IN THE

SUPREME COURT

OF THE

UNITED STATES OF AMERICA

No. 21-5594

Daniel J. Heffley *Petitioner* v. Pennsylvania et al. *Respondents*

Second Submission
of

Petition for Panel Rehearing and Rehearing *En Banc*

1. This court is aware the Petitioner is self-represented (*pro se*) in this attempt to seek justice. As such he may only bring claims on his own behalf.

2. The court is also aware that the Petitioner is disabled and as such is incapable of reading, writing, or submitting these and other documents in his own hand.

3. In this the Petitioner is assisted by his duly appointed Facilitator. The Facilitator is not the litigant but rather a clumsy conduit of communications.

4. That Facilitator has made it saliently clear that he himself, while moderately intelligent and reasonably skilled in the English language, is deficient in the interpretation of language as used in the **context of the law**.

Grounds for this Petition:

5. The "intervening circumstances" of "substantial or controlling effect," is that the Petitioner is entitled by statute (ADA/504) to accommodations.

6. This singular consideration has haunted both this case and its companion (Heffley v. Steele No. 20-8301) case since their inception.

7. The Federal Court, as has the state court before it, has been profoundly consistent in its abject failure to give any consideration whatsoever to the Petitioners rights associated with Disability Law.

8. It can be wrongly argued that the courts, in accepting the Petitioners numerous pleadings, has viewed the participation of a facilitator as an accommodation.

9. However, it is the statute that grants the Petitioner his chosen Facilitator. Who the facilitator may be or what assistance the facilitator may provide to the petitioner is not within the court's purview. The Petitioner's appointment of a facilitator is not analogous to disability accommodations.

10. The Act itself defines that a disabled person may best be served by a friend, family member or advocate that has domain knowledge of the individual that needs help. In this case the Facilitator is the Petitioners father. This is as it should be.

11. The lower courts failure to provide the requested accommodations insured that the Petitioner would not live up to the court's expectations in the execution of his pleadings.

Other Substantial Grounds (not previously presented):

12. Judicial and Sovereign Immunity – It appears to the Petitioner (layman) that the system is reluctant to take acception to its own failures.

13. Perhaps best illustrated by the district courts reluctance to allow the Petitioner to explore the issue of a fraudulent document submitted to the DOJ by the family court judge. This singular issue is represented to this court in the following pages under the title of Fraud.

14. It is true that we as a culture are beholding to the profound contributions made by those trained in law.

15. But not all. There seems to be a prevailing undercurrent of protectionism within the jurisprudence culture, that the Petitioner is bucking against.

16. In other words, if the Petitioner echoes a complaint of obvious creditability and demands accountability but does not couch the concerns in legal terms and citations, the complaints are dismissed.

17. Immunity seems to have been redefined as omnipotence which has carried a reluctance to truly examine the performance of the judiciary.

18. If one time, the various reviewers of the Petitioners pleadings, said to themselves that had the Petitioner presented the argument in a different fashion it would hold water, this entire case should be reviewed.

19. The Petitioner and his facilitator will match all but a very few in honesty, logic, common sense, and fairness. Those qualities are the basis of all that we do.

Attached Certificate

20. This submission was returned for a failure to follow Rule 44. Absent the requested accommodations of a "law school student" or "*Pro Se* Clerk" neither the Petitioner nor his facilitator could figure out what a certificate would look like.

21. Searches of the internet did not produce a sample and the Petitioner made a good faith effort and provided a document labeled "certificate." That document is included here in this submission.

22. By happenstance, the facilitator recently found a copy of a "Certificate" submitted in another case. The Certificate immediately attached here follows that templet.

23. It is hardly appropriate for any court to have expectations of compliance when addressing the uninitiated.

Executed on November 23, 2021

Daniel J. Heffley
Disabled, *Pro se*, Indigent

Note: Readings have more or less revealed that this court simply does not have the time to read all of this awkwardly and ineffectual dribble. A better application of common sense, in the lower courts, would have spared both this court and this conveyor of unqualified arguments, a measure of time and effort. In this we are both equally frustrated.

IN THE

SUPREME COURT

OF THE

UNITED STATES OF AMERICA

No. 21-5594

Daniel J. Heffley *Petitioner* v. Pennsylvania et al. *Respondents*

Petition for Panel Rehearing and Rehearing *En Banc*

In the original Writ of Certiorari dated August 10, 2021, the petitioner establishes that he is unable to read, write or execute documents unless assisted by his facilitator. This is a laborious task, but it is what we are doing here. Therefore;

The petitioner expresses a belief, based on reason, common sense, and fairness that the Panel did not give appropriate consideration to the fact that the Petitioner should have been afforded accommodations and requests for the same were ignored.

The Petition for Certiorari asked three (3) relatively simple and distinct questions to wit:

1. DOES THE FEDERAL COURT HAVE AN OBLIGATION TO FOLLOW THE SPIRIT AND LETTER OF THE ADA AND 504 OF THE REHABILITATION ACT?

2. DOES THE FAILURE OF THE LOWER COURTS, TO ACCOMMODATE THE DISABLED PETITIONER, RISE TO THE LEVEL OF DELIBERATE INDIFFERENCE AND DISCRIMINATORY INTENT?

3. HAS THE LACK OF DISABILITY ACCOMMODATIONS IMPACTED DUE PROCESS?

These questions were distributed for Conference of 10/15/21 and a **denial** was issued on October 18, 2021. This denial has not been docketed.

These above questions where rhetorical in nature as the Federal court system clearly has a statutory obligation under the ADA and 504 to provide accommodations to the disabled and the lower court's refusal to provide those accommodations was deliberate and virtually eliminated the Petitioners ability to participate in his own case.

The seminal issue in this case is the Western Districts failure to review the Petitioners numerous requests for accommodations against the backdrop of his communications handicap.

The district court was both indifferent and negligent in the execution of its duty to have done so.

Instead of conducting a review as required by the ADA, both lower courts rather executed an academic review of doctrine and law and forward the finding that the Petitioners pleadings were deficient.

Of course, they were flawed in this specialized environment. They were executed by one who can neither read nor write but was rather assisted in the laborious tasks by his facilitator.

The appeal to the Third Circuit Court should have been sufficient to convince that court, that the district court displayed negligent indifference to its obligation to both the civil laws and the ADA.

Had the district court provided even the most rudimentary of help it would have had a semblance of creditability in its academic review of the Petitioners complaints.

Judicial Bias

The district courts handling of the Petitioners case was correct if we remove that courts obligation under the acts that define the methodology to be applied to a disabled litigant.

It is the Petitioners view that the 3rd Circuit was reluctant to address the underlining issue of disability rights in that that court chose to be supportive of the esoteric review executed by the district court.

In turn the district court appears to be protecting the family court judge.

To the petitioner this it a transgression and the above provides a motive.

The Petitioner would like this court to be mindful that the federal judiciary exists to judicate the laws of the land. Those tools, doctrines, rules and processes clumsily stumbled over by the Petitioner are ancillary to the law. They are not the law itself.

While ignorance of the law is not a defense for violating law, ignorance of the process is more than justifiable when breached by the uninitiated, indigent, disabled *pro se* litigant who was denied accommodations.

The petitioners' rights were violated and in pursuit of justice the Petitioner stood in sacrilege of the vary rules and regulations that the citizenry itself allows the court to create and institute. It was not purposeful as we were making a good faith effort.

In other words, the court served neither the law nor the citizenry but rather protected the paradigm. Not the statues nor case law but rather rules and doctrine that have been made up along the way. In this, the court may have lost sight of its purpose.

Fraud

Most telling is the commentary by the district court when it responded to the Petitioners assertion that the family court judge committed the crime of fraud. (see page 13 of the District Courts Opinion)

The district court suggest that such an allegation needs more "OOMPH."

Where does one get oomph? The comment and assessment clearly defines that the western district judge had a bias to protect the family court judge.

Discovery would have provided the "oomph."

It appears that this derogatory comment betrays the singular issue that motivated the district court to withhold the accommodations that it was otherwise obligated to provide.

Protecting the integrity of the court and the profession of law has resulted in dire consequences to the Petitioner.

Summary

It is absurd and runs counter common sense, reason, logic and fairness to have expectations of a layman, who is disabled, to execute a pleading in federal or any other court. It is equally absurd to apply the Tabron doctrine exclusive of consideration of ADA required accommodations. Further, with regard to statutes of limitations, ignoring the "reasonable knowing" standard, to a disabled man, simply has no merit.

Please review this in tandem with Case 20-8301.

Executed on November 8, 2021

Daniel J. Heffley

Pro Se, Indigent and Disabled

~ CERTIFICATE ~

This case has brought forward an issue of significant national importance. The issue of disability law is badly in need of the Supreme Courts authoritative voice. The lower courts did not properly apply the law to the facts. The Petitioner has brought this issue to this court's doorstep in an awkward and clumsy fashion due to his own inability to research and cite where the lower courts are confused, divergent, or rebellious.

The following **"Petition for a Panel Rehearing and Rehearing En Blanc"** presents a question of **exceptional importance** as it represents an abridgement of the Petitioners statutory defined rights as a disabled man. Both lower courts have allowed an intolerable conflict to exist and the error in judgment is so important that it must be corrected immediately.

The Petitioners disabilities blocked him from understanding the procedures/language and from vigorously participating in the court's proceedings. It can be argued that in such circumstances only an attorney can provide the knowledge, energy, strategy, translation and understanding to mount a case. That the appointment of an attorney is the only reasonable accommodations under Title II. However, it is noteworthy that the Petitioner requested disability accommodations that were much less intrusive on the lower courts time and resources.

Both the ADA/504 create a duty to gather sufficient information from the disabled individual and qualified experts as needed to determine what accommodations are necessary. The lower court did not execute such a review.

The ADA/504 does not prescribe specifically what would be an appropriate assistance for each disability accommodation requested. In recognition of this fact the petitioner asked the lower court for an advisory counsel in the form of a *pro se* clerk, law school student or pathway to a clinic to aid in both the receptive and expressive communications used within the jurisprudence paradigm.

Absent the available accommodations, virtually all missteps in the presentation of the pleadings, were executed in the facilitators hand. A hand that trembled and proved incapable of grasping needed legal arguments.

Perhaps most significant among those missteps was a copy and paste error that included a reference to 1983, thereby eliminating all constitutional claims as none of the defendants were state actors. This serves as but one example to silence any consideration that the case itself was not meritorious.

Most notable here, is that the facilitator was not the litigant but rather just a father dutifully trying to help his son who had a stroke and was rendered disabled and incapable of execution in the science and art of law. The facilitator has failed in this parental obligation. Therefore, the Petitioner still has not seen his children since February 4, 2014. All because the court itself has failed in its responsibility to both the law and the individual.

At issue in this presentation is the lower courts failure to first evaluate the Petitioners capabilities and deficits and then make a responsible determination with regards to ADA/504 mandated accommodations. The district court simply ignored all the above and was silent on the issues raised in the pleadings.

The courts services were not equally accessible to the disabled petitioner as they are to the less challenged litigants. A circumstance readily remedied by the court, had it chose to provide appropriate alternative aids and services.

Absent the specialized knowledge necessary to make a recommendation the Petitioner request that this above consideration be given prominence as one that has **exceptional importance** as it remains neglected in the lower courts.

If this writing satisfies Rule 44, it is only by luck that it has done so. If it does not satisfy Rule 44, it is due to the lower courts failure to recognize the pronouncements of the ADA/504.

Executed on November 8, 2021

Daniel J. Heffley

Pro Se, Indigent and Disabled

Certificate

IN THE

SUPREME COURT

OF THE

UNITED STATES OF AMERICA

No. **20 - 8301**

Daniel J. Heffley v. Kimberly Steele et al.

Petitioner *Respondents*

RULE 44 CERTIFICATE

As required by Supreme Court Rule 44.2, I certify that the Petition for Panel Rehearing and Rehearing *En Banc* is limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented in a convincing and comprehensive way by the Petitioners inexperienced, inept and inadequate Facilitator. That the Petitioner is presenting this in good faith and not to delay or exacerbate the process.

Further, the delay in forwarding this Certificate is due to the Facilitators failure, despite numerous searches, to find a templet or pattern defining exactly what such a certificate associated with Rule 44 would look like. Today's search has stumbled upon the above template.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 23, 2021

Daniel J. Heffley
Disabled, *Pro se*, Indigent