 U.S.C. 1652 and 28 U.S.C. 2072(b) warranting a reversal and remand.

The Eighth Circuit clearly discriminates against the pro se indigent party by totally ignoring and disregarding the precedent of this United States Supreme Court, mandating that the pro se indigent party is equally entitled to brief the issues and be heard with the assistance of legal counsel, if qualified for the appointment thereto, in essence, thumbing its nose at this Supreme Court's mandates, warranting a remand with stern directives.

Relief Requested

This Court should grant this Motion for Certiorari and reverse the lower court decisions.

Respectfully Submitted this 30 day of November, 2020.



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