

21-1175

ORIGINAL

No. 21-

In the
Supreme Court of the United States

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

HAROLD JEAN-BAPTISTE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the
The District of Columbia Court of Appeal

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the DC Appeal Court for District of Columbia can ignore inexcusable neglect by the Superior Court of District of Columbia for failure to apply Default Judgement against the defendants according to Rule 55(b)(2) and Rule 55(d), Federal Rules of Civil Procedure for not following a court order Summons to appear before the court for violation of Federal Laws. The DC Appeal Court for the District of Columbia stated no jurisdiction exist for the case, according to § 11-921. Civil jurisdiction District of Columbia the district has complete jurisdiction. The DC Appeal Court for the District of Columbia applied the 11th Amendment stated the clause of State-Sovereign-Immunity, the petitioner is asking for a reversible of verdict stating no person or government entity is above the law to ignore a court order to appear before the court and no person or government entity is above the law to be held accountable for violation of law under the Constitution or the United States before the court. The petitioner is asking the court to issue Default Judgement against the defendants, that no person or government entity is above the law as stated by the Supreme Court. This petition is submitted to the Supreme Court to correct unfair judicial review, mistake, error of judgement, inexcusable neglect and can the DC Appeal Court for the District of Columbia protect the Federal Government as the defendant for violation of laws, and held accountable for violation of Human Rights, Constitutional and Federal Laws by stating Assert-State-Sovereign-Immunity. The Supreme Court stated no one is above the law that implies all defendants.

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Superior Court for the District of Columbia
No. 2021-CA-000377 B

Harold Jean-Baptiste v. United States
Date of Final Order: April 20, 2021

District of Columbia Court of Appeals
No. 21-CV-0242
Harold Jean-Baptiste v. United States, Et Al.
Date of Final Order: January 10, 2022

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OPINIONS BELOW

The judgment of the DC Appeal Court for the District of Columbia appeals was entered on January 10, 2022 and is included at App.1a. On January 10, 2022, the Court failed to issue a ruling for Default Judgement in which the petitioner file a petition for a writ of certiorari due to the DC Appeal Court for the District of Columbia failure to apply the law. The Orders of the Superior Court for the District of Columbia are included at App.6a, 8a, and 10a.



JURISDICTION

The petition for a writ of certiorari was filed on January 29, 2022 originally. The Clerk provided additional time to resubmit a petition in the compliant booklet format. The jurisdiction of this Court is invoked under 28 U.S.C.1254(1).



STATEMENT OF THE CASE

Following the decision of the Superior Court for District of Columbia to dismissal of the case of the petitioner without merit, an appeal of the case was filed within DC Appeal Court for the District of Columbia on the merits of unfair judicial review, mistake, error of judgement and inexcusable neglect. The Superior Court for the District of Columbia failed to

follow Civil Rule Procedure issued by the Supreme Court, under 28 U.S. Code § 2072 as the general rule for practice. The appeal to DC Appeal Court was to correct the error of the Superior Court for the District of Columbia, the DC Appeal Court for District of Columbia also failed to follow the law regarding Default Judgement and that failure was unfair judicial review, mistake, error of judgement and inexcusable neglect. The DC Appeal Court for the District of Columbia also stated they have no jurisdiction for different states where violation of law applied, the merit of the appeal was for Default Judgement base the fact the defendants did not appear before the court and according to Civil Rules Procedure the Superior Court for the District for Columbia failure to order Default Judgement with § 11-921. Civil jurisdiction for the District for Columbia courts. The DC Appeal Court for District of Columbia is stating unrelated subject matter to deny the petitioner a fair ruling because the petition is Pro Se. The DC Appeal Court for the District of Columbia Asserted-State-Sovereign-Immunity for the defendant as a reason for the court to not order Default Judgment against the defendants. The Supreme Court stated no one is above the law, that applies to government entities also, therefore profoundly serious violation of Constitutional Law by the defendants should be able to be challenge in the Federal Court of law and held the accountable in the United States Court System. The DC Appeal Court for the District of Columbia stated the defendant can Assert-State-Sovereign-Immunity for violation of Constitutional and Federal Laws would imply the government entities are above the law, which goes against the Supreme Court stating no one is above the law. It's a travesty and very gloomy in 2022 that the defendants can violate Human Rights

and multiple attempts on the petitioner's life documented in the complaint on American soil and not appear in court and DC Appeal Court for the District for Columbia can issue the defendant with State-Sovereign-Immunity to not be held accountable in the court of law. Allowing this egregious ruling, set a precedence and sends a clear message in the future this profoundly serious Human Rights, Constitutional and Federal Laws violation is acceptable and they can do it again to someone else in the future because some defendants are above the law. The strategy is clear, use erroneous legal subject matter to deny a fair ruling on the case because of the monetary value, because the petitioner is Pro Se and assumed the errors of the court would not be recognized by the petitioner and it's clear the rule of law does not apply to the defendant. The petitioner prays the Supreme Court accept this appeal to the Supreme Court to correct the error of the DC Appeal Court for the District of Columbia and ask the Supreme Court to reverse the ruling of the DC Appeal Court for the District of Columbia and issue a Final Default Judgement on this case as the result of the defendants not appearing before the court. The rule of law applies to everyone and no one or entity is above the law.



REASONS FOR GRANTING THE PETITION

Petitioner contends that the Court should grant review to consider this case base on the fact that DC Appeal Court for the District of Columbia ruling violated Civil Rules Procedure that governs how courts must order ruling of Default Judgement for the

defendants ignoring a court order to appear before the court. The DC Appeal Court for the District of Columbia decision violate the rules and procedure that govern all courts in United States of American regardless if the defendant is the United States Government the law that govern private citizen and also govern the Federal Government. The rule of law applies to all defendants must not have a double standard for the Federal Government and the law should be applied fairly. The petitioner is Pro Se and DC Appeal Court for the District of Columbia is applying the law unfairly because of who the defendants is and the monetary value of the case, hence the unreasonable application of the law in this case and Assert-State-Sovereign-Immunity to protect the defendants from being accountable before the court. The petitioner has experience abuse of the law because his Pro Se and ask this court to grant review of this case for review by the Supreme Court and correct the improper application of the law.

1. The DC Appeal Court ignore the fact Superior Court for the District of Columbia did not follow the law and the rules applied for Federal Rules of Civil Procedure for the court, according to the summons the defendants must respond to the summons issue by the court, and failure to do so will issue a Default Judgement as stated for relief sought in the complaint. Secondly, according to the law the provisions of Rule 55(d), Federal Rules of Civil Procedure issued by the Supreme Court, under 28 U.S. Code § 2072 as the general rule for of practice, to issue a Default Judgement against the defendants must be ordered by the court if the defendants does not respond to the complaint and summons. The DC Appeal Court for

the District of Columbia ignore the rule of law that govern the court applied inexcusable neglect to apply the law incorrectly. Regardless of who the defendant is, the rule of law should be applied the same for any defendant before the court. The DC Appeal Court for the District of Columbia in case *Pang-Tsu Mow v. Republic of China*, (1952) stated, “the Default Judgment that had been entered for failure to appear for a deposition” it is inexcusable neglect that DC Appeal Court for the District of Columbia can issue the proper ruling for default judgment in one case but not be consistent in applying the law regarding the petitioner’s case. This is a grave error of the DC Appeal Court for the District of Columbia and sets a precedence that the law is not fair and some defendants (Federal Government) are above the rules the govern the Courts of United States.

2. The DC Appeal Court has applied State-Sovereign-Immunity as a reason for not ruling Default Judgment, and correcting the errors of the Superior Court for the District of Columbia. Applying such a ruling implies the defendant is above the law, the defendant did not appear before the Superior Court for the District of Columbia and the DC Appeal Court for the District of Columbia issue State-Sovereign-Immunity the reasoning is clear like a sun storm at noon on the hot summer day, the defendant is above the law and can’t be held accountable for violation of Human Rights, Constitutional and Federal laws. In *Abusaid v. Hillsborough County Bd. of County Comm’rs*, United States Court of Appeals for the Eleventh Circuit (2005), the court stated, “immunity under U.S. Const. amend. XI did not extend to local governments such as the county, and the county could not Assert State

Sovereign Immunity from liability for violations of Federal Law as expressly provided by 42 U.S.C.S. § 1983". The case against the defendant raise charge of 'Civil action for deprivation of rights' under 42 U.S.C.S. § 1983, prior court have stated State-Sovereign-Immunity would not apply. Prior court have stated, "Because of that waiver, a state may not assert State Sovereign Immunity "to defeat federal jurisdiction", *see Garza v. Tex. Dep't of Aging & Disability Servs* (2017). Prior court have stated, "were sovereign immunity an affirmative defense, it would need to be asserted at some point before a decision on the merits", *see Calderon v. Ashmus*, (1998). The DC Appeal Court for the District of Columbia never stated the merits for such a defense from the law, why should the defendant not be held accountable in the court of law. In the case of *Diaz v. Glen Plaid* (2013), the court stated, "where sovereign immunity is asserted, and the claims of the sovereign are not frivolous, dismissal of the action must be ordered where there is a potential for injury to the interests of the absent sovereign", the defendant is the government what harm would happen to them, it's implausible they would do harm to themselves. If the petitioner attempted to state an intent to harm the defendant, the full power of the defendant would fall on the petitioner, therefore no harm would ever come to the defendant, and the DC Appeal Court for the District of Columbia asserting State Sovereign Immunity has no probable legal reason and inexcusable neglect to follow the law. The DC Appeal Court for the District of Columbia never considered attributes within the context of the Federal Rules of Civil Procedure in order to determine the technical aspects for asserting State Sovereign Immunity and assess

how they impact the parties' rights. The ruling of the DC Appeal Court doesn't merit the rule of law and should a defendant be shield from liability of ignoring the rules of the court. The Supreme Court has ruled on the matter of asserting State Sovereign Immunity in *Chisholm v. Georgia*, 2 U.S. (2 Dall.) 419 (1793), the court, "declined to recognize State Sovereign Immunity", the held the defendant of that case accountable. The Amendment provides that "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State". Eleventh Amendment's text does not expressly limit Federal Court's jurisdiction over any other suits against states or even recognize a general right to State Sovereign Immunity. State Sovereign Immunity breeds procedural unfairness to the parties and the DC Appeal Court for the District of Columbia has shown this unfairness toward this case, no one is above the law. A proposal for asserting State Sovereign Immunity under the Federal Rules must be adaptable to any changes in the Court's views. "If a party fails to assert Rule 12(b)(2) either in the answer or by pre-answer motion, then that party waives its objections to personal jurisdiction and forfeits those objections on appeal, *see Gerber v. Riordan*, 649 F.3d 514, 518 (6th Cir. 2011). "This type of behavior Is procedurally unfair and hardly serves State Sovereign Immunity's dignity justification. To counterbalance this, Federal Courts can estop state defendants that abuse their immunity in order "to achieve unfair tactical advantages", *see Lapides v. Bd. of Regents of Univ. Sys. of Ga.*, 535 U.S. 613 (2002). In prior court case *Gunter v. Atl. Coast Line R.R. Co.*, 200 U.S. 273, 284 (1906),

court stated "And even though Rule 12(b)(6) may be raised at any time, federal courts should estop states that belatedly raise their immunity "to achieve unfair tactical advantages" at later stages of the litigation or to avoid an adverse judgment. The DC Appeal Court for the District of Columbia ruling provide a technical advantage for the defendant and adverse judgement for the petitioner, which is unfair judicial review. If the Federal Government can violate the law and not be held accountable in the court of law, official immunity is an entitlement not to stand trial or face the other burdens of litigation, the message clear is some defendants are above the law. When a court is confronted with a lawsuit in which a plaintiff seeks relief from multiple defendants, one of which claims State Sovereign Immunity, the court cannot just decide the State Sovereign Immunity claim. "[T]he presence of a potential Eleventh Amendment bar with respect to one claim [does] not destroy original jurisdiction over the case, so even if the court grants the State's Sovereign Immunity claim, the lawsuit may still be able to continue against the remaining defendants", *see Dep't of Corr. v. Schacht*, 524 U.S. 381, 389 (1998). The Supreme Court decisions in the past has oppose doctrinal approaches to State Sovereign Immunity's legal and historical foundations, the Supreme Court has stated many times, no one is above the law, that includes the defendant. The party claiming immunity should be required to demonstrate sufficient facts showing it is entitled to that immunity, the defendant and the DC Appeal Court has not demonstrated proper legal reasoning to shield the defendant from liability for not following the rule of law that governs United States Courts. Allowing a defendant, belatedly assert immunity is prejudice against petitioner, but Federal

Courts should prevent a defendant from abusing immunity to evade the law. That court has stated many times no one is above the law even if the defendant is the Federal Government. The DC Appeal Court of asserted sovereign immunity is improper because civil rights were violated and the defendants are not above the rule of law to not be held accountable for violation of Human Rights, Constitutional and Federal Law. The petitioner is asking the court to review State-Sovereign-Immunity when the defendant is the Federal Government that violate Human Rights, Federal and Constitutional Laws can they be held liable.

3. The DC Appeal Court for the District of Columbia applied the law incorrectly by not issuing Default Judgment despite the defendants did not respond to the summons and court order to appear before the court on April 9, 2021. According to the law the provisions of Rule 55(d), Federal Rules of Civil Procedure the DC Appeal Court for the District of Columbia should of correct the error of the prior court to issue a Default Judgement against the defendants. This was clearly an error and a doctrine of clear mistake. In case *Lukens Steel Co. v. Perkins*, 107 F.2d 627 (1939), the court stated, “action is a clear mistake of law as applied to the admitted facts, and the court, therefore, must have power in a proper proceeding to grant relief. Otherwise, the individual is left to the absolutely uncontrolled and arbitrary action of a public and administrative officer, whose action is unauthorized by any law and is in violation of the rights of the individual.” The DC Appeal Court for the District of Columbia did not apply the law correctly and therefore is a clear mistake of law,

allowing this egregious error would set a precedence for unfair judicial review.

4. The petitioner has legal standing to challenge governmental action on statutory or other non-constitutional grounds has a constitutional content to the degree that Article III requires a "case" or "controversy," necessitating a litigant who has sustained or will sustain an injury so that he will be moved to present the issue "in an adversary context and in a form historically viewed as capable of judicial resolution. The DC Appeal Court for the District of Columbia errors, mistakes and denial of jurisdiction was an inexecutable neglect, and according to § 11-921. Civil jurisdiction the District for Columbia courts have full jurisdiction to issue a ruling, therefore deny of jurisdiction was an error of the court. The illegal actions and violation of law occurred at the location of the defendant, which is the District of Columbia, therefore the court has jurisdiction. In *Scott v. Sandford* (1857) it stated, "when brought here by writ of error, that the Circuit Court had jurisdiction, the judgment must be reversed", the DC Appeal Court for the District of Columbia should of correct the error of the prior court. In Supreme Court case *Perez v. Ledesma* (1971) the court stated, "A denial of jurisdiction forbids all inquiry into the nature of the case. It applies to cases perfectly clear in themselves; to cases where the government is in the exercise of its best established and most essential powers, as well as to those which may be deemed questionable. It asserts, that the agents of a State, alleging the authority of a law void in itself, because repugnant to the constitution, may arrest the execution of any law in the United States". The DC Appeal Court for the Dis-

trict of Columbia action to denial of jurisdiction is abuse the court rule of law to be fair and applied the law correctly, the Supreme Court should never allow the court to diminished the rule of law therefore reverse the rule of DC Appeal Court for the District of Columbia.



CONCLUSION

The petition prays a writ of certiorari should be granted for review to correct the errors of the court and the rule of law applies to all defendants before the court and no one is above the law.

Respectfully submitted,

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