

No. 6765

IN THE

SUPREME COURT OF THE UNITED STATES

HITOSHI OMBE – PETITIONER

vs.

GEORGE COOK, ET. AL. – RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals

for the Tenth Circuit

PETITION FOR REHEARING OF THE ORDER DENYING

PETITION FOR A WRIT OF CERTIORARI

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**PETITION FOR REHEARING OF THE ORDER DENYING
PETITION FOR WRIT OF CERTIORARI**

A. Controlling ground by Rule 44.2

For the first time since April 2010, I have an understanding that the cause of the entirety of the matter is the question of apathy to disability rights and issues (“the apathy”) on the part of the Inferior Courts (“NM District Court” and “Tenth Circuit Court”), Respondents, and Respondents Lawyers. My ability to interpret information (written and observed) at more advanced level is substantially limited due to disability (autism spectrum disorder or ASD). This ability is essential to perform activities such as communication, pleadings, arguing and so on. However, I lost this ability completely because of the mental illness, especially, depression¹. The responsible parties of my mental illness are all the people involved with my cases because they failed due diligence due to the apathy. This is the first time I present about the apathy to disability rights and issues and clearly a good controlling ground of Rule 44.2.

Because of the apathy, not only the Inferior Courts materially mishandled my cases but also imposed on me health hazard proceedings.

The Tenth Circuit has been maintaining the operational standard of the disability exclusion (for poor pro se litigants with disability) by insisting on the case Garret v. Selby Connor Maddux & Janer, 425 F.3d 836, 840 (10-th Cir. 2005), which is nothing to do with disability rights and issues, and on disregarding disability rights and issues without any opportunity to fully discuss them despite of the fact that I repeatedly requested a full hearing on them. The cause of these is a failure of due diligence because of the apathy among the judges and lawyers, namely District Judge, Magistrate Judge, all the Circuit Judges, and Five Respondent Lawyers. They never did understand that people with a disability are unable to enjoy the rights and privileges in the same manner as people without disability enjoy the rights and privileges without disability accommodation. By demonstrated attitude, they are strong advocate for disability exclusion. This is against the national goal to make the United States disability inclusion evidenced by legislation of disability rights laws such as the Americans with Disabilities Act,

¹ The medical record of April 03, 2015 by First Choice Community Health, NM is on file with DNM No. 14-CV-00763. It includes diagnosis of depression. The judge ignored the seriousness.

Individuals with Disabilities Education Act, Rehabilitation Act and so on. The negative effect of this on my brain function was detrimental and lasted until most recently.

This is a rare case. The only way to resolve any of my cases meaningfully and satisfactory instead of mere bureaucratic process is that a qualified judge (or special master) with strong interest in disability rights and issues must be assigned to my cases. If not, there is absolutely no expectation to have any chance to prevail or to have a meaningful resolution of any of my cases. The denial of the PETITION FOR WRIT OF CERTIORARI proves that all of my efforts made in an extremely hostile, or even cruel and emotionally violent environment for years have been completely wasted by the judges and lawyers of the Inferior Courts, who failed due diligence because of the apathy. Absurdly, they have little background of disability in general, no background of the ASD, in particular. On the other hand, the Court duty and responsibility are to make sure that I may fully avail myself of the justice system but never merely process the cases. This includes that the Court never imposes anything that is health hazard. Imposition of anything health hazard exceeds the power of the Court granted by the Constitution. But, what the Inferior Courts imposed on me was indeed health hazard and severely damaged my health and brain function on top of the pre-existence conditions caused by the Respondents. Thus, the Inferior Courts exceeded their power granted by the Constitution. Consequently, the proceedings in the Inferior Courts are unconstitutional. The Inferior Courts did not have any respect to me at all by abusing their power and control via chronic and never-ending infliction emotional distress for at least four years.

The attitude like this among authority affects as many as 61 millions or 26 % of adults living with a disability in the United States because the ultimate issue of disability is your attitude and the environment you create to interact with them. This case is the tip of the iceberg. The figure is by the Centers for Disease Control and Prevention (“CDC”, cdc.gov).

Any of my cases should have been resolved by now if the operational standard of the Inferior Courts were constitutionally sound and disability inclusion.

Additionally, at the time I requested services from NM Division of Vocational Rehabilitation

("DVR") and Disability Rights New Mexico, Inc. ("DRNM"), they had the apathy despite the fact that they are required to have emphasis to disability rights and issues. This caused the pre-existence conditions of severe mental illness with depression and anxiety at the time of commencement of actions against them. At the same, the employer Clines Corners had hostile work environment against my disability for six years. If the DVR and DRNM were strong advocate for disability rights as they were required to be, then I would have not needed to litigate against them.

The ultimate issue is environmental. Two preparatory materials are needed to see this.

B. The reason why lawyers and judges have tendency to have the apathy.

The mindset of lawyers and judges is to follow laws and rules, but not make exceptions to them. On the other hand, disability accommodation means to make exceptions so that people with a disability can comfortably function. Thus, both judges and lawyers face two conflicting demands, when facing a person with disability. Thus, it is essential that judges and lawyers make an extra concerned and diligent efforts to handle the situations so that no unwarranted or unexpected problems and issues could develop.

All of the judges and lawyers of my cases failed to convince me that they made these crucial efforts from their attitude and conduct. In fact, they acted like a chosen advocate for disability exclusion. They do not have excusable reasons for their lack of efforts on this, given that they hold privileged public citizens status. This is the core reason that I have been repeatedly appealing to the best of my ability. Ultimately, they are against as many as 61 millions of adults living with a disability. Major evidences of these include (1) Tenth Circuit total refusal of consideration of disability issues included in my Opening Briefs, Appendix A, Appendix E -- their reasoning for denial of my appeals are not only incoherent but also divergent from the true issues(ill perceived lack of my efforts); – and (2) the total refusal of Tenth Circuit to review my PETITIONS FOR REHEARING EN BANC, Appendix C, Appendix D . The ultimate cause for their refusals is failure of due diligence because of the apathy. If they were interested in disability rights and issues, they could not have refused in the manner they refused.

C. The judges and lawyers of my cases do not have a sound understanding of the concept

of disability as a consequence of the apathy. Since disability is the main issue of all aspects of the proceedings of all of my cases, they are unqualified to process the disability cases for quality proceedings and decisions. They must have disqualified themselves for my cases. But they insisted on their qualifications without having actual qualifications.

Because of the complexity of the concept of disability, a casual understanding based on something like wheelchair disability is totally inadequate to deal with disability cases. A very substantial efforts to acquire sound understanding of the concept of disability are required. Absolute minimum background anybody involved with disability cases in any capacity is required to have a thorough familiarity with the definition. By the CDC, the definition which has three dimensions is

“A disability is any condition of the body or mind (impairment) that makes it more difficult for the person with the condition to do certain activities (activity limitation) and interact with the world around them (participation restriction).”

This is an adaptation of the International Classification of Functioning, Disability and Health (“ICF”) published by the World Health Organization (“WHO”) in 2001. The United States was one of the countries of the task force of producing this. The ICF views disability and functioning as outcomes of interactions between **health conditions** (disease, disorders and injuries) and **contextual factors**. The contextual factors are **external environmental factors**; and **internal personal factors**. Environment factors include social attitude. Personal factors influence how disability is experienced by the individual with disability. Also note that the ICF is also an attempt to standardize various terminology as “impairment,” “disability,” and “handicap” are often used interchangeably and confusing. In fact, I did not understand relationship among these until I read the ICF.

An essential point to remember is that disability issues include environmental factors and health conditions, while a common misconception of disability is that it is personal factors only. Consequently, a common misconception of disability is that “people with disabilities” is a single population. It is actually a diverse group of people with a wide range of needs. Two different persons with the same type of disability may have different needs. This WHO definition of disability serves the umbrella over the definition of disability of the ADA, 42 USC 12102, 29 CFR 1630.2. The ADA definition covers

diverse group of people with a wide range of needs as well. However, it leaves the issue of environmental factors and health conditions ambiguous. The judges and lawyers of my cases do not have a good understanding of this. In fact, I seriously challenge them if they have ever studied the definition. They sold me the rights to complaint against them. Yes, the proceeding was totally horrible experiences. (one complaint is pending, Case No. 10-21-9007, in the Tenth Circuit Judicial Council). The cause of my complaints against them is precisely their failure of due diligence because of the apathy.

Disability accommodation means to provide him an environment in which he can function comfortably. Failure to make disability accommodation means the environment is hostile.

For mental disorder cases, the absolute minimum requirement is:

"A mental disorder is a syndrome characterized by clinically significant disturbance in an individual's cognition, emotion regulation, or behavior that reflects a dysfunction in the psychological, biological, or developmental processes underlying mental functioning. Mental disorders are usually associated with significant distress or disability in social, occupational, or other important activities. An expect able or culturally approved response to a common stressor or loss such as the loss of the loved one, is not a mental disorder. Socially deviant behavior (e.g., political, religious, or sexual) and conflicts that are primarily between the individual and society are not mental disorders unless the deviance or conflict results from a dysfunction in the individual, as described above." (underline added)

This is the definition of a mental disorder by the American Psychiatric Association. DSM-5, page 20.

The underlined part is of essential importance. When you interact anyone with a mental disorder, you create an environment. It must never make him more distressed or disabled than he is actually distressed or disabled already. Again, the judges and lawyers of my cases always made me much more distressed and disabled than I was actually distressed and disabled at the time I commenced actions because they failed due diligence due to the apathy.

Finally, look at what is actually required to interact with anyone on the ASD successfully. This is from the legal document "AFFIDAVIT" by my supporter of more than 10 years. It is filed with the case Hitoshi Ombe v. Sierra Collision & Towing Services, LLC et. al., Case No. D-721-CV-2018-00151 (pending) (NMCourts.gov) on November 04, 2021.

Paragraph 13. "My experience with Autism which includes a nephew and niece as lead me to understand some issues these individuals encounter throughout their lives.

Issues like communication and social interaction skills that are out of norm in our society. What works best in my experience is providing them with an environment where they can explain how they interpret the subject matter. This is achieved through active listening and being very detailed in the way I explain my thoughts or opinions without assuming they understand as others may in the same social situation." (underline added)

Here note that he (the supporter) mentions "*providing... with an environment.*" Likewise, the EEOC Press Release on November 07, 2011 says "... *A reasonable accommodation is often minimum in cost and merely involves open communication between the employer and employee to make it work.*" (*underline added*). This is the EEOC's comment after the settlement of EEOC v. Tersada Hotels dba Comfort Suites, US District Court, SDCA No. 10-CV-1921. Again note that the importance of environment provided by open communication is emphasized. Additionally, active listening creates a favorable environment. The following should be a standard knowledge but no judge or lawyer has it.

An absolute requirement to remember here is that a person on the ASD can be easily distressed when the kind of environment is not provided. He could easily get depression and anxiety or infliction of emotional distress. DSM-5, page 55.

Again, I repeat that everybody in my cases failed to provide me with an environment which is appropriate to communicate and function comfortably. They do not know the importance of active listening. All of the Respondents, Inferior Courts and Respondents Lawyers failed on this because they failed due diligence due to the apathy. They are responsible for the consequences of their failure.

D. The reasons that the Respondents had the apathy

The DVR apathy can be seen from this example. By the Supervisory Review Report dated September 27, 2012, the reviewer directly denied my disability right by requiring me to have good communication ability to receive their service ("*There needs to be good communication and ongoing collaboration ... , Report page 3*"). If the DVR were interest in disability rights and issues as they are required, they could never say anything like this. Because communication disability is my major disability, they are required to accommodate my disability by Title II of the ADA and Section 504 of Rehabilitation Act, but they refused to do so. The contents of the Report are irrelevant to resolve the issues and problems I faced at that time. Throughout the entire process with the DVR from April 28, 2010 to March 27, 2014, they were never interested in my specific reason why I requested their

services. There was absolutely no conversation anything related to my disability needs with workplace setting. They do not have even the fundamental understanding of disability rights and issues. This is because they were just passively and mindlessly processing cases.

The DRNM apathy can be seen from this. The advocate from the Client Assistance Program has no interest in disability rights and issues. She has self-interest, is interested in advancing herself, and played blame-shifting game. The Supervisory Review Meeting held on September 12, 2012 became red herring by the reviewer's series of totally unexpected and irrelevant questions, while he refused to go over the important issues I requested to discuss in writing. My response to the questions were purely psychological and emotional. It was my constant visible upset and agitation for about hour until he gave up the meeting. DVR Case Note: 09/21/12. Thus her responsibility was to intervene the situations and direct the meeting on true issues. She did nothing because she totally failed due diligence of her responsibility. Later in her closing letter of April 14, 2014, she played blame-shifting game to protect her self-esteem and completely failed to address the true issues. A few examples are: *"I asked you if you knew of a specific person who could provide and facilitate that type of communication and you stated that you did not."* (pages 1-2). This is a totally fabricated statement to mislead authority and deceive herself. Since she refused to respond to my e-mail on October 10, 2012, I had absolutely no contact to anyone at the DRNM until near the end of March 2014 or early April 2014 when I somehow reached them again. Another example is *"You were not happy with her and asked DVR to allow you to pick up your own counselor, and DVR complied with that request."* The first part of this sentence proves that she does not have a required level of skills to deal with autism cases. Autism cases require her to communicate more directly. The second and third parts are her blame-shifting game to support the DVR instead of an independent advocate before the DVR. This is from Field Director Case Note: 10/24/12. The fact is that it was Director's offer "... I offered to provide him with a list of VR Counselors with whom I felt he could communicate well." Note "You (Hitoshi) asked.." v. "I (Director) offered..." Besides more the advocate was not involved with this part of the process at all. In fact, she refused it. All of these are illegal violation of the Title II of the ADA and Section 504 of the

Rehabilitation Act by creating hostile environment, and tell that she has the apathy.

As to the employer Clines Cornes, the general manager has apathy to his work, especially, he had a total disregard for my disability, because it is a hidden disability. He has a strong control desire. He was hardly in the store. Of course, he created hostile work environment against my disability.

E. The proceeding of the Inferior Courts is unconstitutional. Since the judges and lawyers failed due diligence because of the apathy, the Inferior Courts exceeded their constitutionally granted power. Consequently, what they imposed on me was a health hazard. If they had serious interests in disability rights and issues, they could not have imposed on me anything health hazard. The judges and lawyers background of disability rights and issues is none, to participate in any of my cases. They must have disqualified themselves for my cases. But, they insisted on their qualification. I am the gravely serious victim of totally incomprehensible, unaccountable and unreasonable behavior of these privileged people. This is a clear discrimination against my disability and vulnerability (I was most vulnerable during the proceedings due to severe mental illness, in particular, depression.) My energy was at an extremely low point in my life. I did not have self-confidence at all. My decisiveness was none. I did not have good night sleep. Food did not taste. To name just a few. Everybody made me most miserable for years and labeled me as irresponsible, lazy and stupid by his/her acts.

One hearing on my disability should have resolved the matter. But, all of my requests were denied due to the apathy. This is a public scandal when the public cannot know the whole truth of the matter. This is the reason why I have been struggling for years.

The total failure on the part of the Inferior Courts developed in this manner. The entire process was an institutional abuse of power and control via chronic and never-ending infliction of emotional distress. See the boxed information at pages 5 and 6. Disability is all about your attitude and environment you create. Poor or incorrect attitude by the authority is the problem. It is a problem for as many as 61 millions of adults living with a disability.

When I appeared to NM District Court representing by myself, there aroused the two immediate

questions.

Question 1: How the court should respond to my pro se status ?

Question 2: How the court should respond to my mental disorder (or disability) ?

Answers to these questions may result in inconsistency to implement. Question 1 is old but still relevant, and an eternal question, because today's court system is extremely complex and technical. Thus, without training or experiences, it is virtually impossible to navigate the system to expect any meaningful result. This is unfair for the poor who have no other choice but to represent themselves before the Court. The Tenth Circuit answer to Question 1 is to insist on Garret v. Selby Connor Maddux & Janer. It means there is absolutely no consideration to accommodate needs as appropriate. They require to have the same standard of performance as the performance of experienced and highly skilled attorneys as to the procedure. Of course, even though I understand the principle, it is trivial to understand that this is totally unreasonable and unrealistic expectation. There must be done something. I believe there should have some room to discuss without damaging the Federal Rules of Civil Procedure. However, for the purpose of argument, I leave it as it is even though I do not agree entirely.

Because of the apathy, they could never understand that Question 2 even exists and is far more important for me or anybody in my position. They did never understand Garret v. Selby Conner Maddux & Janer. is nothing to do with Question 2. Ultimate answer to Question 2 is how to provide an environment so that I could function comfortably. They did never provide me an environment in which I could function comfortably. They were always extremely hostile and emotionally violent. The cause of this is the apathy, and this resulted in imposing on me something health hazard. In an extremely hostile environment, nobody functions comfortably and fully. Yet, they labeled me as lazy and irresponsible by the demonstrated attitude of the Tenth Circuit via their ORDERS AND JUDGEMENTS, Appendix A, Appendix E, and ORDERS, Appendix C, Appendix G. In the end, the Inferior Courts have discriminated against my disability and mental illness, and made more ill than before litigation. As to the mental disorder and illness, the Court must never discount their seriousness by the definition of mental

disorder. All the judges of my cases of the Inferior Courts failed to take it seriously and discounted it to none, because they know mental disorders better than the American Psychiatric Association. This can never be acceptable by any standard of anything.

Here are a few selected events when the judge failed proper handling by creating hostile environment against my ASD and mental illness. The serious problem is that the judges and lawyers failed due diligence because of the apathy. First, the case DNM No. 16-CV-00763.

On February 17, 2015, Document 57, page 2, District Judge wrote "*... he appears to understand the issues in the case and appears to be representing in an intelligent and capable manner...*" This implies that he does not know the ASD. He made a completely wrong assumption on my ability. Here the issue is "intelligent". His usage of intelligent is to mean intellectual intelligence (or IQ). This implies that he does not have any background of the ASD. If he were familiar with the ASD, he should not have said this. For the ASD, the issue is emotional intelligence, not intellectual intelligence. Also, general understanding of the idea and understanding of details of the idea are two entirely different things. It is quite common that a person on the ASD generally understands the idea but has no understanding of its more detailed meaning. See for example Document 193 page 3. This is an example that the judge materially mishandled the case and started to impose on me health hazard from early stage of the case. Not only did the judge have the apathy but also he completely failed on due diligence on my ability. This essentially means that he messed up the case at very early stage and never corrected. Because of his complete refusal to have a hearing on my disability, there was no chance to remedy anything. The last refusal was on October 15, 2020. DNM No. 20-CV-786, Document 13.

The second stage is the proceeding from March 03, 2017. At the Status Conference on the same day, Magistrate Judge started by saying she had background of the ASD. However, the way she conducted herself proved that she does not have. It is impossible to say that she has any interest in disability rights and issues. In fact, the day proceeding was totally hostile. She totally failed to provide me an environment in which I could function comfortably, because she failed due diligence.

Since I knew the importance of Question 2, I brought some materials on my disability. Document

117. Because of the apathy, the judges and respondent lawyer disregarded them completely. Evidently, they did not know the basic meaning of mental disability other than classical example such as intellectual disability. Their understanding of concept of disability is no more than something like wheelchair disability. No understanding of the ASD. Of course, they did not do anything to resolve the case meaningfully. The court was completely biased. Note that I got much more distressed because the more the case progressed, more things that I did not understand accumulated in my mind. AWFUL.

Then came the Respondent Lawyer (MJ). He was also hostile. His conduct implies that he does not know how to interact with me. Although he allocated two hours for each meeting, it is absolutely insufficient because he totally lacked the skills described in pages 5-6. I started to work with him on March 17, 2017. The immediate problem was restlessness in addition to the existence condition. Restlessness is a sign of anxiety. It was the sign that I was required to take rest. But, I did not have my ability to communicate anything like this. Most doctor would not know my conditions without specialized training. Of course, he is the same without specialized training. By fall 2017, I was suffering from murderous emotional and psychological pain. There was no way, I could do anything meaningful. But, I did not have my ability to fully communicate my situations to anybody.

By fall 2017, the case dockets became large. The District Judge ordered me to show cause. Document 191. I knew the cause, but I could not state it clearly and requested a hearing. Document 197. He denied my explanation and request of a hearing. My ability to explain the cause was completely damaged due to depression caused by years of chronic and never-ending infliction of emotional distress. As of now, I can definitely say the cause. Since April 28, 2010, I was not getting anything at all. I was losing everything. I was never given even one meaningful opportunity either vocational rehabilitation or judicial proceeding. Absolutely nobody understood anything. The large case dockets were simply psychological and emotional response to the situation to try save something so that I could have a chance. Again, one good but not bureaucratic meeting (vocational rehabilitation) or one full hearing on my disability needs saved the matter. But absolutely nobody knew the essential importance of communication technique stated at page 6. Everybody failed due diligence because of

the apathy. In Document 197, I requested a hearing because I knew that if I were given an opportunity to communicate interactively, I could have much better chance to communicate my situations. But he refused it. All of the above took place in an extremely hostile environment for years. It was definitely health hazard. I suffered from continuous damages to my body which includes brain. It was very cruel time for years.

On February 20, 2020, District Judge issued, *sua sponte*, the appeal right. Document 198. The question is why he issued without my request? This is because he was not sure if he did good job. But, I am certain that he did not fully understand why the case went chaotic or why I miserably failed. He could have instantly understood by having a full hearing. But he failed because he was too rigid to the old idea and Garret v. Selby Connor Maddux & Janer. I was always thinking about Question 2 and he was evidently always thinking about Question 1. There was no communication until the end of the case Document 193. He never understood what he did was health hazard.

Emotionally and psychologically speaking, the same problem continued with the case DNM No. 20-CV-00786. On December 21, 2020 or more than 6 years after the first case was filed, the Tenth Circuit issued ORDER, CA10 No. 20-2166. It included a simple example to explain the nature of disability due to the ASD. On January 06, 2021, I explained the example as Substantially Limited Communication Ability including the implication of non-accommodation as the problem of anxiety and depression. Document 46, page 3. This is the only time I could present something in which he seemed to get some interested. It seems that he is only interested in something like anxiety and depression.

Ultimately, the Inferior Courts did NEVER show any interest in Question 2. Additionally, the District Judge does not have any background by which he is qualified for my cases.

What is missing in the Inferior Courts is that their approach to Question 2 is based on simple "Yes" or "No" answer without any information about the mental disorder (ASD). **This is an essential and fundamental error.** The ASD is very complex. There is no way to explain it in a simple way to anybody without any interest. It took me some years of research to fully understand the nature of the disability. This PETITION FOR REHEARING reflects my most current understanding of it.

One of the examples to show the issue is the ORDER AND JUDGMENT, Appendix E. It includes "Because Mr. Ombe is appearing pro se, we liberally construe his filings. Garret v. Selby Connor Maddux & Janer. Even so, we have some difficulty discerning the issues Mr. Ombe is attempting to raise on appeal." Here, the Tenth Circuit miserably failed to understand the serious issue on Question 2 involved. During judicial proceeding, the court is responsible to make sure they understand the matter fully and completely. Since I did not have the ability to fully communicate my appeal points due to mental illness (especially, depression), the court must never make hastily decision on the issue. In fact, I requested an oral argument to have an opportunity to clarify this by an interactive communication which is consistent with the technique to communicate persons on the ASD (page 6). If the judge were conversant with the ASD, he should most likely call for a hearing to make sure they understand the appeal point. But, because of the apathy of the Tenth Circuit, they made hastily incorrect decision. In other words, they do not know if they made a correct decision.

Overall, the Tenth Circuit is overly harsh for everyday Americans as pointed out by US Senate Dick Dirbin during the confirmation hearing of Justice Gorsuch. (I watched the YouTube video, and checked the official record.) Any authority must understand the nation's goal is disability inclusion but not disability exclusion. The Tenth Circuit is promoting for disability exclusion. So various decisions involved with any kind of disability must be made with utmost care. In case of the ASD, it is too complex to do anything without extra care such as hearing. Just following normal bureaucratic channel is most insufficient to protect the right of participants and overall quality of judicial proceeding. Overly following precedent without careful determination of relevant facts and circumstances should be stopped. No judge should be allowed to take any disability case, in particular, mental disorder, without any interest in the disability in question. The matter is too complex to allow such individual handle anything. It has too much risk to mess around. In particular, mental disorders are not visually apparent to see the person in front of you has the disorder. In my case, District Judge assumed too much about his background without having it at all. This never works. I can never give up anything until the truth is fully understood by the authority. This is the ASD. What the Inferior Courts did is mere bureaucracy and

has no judicial value at all. There has been no legitimate opportunity to present my cases, while one hearing should have saved all these astronomical magnitude of extra burden on me. All of these have done by the people with the apathy. They are insisting on disability exclusion.

F. On the question of my ability to pursue any case before any court or authority

This petition (rehearing) is focused on the apathy. This is a good example to explain on my disability. This is a more advanced and sophisticated concept. To understand this requires the ability to interpret factual information and make an abstraction. This ability is essential to make pleading, arguing, and so on. People on ASD do not have as good ability to do this as most people have. It is more a learned ability for ASD, while it is a natural or even innate ability for most people.

However, when I had depression, this ability disappeared. This means that I did not have the essential ability to pursue any case before any court or authority to expect any tangible result, unless the judge or officer takes into consideration of the severity of my disability. I did not have even the ability to communicate anything more serious or significant ideas and concepts to anybody. The judges of the Inferior Courts never understood this or more accurately, never realized that there is a major serious issue to ensure that I have sufficient opportunity. This is a consequence of the apathy.

The negative effect of depression on my brain function is such that I always felt that something was stuck in my brain. This ended on October 04, 2021. At the time of application for an extension of time to file the PETITION FOR WRIT OF CERTIORAI, I used the term “recoup” because it was the only word that came to my mind. I researched more how I can determine the subsequent further improvement in this regard. The final determination about the period from October 04, 2021 to now or about 6 months is that it is the transition period from more severe disability due to ASD and depression to simple disability due to ASD. By 29 CFR 1630.2(j)(1)(vii) “*An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active,*” (underline added) the more severe disability lasted until most recently. Therefore, it is appropriate to conclude that this PETITION FOR REHEARING is the only genuine opportunity to appeal anything on its own if approved. However, the past appeals and pleadings should have had chances, should the judges of the Inferior

Courts have had strong interest in disability rights and issues instead of the apathy. The strong interest in disability rights and issues on the part of the Inferior Courts must have had a chance of 180 degree difference.

G. A grand summary

Granting this petition goes for the national goal of disability inclusion. Denying this petition with opinion goes against the national goal of disability inclusion and supports disability exclusion of the Tenth Circuit. Denying this petition without review keeps the issues remain to be open.

The Respondents destroyed my opportunities by making me mentally ill. The Inferior Courts continued to destroy my opportunities by the same. Likewise, the Respondents Lawyers continued to destroy my opportunities. Everybody failed to provide me with an environment to be able to function comfortably. Instead, everybody was hostile toward my disability. Everybody was emotionally violent. Absolutely nobody accepts any kind of hostility to make the person impossible to function well. Everybody made me impossible to do my part of the proceedings. All of these was because everybody has the apathy to disability rights and issues. Yet, the Inferior Courts, in particular, Tenth Circuit labeled me as someone irresponsible and lazy (this is my ultimate interpretation and understanding of Tenth Circuit), while they totally failed to respond to my disability and mental illness because of failure of due diligence. Who is lazy and irresponsible? Tenth Circuit or Me ? Who knows? The whole thing of all my cases is totally meaningless. Absolutely total nonsense. This case is a perfect example of a serious abuse of power and control against vulnerability and mental disorder by the Inferior Courts.

H. Conclusion: PETITION FOR WRIT OF CERTIORANI should be granted.

RESPECTFULLY SUBMITTED,



Hitoshi Ombe, Petitioner Pro Se

April 15, 2022

Date