IN THE UNITED STATES SUPREME COURT

Cause No. 20-7352

IN RE Henry Lee Rudolph, Pro Se
Plaintiff/Appellant/Petitioner

PETITION FOR REHEARING
ON PETITION OF PROHIBITION/MANDAMUS

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IN THE UNITED STATES SUPREME COURT

to NO. 20-7352

Pursuant Rule 44 of this court, Petitioner respectfully petitions for rehearing of this case before a full nine-Member Court. All issues their of law notwithstanding, The Courts denial of Petitioners writ of prohibition and mandamus grants impermissibe authority to the federal courts to commit fraud on the court, and this Court is empowered to designate a lower Judicial panel to review by precedent.

1. This case acts as a gateway through which fraud by the federal courts themselves becomes permissive and acceptable conduct of the lower courts (i.e. the Utah Supreme Court). Whereas the Courts denial of review of my petition by standard provides for the Court's impartial position regarding interpretation of law by the lower, is not designed to be permissive in granting leave for the lower courts to act criminally.

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IN

THE SUPREME COURT OF THE UNITED STATES

Amended Petion For Rehearing

In re: Henry Lee Rudolph,

Petitioner,

Case No. 20-7352

AMENDED PETITION FOR WRIT OF PROHIBITION, MANDAMUS AND AND INJUNCTION TO THE Tenth Circut Court of Appeals

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INTERVENING GROUNDS/CIRCUMSTANCES OF SUBSTANTIAL AND CONTROLLING EFFECT

The issue here goes beyond a miscarriage of of justice. It's lower courts' blatant disregard and blatant refusal to administer justice, when law warrants otherwise; it's contrary to what this Court in Mitchum v. Foster, 407 U.S. 225, 240 (1972) proclaimed, "throws open the doors of the United states courts to those whose rights under the Constitution are denied or impaired;"

1. When the doors of the U.S. courts are willfully, maliciously, and improperly closed to non influential, self represented people thereby foreclosing (1) a civil

forum of justice, and (2) denies petitioner a "day in court", because of breaches of oaths to uphold The Constitution via abuses of power and process.

2. The grounds for granting this extraordinary writ is limited to clearly erroneous facts, erroneous views of the law with no valid assessment of the evidence. See Cooter and Gell v. Hartmarx, 496 U.S. 384 (1990). This petition is based on United States Supreme Court precedent which is controlling and constitutes other substantial grounds that are based upon the rules of Civil Procedure, the rules of Criminal Procedure, the Rules of evidence all of which are overseen by Constitutional law. The Court can only be effective, fair and just if it is allowed to function as the law prescribes.

3. Other substantial grounds that were not previously presented are that the transcripts were falsely said to be "destroyed." this is a violation of 18 USC §2071, §1001, ie false statements, as well as §4, ie misprision of a felony. Black's Law dictionary describes transcript as the typed or written copy of the Court reporters notes that have been taken down during a trial.

CERTIFICATION

This amended petition for rehearing is presented in good faith and not for delay. This case has been deliberately delayed by concealment and coverup for over 20 years due to obfuscation. Henry L. Rudolph Pro Se
June 8, 2021.

4. Fraud upon the court is an "other" substantial ground not previously presented nor addressed because none of the lower courts reviewed the transcripts even though

The Utah Supreme Court granted the motion to supplement the record. See appendix D at 2/26/97 entry. The docket entry at 4-7-97 states "This is a composite record that includes the "lost" transcript. See also 1-28-97 docket entry, i.e exparte submission of fraudulent document.

5. Tampering with the administration of justice involves far more than an injury to a single litigant. "It is a wrong against, the institutions set up to protect and safeguard the public institutions in which fraud cannot complacently be tolerated consistent with the good order of society" (Hazel Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238 (1944)) "There is no question fraud vitiates the most solemn Contracts, documents and even judgments." (United States v. Throckmorton, 98 U.S. 67 (1878).

6. Appendix B is an example of fraud upon the court because it falsely states the transcript was destroyed. Rudolph v. Galetka, 439 Utah advanced reporter 8. At paragraph 8 of this same document it states..."Rudolph has not provided this court with any evidence or transcript from his Third (3d) trial that would demonstrate his continued wish to represent himself. that is a false statement. See appendix G.

Appendix G is a notarized Judicial Conduct Commission complaint which states "The specter of impropriety looms over these proceedings as Judge Brian has superceded his authority and imposed his will as to the manner of Rudolph's representation. This is being done in spite of the fact that Mr. Rudolph never filed or requested on on the oral or written a reappointment of counsel. Appendix G. Appendix G also states "Prisoner released." That's not a true statement. In Iowa v. Tovar, 541 U.S. 77, this court stated "A person accused of a crime... may choose to forgo representation. While the Constitution "does not force a lawyer on a defendant," Adams v. United States ex rel McCann, 317 U.S. 269, 279 (1942); it does require any waiver of counsel be knowing, voluntary, and intelligent, See Johnson v. Zerbst, 304 U.S. 458, 464 (1938). The right to represent oneself is consistent with Faretta v. California, 422 U.S. 806 (1975); accord McKaskill v. Wiggins, The Sixth Amendment protects the defendant's right to control the organization and content of his own defense." Id.

7. The docket entry clearly shows at 2/9/96, the Public Defender Karem Stam met with the recused judge without Mr. Rudolph, although she had been fired. She entered an appearance on 2-12-96 in violation of Rushen v. Spain in which this Court stated "a defendant has the right to be in attendance at any proceeding her that has a bearing upon the trial." 464 U.S. ~~[illegible]~~ 114, 104 S.Ct 453, 78 L.Ed.2d 267 (1983). Counsel was imposed; See also Snyder v. Massachusetts, 291 U.S. 97, 114-118 (1934) (right to presence). id.

AMENDED REHEARING ARGUMENT

Pursuant to rule 44 of this court, Petitioner respectfully motions/petitions the Court for a rehearing. All other issues of law notwithstanding. The Court's denial of of this particular extraordinary writ grants impermissible authority to federal Courts to commit fraud upon the court. This matter consists of extraordinarily unusual circumstances.

A years old judgment can in unusual circumstances be reopened. See e.g. Fed. R. Civ. P. 60(b) providing for reopening judgments in certain circumstances). A litigant can also seek rehearing on the merits under Rule 44.2. This matter has never really been heard in its entirety. See also Rule 44.1. See generally Aaron-Andrew P. Bruhl, The Mich. L. Rev. 711 (2009) (discussing GVR practices); And an alternative, 109 Mich. L. Rev. (same) & Arthur D. Hellman, (Granted, vacated and remanded": Shedding light on a Dark Corner of Supreme Court practice, 67 Judicature 389 (March 1984) (same).

ARGUMENT

Petitioner is aware that it is exceedingly rare that a Court grants a rehearing. Petitioner is equally aware that the Courts choosing to summarily deny a petition for an extraordinary writ does not itself suggest approval by the Court of the lower Court's action, but instead "imports no opinion upon the merits of the case[.] (Missouri v. Jenkins, 515 U.S. 70 (1995)) and that the lower Court opinion is treated as the mandatory authority. The Court has a general "duty to apply the correct law." Empire Life Ins. Co. v. Valdak, 468 F.2d 330 (1972). See also 28 U.S.C § 1361 (a duty owed to plaintiff).

This procedural understanding rests upon the lower Court acting within its jurisdiction to interpret the law; it does not encapsulate felonious nor fraudulent conduct of a lower Court, as the presumption is that the lower courts adhere by principle to the regulatory practices of a court of law.

In this matter the paramount issue is that the lower Court has not done that. Thus, the paramount issue is not a measure of law as much as it about the procedure and conduct of the state and federal judiciary as a whole.

In the original petition for mandamus/prohibition, petitioner submitted the required appendice A, B, C, D, E, F and G. this included clearly erroneous facts, an erroneous view of the "then existing law (i.e pre-AEDPA as proved by appendix A, in which the contract attorneys filed Petitioner's 42 U.S.C. §1983 and 2254 documents at the U.S. District Court in 1995).

At paragraph 1 of Appendix F of the falsely said to be "destroyed" Transcript This was written ..."After Rudolph appealed to this court, we summarily reversed and remanded the case for a new trial because a malfunction in the recording equipment "destroyed" the trial court record. This is a false statement.

At paragraph 8..."Rudolph has not provided this Court with any evidence or transcripts from his third (3d) trial that would demonstrate his continued wish to represent himself. That is a false writing as proved by the docket entry at 4-2-92 which states "this is a Composite record that includes the "lost" transcript, Appendix D and G. See also points 2, 3, 4 and 5 of this amended petition for rehearing. In appendix B in the conclusion and fn. [1] (2) it states transcript required of all evidence regarding challenged finding or conclusion... The appellant shall include in the record a transcript of all evidence relevant to such finding or conclusion. Neither the court or appellee is obligated to correct appellant's deficiencies in providing the relevant portions of the transcript. I have done exactly that. I have included an additional copy of A, G and F which prove everything I stated is true.

Appendix F at page 9 states: THE COURT: Mr Rudolph everything the state is going to do in this trial starting monday is going to be prejudicial to you, thats what its supposed to be. They are trying to prove you commited this crime.

Mr Rudolph responded: With falsified evidence.

THE COURT: If Its falsified

Mr Rudolph: I can prove it.

Read page 10, 11, 12 and 13 to gain context. At page is the reason for breach of 18 U.S.C § 4, §1001 (false statements)(inter alia), Specifically lines 19-21 in which the court explicitly said to Charles Behrens Jr..." To the extent that its to eliminate what actually occurred from evidence, in any event the long and short of it is, thats something you need to inquire into Mr Behrens So your feeling in that regard would be helpful. See docket entry in Appendix A at 1-2897, i.e. exparte submission of fraudulent document. The Court report did transcribe the wink. But I'll never forget it.

But I'll never forget it.

Compare Medina v. Barnes, Nos. 94-4222, 95-4006 Decided Dec. 5, 1995 (10th Cir.) in which the court stated "In habeas cases a federal court defers to the state court's findings of disputed issues of historical fact, See e.g. Smith v. Secretary of N.M. Dept of Corrections, 50 F.3d 801, 806 n. (10th cir.) cert. denied, 516 U.S. 905, 116 S.Ct. 272, 133 L.Ed.2d 193 (1995), absent reason to doubt the adequacy or accuracy of the fact finding proceeding. See 28 U.S.C. §2254(d). "We have attempted to obtain a transcript of the state court hearing. We made inquiry not only of the district court, but of the Utah Supreme court. We were told they transmitted to us everything that they have. Thus, the hearing was lost or not transcribed." Id.

In another case, State v. Dunn, The attorney general's office destroyed the indexed and paginated record due to the passage of time after the initial appeal. 850 P.2d 1201 (1993). Similar to Rudolph except Mr. Rudolph's transcripts were not "destroyed" until he sued in 2014 after the Utah Board of pardons declared the sentence invalid by a state tribunal authorized to make such determination. Heck v. Humphrey, 512 U.S. 477 (1994). The Heck court held in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a §1983 plaintiff must prove what petitioner has done and proved. However, I'm still being deprived of Justice.

The Tenth Circuit court agreed with Heck v Humphrey in Butler v. Compton. 12-07-2005 a decision by Briscoe, Lucero and Murphy. 482 F.3d 1277. What is different now except violations of 18 U.S.C. §4, §100 (inter alia)? ←

In State v Verikokides, 925 P.2d 1255 (1996), The state of Utah stated "the defendant contends this court should vacate his convictions and order a new trial because the record of his original trial was lost during a seven year gap between conviction and sentencing due to his fugitive status. id. opening paragraph.

FUNDAMENTAL VIOLATIONS OF LAW

BY OFFICERS OF THE COURT

ELEMENTS OF A CRIME

The notions of Actus Reus and Mens Rea are derived from the principles set forward by Sir Edward Coke in his Institutes of the Laws of England (1797). Particularly pertinent, is the phrase actus non facit reum, nisi mens sit rea (an act does not make a person guilty unless the mind is also guilty)." This basic principle suggests that ~~that~~ there are two elements which must be present in order for a crime to exist, and delineates between 1) a physical act that occurred and caused a criminal outcome (actus reus), and 2) an element of fault or intent (mens rea) (Coke ~~1797~~ 1797).

Katherine Bernards Goodman in Appendix A admitted no act but guilt of intent. How is that possible? Petitioner not guilty of act but intending to do what he was acquitted of! How abstract and hypothetical can one become? This is inane, but power breeds corruption and when you have a judge on record advocating obstruction of justice there exists no way to obtain a fundamentally fair trial.

Petioner has included two additional decisions which constitute clearly erroneous facts and law with absolutely no review of the falsely said to be "destroyed" transcript. newly discovered evidence.

See the 99-4207 decision in Rudolph v. Galetka fn. 1. It states Mr. Rudolph filed this §2254 petition in the United States District Court on May of 1999. Appendix A clearly shows my 42 U.S.C. §1983 and §2254 Petition in 1995 i.e. pre AEDPA. The Court erroneously applied the strictures of the AEDPA. ← 99-4117 I, II, III

See 00-4099 which states, Mr. Rudolph urges the merits of his claims and argues that exhaustion would be futile and that obvious structural errors suggest dispensing with the exhaustion requirement. id.

The dockets, the orders and transcript show the same situations exist today after over Twenty years of dilatory tactics, clearly erroneous facts and law, with no valid assessment of the evidence nor trancript

Dated and signed May 24, 2021

Henry Lee Rudolph pro se. Signed Again June 8th. Sent certified mail same day.

Henry L. Rudolph Pro Se