ORIGINAL

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In The
Supreme Court of the United States

James J. Knochel and
Emily N. Mihaylo, Petitioners,

v.

Amy Fackrell; John C. Morris; Unknown Party, named as Medical Director - West Yavapai Guidance Clinic; Attorney General For The State Of Arizona, Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the 9th Circuit

Petition for Writ of Certiorari

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Questions Presented

Petitioner filed a next friend petition for a writ of habeas corpus to the United States District Court, but was declared vexatious after asking for the evidentiary hearing required by the case law. The Arizona State Court's public record and videos posted to YouTube fully establish Petitioner's allegations of fraud on the United States Court.

The questions presented:

#1 – Does *Whitmore v. Arkansas,* 495 U.S. 149, require an evidentiary hearing before dismissing a next friend's petition for writ of habeas corpus, or is this just a suggestion?

#2 – May a petitioner be declared vexatious by the United States Court without an evidentiary hearing to consider alleged evidence of fraud on the court?

#3 – May a respondent to a petition in the United States Court 'assist' the party to the petition – their involuntary client – by asking for the proceeding's dismissal?

#4 – Does the appointment of a guardian for a party to a habeas petition foreclose the United States Court from considering a next friend's petition alleging violation of the Ward's rights?

Parties to the Proceedings Below

Petitioner is James J. Knochel.

Party to the petitions below is Emily Noelle Mihaylo ("Mihaylo"), who is now a ward of the State of Arizona.

Amy Fackrell ("Fackrell") was Executive Director of Viewpoint Dual Recovery, the business which formerly had custody of Mihaylo under color of law.

John C. Morris was head of Yavapai County, Arizona's adult probation department while Mihaylo was on probation.

Unknown Party, named as Medical Director - West Yavapai Guidance Clinic, was responsible for Mihaylo's involuntary mental health treatment program.

The State of Arizona is the respondent to this petition.

Related Cases

Pursuant to Supreme Court Rule 14.1(b)(iii), Petitioner states that the following proceedings are related:

In the United States District Court for the District of Arizona:

> In Re Emily Noelle Mihaylo, No. 18-cv-8004-PCT--GMS-JZB, U.S. District Court for the District of Arizona. Judgment entered February 7, 2018 (habeas #1)
>
> In Re Emily Noelle Mihaylo, No. 19-cv-8086-PCT--GMS-JZB, U.S. District Court for the District of Arizona. Judgments entered May 7, 2019, September 9, 2020 and November 13 2020 (habeas #2)
>
> Mihaylo v. Knochel, No. 19-cv-08137-PCT--GMS-JZB, U.S. District Court for the District of Arizona. Judgment entered May 20, 2019. (notice of removal)

In the United States Court of Appeals for the 9th Circuit:

> James Knochel, et al v. Amy Fackrell, et al, No. 19-16135, U.S. Court of Appeals for the 9th Circuit. Judgment entered July 22 2019. (habeas #2 appeal)
>
> Emily Mihaylo v. James Knochel, No. 19-16261, U.S. Court of Appeals for the 9th Circuit. Judgment entered October 24 2019. (removal appeal)

James Knochel, et al v. USDC-AZP, No. 20-73382, U.S. Court of Appeals for the 9th Circuit. Judgment entered December 8 2020. (petition for extraordinary writ)

James Knochel, et al v. Amy Fackrell, et al, No. 20-17326, U.S. Court of Appeals for the 9th Circuit. Judgment entered December 20, 2021 (vexatious litigant appeal)

In the Supreme Court of the United States:

In re James J Knochel. No. 21-6444, Supreme Court of the United States. Judgment entered February 22, 2022 and April 18, 2022.

In the Arizona Superior Court:

In the Matter of the Guardianship of and Conservatorship for: Emily N Mihaylo. Maricopa County Superior Court, No. PB 2019-002031. Ongoing. Minute entry confirming fraud on the United States Court was entered April 05, 2021.

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Petition for Writ of Certiorari

Petitioner James J. Knochel respectfully requests Certiorari of the United States Court of Appeals for the 9th Circuit's memorandum decision issued on December 20, 2021, which affirms the U.S. District Court for the District of Arizona's order declaring Petitioner vexatious.

Statement of Jurisdiction

The U.S. Court of Appeals' judgment was entered on December 20, 2021.

Petitioner's application for extension of time, #21A512, was granted on March 16, 2022. This extended the time to file this petition until May 19, 2022.

Jurisdiction to review the U.S. Court of Appeals for the 9th Circuit's memorandum decision is conferred by 28 USC § 1254.

Constitutional and Statutory Provisions

Article I, Section 9, Clause 2 of the Constitution of the United States:

> The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

The 14th Amendment to the United States Constitution:

> All persons born or naturalized in the United States, and subject to the

> jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The 1st Amendment to the United States Constitution protects freedom of association.

The 8th Amendment to the United States Constitution:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

28 USC § 2242 allows for application for habeas corpus by someone acting on behalf of the party to the petition.

28 USC § 2254(b)(1)(B)(i) and (ii) allow the federal courts to consider petitions for writ of habeas corpus for persons in state custody, even when state court remedies cannot be exhausted by the next friend because the state court will not consider the merits of filed petitions.

Statement of the Case

The present issue before this court is that Petitioner is declared vexatious by the U.S. District Court for the district of Arizona on the basis of a fraudulent motion to dismiss. Petitioner has evidence of this

claim, but the courts below pretend that the case law does not actually require an evidentiary hearing.

On January 11 2018 Petitioner filed a petition for writ of habeas corpus in the U.S. District Court for the District of Arizona on behalf of Emily Mihaylo ("Mihaylo" or "Ms. Mihaylo"), docketed as 18-CV-08004-PCT-GMS(JZB). This filing precisely detailed how the state court had been properly petitioned but was derelict in its duty to justice.

The district court next docketed an informal typed letter on January 24 2018 as a "motion to dismiss". This informal motion was printed on the business stationary of the treatment center with Mihaylo's custody pursuant to the state court's order.

Petitioner promptly filed to point out that the motion to dismiss was obviously fraudulent, and was most likely written by the respondent to the habeas petition. The supposed motion to dismiss was granted, and the habeas petition was dismissed without prejudice (Appendix G), without the evidentiary hearing required by the cited case law.

Petitioner specifically requested an evidentiary hearing on the fraudulent "motion to dismiss", but the district court and court of appeals refuse to acknowledge this requirement of the case law.

The evidence of the fraudulence of the motion to dismiss takes the form of Mihaylo's own notarized filings to the U.S. District Court and the U.S. Court of Appeals, witnesses, evidence, Petitioner's video interview of Mihaylo and other videos posted to YouTube, the state court's public record, and records of Mihaylo's subsequent arrest at Petitioner's home.

Mihaylo was abandoned by her guardian at a care home for disabled adults in December 2020. Mihaylo wrote the Arizona Superior Court for a status hearing on July 10 2020, but this filing was ignored by the Superior Court.

Mihaylo filed a written request for a replacement guardian pursuant to the provisions of state law. This request was docketed on December 14 2020, but was never addressed by the Arizona State Court.

Petitioner filed to replace Mihaylo's guardian in the State Court in December 2020. Mihaylo's guardian filed a counter-petition for protective order.

In the filings of Maricopa County Superior Court, No. PB 2019-002031, Mihaylo's guardian claims the fraudulent motion to dismiss, USD-AZ #18-CV-8004 (doc 8), was filed by Mihaylo with "assistance" from the business with Mihaylo's custody, ViewPoint Dual Recovery (Respondent Fackrell's business).

Petitioner was ordered to have no contact with Mihaylo on April 5, 2021. The minute entry granting Mihaylo's guardian's counter petition for protective order establishes fraud on the U.S. Court.

Mihaylo was arrested by the Yavapai County Sheriff at Petitioner's home on July 11, 2021, on an outstanding warrant. These arrest records establish fraud on the court.

Mihaylo returned for her backpack about a week later. Transportation records evidence this trip.

Make-Believe Justice

The district court's orders repeatedly quote the fraudulent letter docketed as a 'motion to dismiss':

> "[A]t no time did I file this claim and I would like it to be removed. I believe that my ex-boyfriend used my information to file this claim. The reason he filed this claim is unknown to me. Moving forward[,] I would like to have this case dismissed, thrown out, and terminated all together."

(Appendix C pg A-6 and A-13, Appendix D pg A-20 and A-33, Appendix F pg A-42, Appendix G pg A-48)

The specific phrasings of "claim" and "dismissed, thrown out, and terminated all together" are lawyer-speak. ViewPoint Dual Recovery's website says Respondent Fackrell is a J.D.; Mihaylo shared how Fackrell formerly practiced criminal defense law. Fackrell simply made 'one little mistake' in using business stationary to print this fraudulent letter.

The District Court repeatedly acknowledges Petitioner's allegations that this 'motion to dismiss' is fraudulent, but does not share how it decided this controversy. For example:

> On January 26, 2018, Mr. Knochel filed a "Response" to the Motion, suggesting that the Motion had not been written by Ms. Mihaylo, or at least not by her "of her own free will," and that the Motion otherwise is "evidence of [Petitioner's] status as a vulnerable person, and as

> further justification for the necessity of appointed counsel for [Ms.] Mihaylo."

(Appendix C pg A-6 and Appendix D pg A-20)

> In his Rule 60 Motion, Mr. Knochel continues to insist that the January 24, 2018 letter in case no. CV 18-08004-PCT-GMS (JZB) was not sent by Ms. Mihaylo, but was a fraudulent document sent by the administrators of Ms. Mihaylo's mental healthcare facility that constituted a "fraud on the court"; states that the Order of Protection that Ms. Mihaylo obtained against him was "coerced"; [...]

(Appendix D, pg A-27)

Petitioner shared with the district court how Ms. Mihaylo was coerced (presumably by Respondent Fackrell) into filing for an injunction against harassment (granted as an order of protection, even though the filed petition had no allegations of 'domestic violence'). Petitioner knew this petition for injunction against harassment was coerced because Ms. Mihaylo enlisted Petitioner's help to escape from Fackrell's custody in July 2019.

The District Court took Petitioner's relations of the coerced order of protection out of the provided context. Petitioner has catalogued copious evidence and witnesses that Ms. Mihaylo was indeed coerced into filing for an injunction against harassment against him. For example, the Prescott City Attorney declined to prosecute Ms. Mihaylo (who had deteriorated on account of her untreated alcohol

problems & had struck Knochel while they were driving in September 2019). The City Attorney also declined to prosecute Knochel for being technically in violation of the supposed "order of protection".

The District Court misrepresents the District Court's own public record:

> Mr. Knochel **also provides a letter, which he purports** to have been handwritten by Petitioner, stating that "the letter that I signed was not written by me. I was pressured into signing it by ViewPoint staff."

(Appendix F, pg A-43)

The notarized handwritten letter was originally mailed to the court and docketed by the clerk into 18-cv-8004 (doc 14) as a Notice. A *copy* of the docketed Notice was 'provided' in 19-cv-8086.

Mihaylo escaped from captivity in November 2020. Petitioner used this opportunity to obtain Mihaylo's signature for a joint petition for extraordinary writ to the U.S. Court of Appeals for the 9th Circuit (No. 20-73382). The Court of Appeals indicates it did not believe Mihaylo's notarized signatures on the joint petition for extraordinary writ were genuine:

> "No further filings will be accepted in this closed case, and any continued attempts by James Knochel **to submit filings in this court on behalf of Emily Mihaylo** may result in sanctions or a vexatious litigant order. DENIED."

(Appendix B, pg A-4)

That filing was NOT "on behalf", it was a joint petition, was written cooperatively, and was freely signed by Mihaylo in front of a public notary.

The District Court dismissed without prejudice without conducting evidentiary hearings as to whether Ms Mihaylo was capable of filing without assistance, and explained itself with this statement:

> "That the Court dismissed the actions without prejudice was to preserve *Ms. Mihaylo's* rights to bring any claims she wished [...]"

(Appendix C, pg A-12)

The essence of this Petition is that Mihaylo is incapable of bringing any claims while she is forcibly psychiatrically deteriorated with medications that sedate her cognitive functions.

The district court furthermore says that people who have guardians cannot enlist the help of their friends to protest the violations of their rights:

> To the extent Mr. Knochel also argues that Rule 60(d)(3) allows this Court to "set aside a judgment for fraud on the Court," he has failed to demonstrate that he has standing to seek such relief. **Indeed, the fact that Ms. Mihaylo has had a guardian appointed for her who "formally prohibits Mihaylo and Knochel's contact" supports that Mr. Knochel is legally unable to act in Ms. Mihaylo's interests.**

(Appendix D, pg A-29. Emphasis added)

The District Court misrepresents the proceedings in Mihaylo's guardianship case in the Arizona State Court:

> Further, the fact that Ms. Mihaylo was able to file, on her own, a motion challenging her guardian's actions in Maricopa County Superior Court (see Doc. 14 at 23-25) suggests that she is able to pursue relief without Mr. Knochel's assistance. *Whitmore v. Arkansas*, 495 U.S. 149, 163–64 (1990).

(Appendix D, pg A-29/30)

In the real world, the Maricopa County Superior Court never acted on Ms Mihaylo's own "motion challenging her guardian's actions".

What more can forcibly sedated persons do for themselves than write simple letters to the probate court with control of the entirety of their rights? As the State Court has repeatedly ignored Mihaylo's complaints, and her attorneys only do the minimum to collect their fees, Mihaylo's only option for self-preservation is to escape from her color-of-law confinement.

As discussed below, the authority cited by the district court in the quote above, *Whitmore v. Arkansas*, 495 U.S. 149, clearly requires an evidentiary hearing before dismissing a next friend's petition for relief, but the District Court blatantly ignores this requirement.

Compelling Reasons for Granting Petition

Rule 10 provides "A petition for a writ of certiorari will be granted only for compelling reasons."

Petitioner cites Sup. Ct. Rule 10(a): "a United States court of appeals has entered a decision [that is] so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power".

Petitioner has videos from August 2015 which prove Mihaylo was misdiagnosed by the mental health industry, and that her alleged 'mental disorder' is created by the treatments forced on her by the Arizona State Court.

The District Court avoids considering Petitioner's videos, which falsify mainstream Medicine's approach to mental illness, by endorsing Respondents' fraud on the court and declaring Petitioner vexatious.

One shouldn't require videos of misdiagnosis to avoid involuntary treatment with the Soviets' preferred medication for torture of dissidents.

No one in power cares about the plight of those who are abused by the country's various involuntary treatment programs. Those slandered as 'mentally ill' live on an animal farm, where they have no right to refuse degenerative FDA-approved prescriptions.

The case law REQUIRES evidentiary hearing

That prerequisite for "next friend" standing is not satisfied **where an**

> **evidentiary hearing shows** that the defendant has given a knowing, intelligent, and voluntary waiver of his right to proceed, and his access to court is otherwise unimpeded.

-*Whitmore v. Arkansas*, 495 U.S. 149 at 165 (emphasis added, citation omitted).

Whitmore was a case where death row inmate Simmons no longer wished to challenge his sentence. Whitmore was a fellow inmate on the Arkansas death row.

> Although we are not here faced with the question **whether a hearing on mental competency is required** by the United States Constitution **whenever a capital defendant desires to terminate further proceedings**, such a hearing will obviously bear on **whether the defendant is able to proceed on his own behalf.**

-*Whitmore v. Arkansas*, 495 U.S. 149 at 165 (emphasis added, citation omitted).

The present petition raises significant questions on mental competency, and the rights afforded by the United States Constitution to those held captive by do-gooders who are engaged in de-facto capital punishment. Petitioner believes that forcing a person to take medications that make them suicidal or self-harm, as Mihaylo has endured, is negligence and should be prosecuted.

> The Supreme Court of Arkansas requires a competency hearing as a matter of state law, and in this case it affirmed the trial court's finding that Simmons had "the capacity to understand the choice between life and death and to knowingly and intelligently waive any and all rights to appeal his sentence.

-*Whitmore v. Arkansas*, 495 U.S. 149 at 165 (citation omitted).

In the present case, the Arizona State Court has declared Mihaylo incompetent. Petitioner's evidence is that Mihaylo's incompetence is transitory, and is caused by malnourishment, substance abuse, and psychiatric medications.

Petitioner is meticulous

Petitioner is treated by the courts below as an obnoxious harasser. In the real world, at every step of their legal odyssey over the last 6+ years, Petitioner has been meticulous in his efforts to extract his friend, Emily Mihaylo, from her misdiagnosis and mistreatment by the mental health industry.

Petitioner's September 21, 2015 petition to the Arizona State Court was a textbook-perfect example of how the privilege of habeas corpus is supposed to work: the Arizona Superior Court considered Petitioner's next-friend habeas petition, found the hospital's legal authority to hold Mihaylo against her will had expired and ordered her released. Petitioner

made the mistake of expecting that hospital to respect the Arizona Superior Court's order.

Petitioner's subsequent efforts in the Arizona Superior Court were similarly acceptable, but were blocked by 'a rural judge who will never rule against the community's non-profit mental health service provider' (quote of an anonymous person who was familiar with Petitioner's petitions and appeal in the state court). The state appellate judges and justices similarly would not declare the state's involuntary treatment system unconstitutional.

While it may not be this court's place to tell doctors that they don't always know what they're doing, it is the requirement of Constitutional governance that doctors be required to respect bodily autonomy. If a citizen of the United States does not consent to being injected with the Soviets' preferred medication for dissident re-education, doctors should not able to use the courts to force this, or any other drug, approved or experimental, on any person.

The principle of health freedom requires that people be allowed to make decisions for themselves, without coercion from others. If a person doesn't want to have their brain electrocuted by their doctor, they shouldn't be forced to endure this treatment. If a person is concerned they'll have an adverse reaction to a medication or condition that the experts think is good for everyone, there can be no coercion against people making decisions for themselves, no matter their perceived competency.

If this court cares about its legitimacy, it must grant this petition. There was nothing wrong with #21-6444. Petitioner can only assume the #21-6444

petition (and the petition for rehearing) were not actually read by your clerks.

Petitioner's friend, Emily Mihaylo, has endured another six months of *medical assault* since #21-6444 was filed.

Petitioner is aware that Mihaylo has yet again escaped from her latest care home. After some time on the run, she has apparently found a 'roof over her head' for the last few nights (May 15, 2022).

All petitioner asks for is an evidentiary hearing, so the U.S. Court can consider whether Petitioner's November 9 2020 interview of his friend actually proves that Respondents in fact perpetrated fraud on the United States District Court in January 2018.

This video is available for all to consider, no matter this court's decision:
https://www.youtube.com/watch?v=CxWseFuHPWo

Conclusion

Petitioner thinks back to his experience of being prosecuted by the State of Arizona for trying to exercise the privilege of habeas corpus on behalf of his friend, Emily Mihaylo. Petitioner's criminal defense attorney observed, "you enjoy this." This was more an observation that Petitioner is good at deciphering puzzles, case law, and putting together comprehensive arguments, than Petitioner's 'enjoying' getting animal farm'd by the United States' various courts.

The modern involuntary mental health industry is a fundamental miscarriage of justice for everyone who

endures forced obsolete treatments. This can be easily corrected in an instant with this court's ruling that medical professionals must respect their patients' rights to refuse medical treatment, and with this court's ruling that the mental health industry is not actually above the law.

While Petitioner has paid to have this cert petition professionally printed, Petitioner is capable of printing his own future paid petitions for extraordinary writs on the required weights of paper to minimize the cost of future petitions. Petitioner has an acquaintance with an antique paper-chopper that can cut printouts of future petitions to the required size.

Petitioner is also considering starting a crowd funding campaign for the purpose of raising funds to remove the Soviets' techniques of torture from American medicine: modern medical professionals need help updating their 'standard of care'.

Wherefore Petitioner prays for relief.

May 19, 2022.

Respectfully Submitted,

/s/

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