

CORRECTIO

No. 21-6981

Supreme Court, U.S.
FILED

DEC 30 2021

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

BENNY D. GIBSON — PETITIONER
(Your Name)

vs.

CITY OF PHOENIX ET. AL — RESPONDENT(S)

EXTRAORDINARY, WRIT OF MANDAMUS

NINTH CIRCUIT COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

WRIT OF MANDAMUS

BENNY D GIBSON

(Your Name)

P.O. Box 3200 I-B-2L

(Address)

FLORENCE ARIZONA 85132

(City, State, Zip Code)

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- 1) DID THE OPPOSING PARTIES "DEFAULT" BY NEVER FILING A RESPONSE TO THE PETITIONER ORIGINAL COMPLAINT (4th AMENDED)
- 2) DID THE DISTRICT COURT FAIL TO FILE A NON-ANSWER DEFAULT JUDGEMENT AS FED. R. CIVIL REQUIRE
- 3) WAS THIS MATTER DISMISSED WITHOUT PREJUDICE
- 4) DID THE PETITIONER, MOTION TO RE-OPEN CASE
- 5) DID THE RESPONDENTS DEFAULT BEFORE THE DISMISSAL
- 6) HAS THE PETITIONER SHOWN DILIGENCE TO SETTLE THIS MATTER
- 7) HAS THE LOWER COURT PROVIDED ANY ARGUMENT, OR CONTESTED THE PETITIONER COMPLAINT, BY THE RESPONDENTS
- 8) DID THE PETITIONER FILE (3) REQUEST FOR DEFAULT AND JUDGEMENT IN A TIMELY MANNER
- 9) DID THE PETITIONER FILE ADEQUATE AND REASONABLE MOTIONS TO RE-OPEN BEFORE THE SEPT 6 2019 ORDER AND THENAFTER
- 10) HAVE THE RESPONDING PARTIES EVER ANSWER OR REPLIED TO PETITIONER COMPLAINTS AND REQUEST FOR COMPLIANCE TO ORDER TO RESPONSE
- 11) DID THE U.S. DISTRICT COURT CLERK, CONCEDE TO THE FACT OF MATTER, THE "OPPOSING PARTIES NEVER FILE A RESPONSE" APRIL 9th 2020 LETTER TO THE PETITIONER
- 12) DID THE PARTIES FAIL TO SHOW A GENUINE DISPUTE AS TO THE MATERIAL FACTS

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

CHRISTINE MEGOWAN, JT CLEARY, GREG MCKAY, JOSHUA CHAMPION; CITY OF PHOENIX, PHOENIX POLICE DEPARTMENT, ARIZONA DEPARTMENT OF ECONOMIC SECURITY, JOLENE MANGUM, KENDALL GOO, BRIAN LOWRY, MICHAEL PIETRO, DUSTIN HAYNES, STEPHEN LEWIS, TYLER KAMP, JESSICA AUSTIN, BRANDY VILLARREAL, DAVID KEYES-NUNES, KARLA PARONI, KATIE MASON, PAUL MCMURRY AND MINNIE JIM

RELATED CASES

NO RELATED CASE KNOWN TO THE PETITIONER, LIMITED LEGAL RESOURCES AT THE ARIZONA STATE PRISON

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CASES

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SUBJECT MATTER JURISDICTION REFERS TO A COURT'S JURISDICTION OVER THE NATURE OF THE CASES AND OVER THE TYPE OF RELIEF SOUGHT I.E. THE COURT'S STATUTORY OR CONSTITUTIONAL POWER TO ADJUDICATE A CASE. BECAUSE SUBJECT MATTER JURISDICTION INVOLVES A COURT'S POWER TO HEAR A CASE, IT CAN NEVER BE FORFEITED OR WAIVED.

J.M.W. v T.I.L.Z., 260 P.3d 702 (VT 2001)

JOHNSON v JOHNSON, 234 P.3d 1100 (VT 2011)

UNITED STATES v COTTON, 535 U.S. 625, 630 122 S.Ct. 1181, 152 L.Ed 2 860 (2002)

UNITED STATES v WILLIAMS, 341 U.S. 58 66, 71 S.Ct. 595, 95 L.Ed 747 (1951)

STATUTES AND RULES

5TH AMENDMENT - RIGHT OF ACCESS TO COURTS

5TH AMENDMENT - RIGHT TO DUE PROCESS, PROTECTION AGAINST DOUBLE JEOPARDY

6TH AMENDMENT - RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL

14TH AMENDMENT - RIGHT TO DUE PROCESS - EQUAL PROTECTION OF LAWS
ILLEGAL SENTENCE

ACCORDING TO FED. R. CIVIL PRO. RULE 55(A) AND 56(A), IT'S THE RESPONSIBILITY OF THE CLERK OF THE COURT TO FILE A DEFAULT NON-ANSWER JUDGMENT AND/OR SUMMARY JUDGMENT IN FAVOR OF THE PETITIONER. THE LOWER COURTS FAILED TO DO THEIR DUTIES.

ALSO SEE ARTICLE III, SECTION I & II, FED. CIVIL JUDICIAL PROE RULES

DISTRICT COURTS JURISDICTION § 1343, 1357, 1361

ALSO SEE Rule 60 Relief From A Judgment Order

OTHER

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Supreme CT Case

CASES

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STATUTES AND RULES

LIST 1ST 5TH 6TH 14TH

THE STATE ALLEGES, HECK v HUMPHREY AS WHY THIS CASE WAS DISMISSED, BUT HECK v HUMPHREY DOES NOT APPLY IN THIS SITUATION BECAUSE CIVIL COMPLAINT WAS FILE BEFORE AND SENTENCE OR PRISON TERM, AND THE RESPONDENTS (PARTIES) DEFAULTED BY THERE OWN ^{ACQUIESCENCE} ~~ACQUIESCENCE~~ TO THE MATTER. THEREFORE A NON-ANSWER DEFAULT JUDGMENT BY THE CLERK OF THE COURT MUST BE ENTERED. ACCORDING TO FED R. CIVIL PRO. RULE 55(A) AND 56(A) (ALSO SEE) ARTICLE III SECTION I & II ~~FED~~ FED CIVIL JUDICIAL PRO. & RULES, DISTRICT COURTS JURISDICTION § 1343, 1357, 1361. IT'S THE RESPONSIBILITY OF THE CLERK TO FILE A DEFAULT NON-ANSWER JUDGMENT AND/OR SUMMARY JUDGMENT IN FAVOR OF THE PETITIONER. THERE MUST BE A SOLUTION AND REMEDY. STATE LOWER COURTS FAIL THERE DUTIES. OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

- ☐ reported at NINTH CIRCUIT COURT OF APPEAL; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

- ☐ reported at U.S. DISTRICT, DISTRICT OF ARIZONA; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JUNE 2019 - 4-2020.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Nov 21, 2019 6/27/19 and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

U.S.C. 1651

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was 6/16, 8/19.
A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ACCORDING TO U.S.C. 28 § 165 (A) THIS MATTER REQUIRES THE S.C.O.T.U.S. ATTENTION DUE TO THE FACT THAT THE LOWER COURTS HAVE ACTED CONTRARY TO DECISIONS MADE BY THIS COURT AND ARE FAILING TO ENFORCE ~~THE~~ THE UNITED STATES CONSTITUTION. FURTHERMORE THE ISSUE PRESENTED WITH IN THIS EXTRAORDINARY WRIT AFFECTS HUNDREDS OF CASES WHEREIN THE ISSUE PRESENTED IS KEY. ~~THE~~ THERE IS AN ENVIRONMENT IN THE STATE OF ARIZONA WHEREIN LANDMARK RULINGS MADE BY THIS COURT ARE IGNORED, AND THE RIGHTS OF AMERICA CITIZENS ARE BEING SYSTEMATICALLY VIOLATED. NO OTHER COURT IN THE HAS THE POWER TO CORRECT THIS MANIFEST OF INJUSTICE WHICH AFFECTS HUNDREDS OF CASES

S.C.O.T.U.S. HAS A DUTY TO REGULATE THE ACTIVITIES OF THE CIRCUIT COURTS, IN BLAND v CALIFORNIA D.O.C. 20 P. 3d 1489 1474 (9TH CIR 1994); IT ESTABLISHES A STANDARD FOR REVIEW

REGUARDING A STATE'S FAILURE TO RESPOND; (SEE U.S. DISTRICT COURT (AZ) OFFICE OF THE CLERK DATED April 9th 2019, CV-12-01718 PHA-ROS ENCLOSED COPY). THE DISTRICT COURT FAILED TO FOLLOW THIS STANDARD WHEN THE OPPOSING PARTIES REFUSE TO RESPOND. THEN THE JUDGE DISMISSED IN THEIR FAVOR WITHOUT SHOW CAUSE. NO LEGAL ANALYSIS WAS PERFORMED AND NO LEGAL REASON WAS PROVIDED BY THE JUDGE AS TO WHY THE CASE WAS DENIED OR NOT CONSIDERED FOR A HEARING. TO RE-OPEN WHEN IT WAS DISMISSED WITHOUT PREJUDICE, VIOLATED MY CONSTITUTIONAL GUARANTEE OF DUE PROCESS.

ALL CITIZENS HAVE THE RIGHTS TO DUE PROCESS, WHICH CANNOT BE SATISFIED IF THE COURTS IS ALLOWED TO SUMMARILY DISMISS PROPERLY PRESENTED ISSUES THAT FALLS WITH-IN THEIR JURISDICTION. NOR CAN THE COURT[S] DISMISS MATTERS WHICH THEY HAVE ACCEPTED JURISDICTION OVER SIMPLY BECAUSE THE DEFENDANT REFUSES TO RESPOND EVEN IF ~~THE~~ THAT DEFENDANT IS A GOVERNMENT AGENCY

BLAND v CALIFORNIA D.O.C. 20 P. 3d 1489 1474 (9TH CIR 1994)
WHEN THE STATE FAILS TO DISPUTE THE FACTUAL ALLEGATIONS CONTAINED IN THE PETITION IT ESSENTIALLY WRITS THE ALLEGATIONS

THE STATE OF ARIZONA CANNOT PIED THE 5TH

BRIAN D. KARTH

District Court Executive / Clerk of Court
Sandra Day O'Connor U. S. Courthouse
Suite 130
401 West Washington Street, SPC 1
Phoenix, Arizona 85003-2118

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
OFFICE OF THE CLERK**

**MICHAEL S. O'BRIEN**

Chief Deputy Clerk
Evo A. Deconcini U.S. Courthouse
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DEBRA D. LUCAS

Chief Deputy Clerk
Sandra Day O'Connor U. S. Courthouse
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401 West Washington Street, SPC 1
Phoenix, Arizona 85003-2118

April 9, 2019

Benny David Gibson, #218614
ASPC Eyman – Cook Unit
1-D-2L
PO Box 3200
Florence, AZ 85132

RE: CV-12-01718-PHX-ROS

Mr. Gibson,

The price breakdown for copies of your requested documents is listed below. There was never an Answer filed by the opposing parties. Any request regarding reopening the case must be done in the form of a motion. Additionally, the Clerk's Office is unable to provide you with any legal advice or guidance.

**Please remit a money order, certified check, or
law firm/company/personal check payable to:
Clerk, U.S. District Court Phoenix**

Please include a copy of this billing letter with your payment.

We do not accept credit card payments over the phone, by mail, or by fax.

Service	Cost
Document reproduction	\$36.50
73 page(s) at \$0.50 per page	
Complaint (doc. 1) 14 pages;	
1 st Amended Complaint (doc. 8) 10 pages;	
2 nd Amended Complaint (doc. 10) 26 pages;	
3 rd Amended Complaint (doc. 18) 6 pages;	
4 th Amended Complaint (doc. 20) 6 pages;	
Docket sheet 11 pages	

in the amount of: \$ 36.50

All fees are payable in advance.

Please send all correspondence to:

Customer Service ▪ Sandra Day O'Connor U.S. Courthouse ▪ Suite 130 ▪ 401 W. Washington St., SPC 1 ▪ Phoenix, AZ 85003-2118

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED THE STATE OF ARIZONA CANNOT PLED THE 5th

ACCORDING TO THE RULES OF CIVIL PROCEDURE, THESE COURT[S] FAILED TO APPLY THE RULE 55(A) AND 56(A); DEFAULT JUDGEMENT FOR AFFIRMATIVE RELIEF, "WHEN A PARTY[S] HAS FAILED TO PLED OR OTHERWISE DEFEND," THE CLERK MUST ENTER THE PARTY[S] DEFAULT. THE CLERK ON THE PLAINTIFF'S REQUEST, MUST ENTER JUDGEMENT FOR THAT AMOUNT AND COST AGAINST THE PARTIES WHO HAS BEEN DEFAULTED. RULE 56(A), THE COURT SHALL GRANT SUMMARY JUDGEMENT IF THE MOVANT SHOWS THAT THERE IS NO GENUINE DISPUTE AS TO ANY MATERIAL FACT, AND THE MOVANT IS ENTITLED TO JUDGEMENT AS A MATTER OF LAW. ARTICLE III SECTION I & II, FEDERAL CIVIL JUDICIAL PROCEDURE AND RULE, DISTRICT COURTS JURISDICTION; 1343 CIVIL RIGHT AND ELECTIVE FRANCHISE; 1357 INJURIES UNDER FEDERAL LAW; 1361 ACTION TO COMPEL AN OFFICER OF THE UNITED STATES TO PERFORM HIS/HER DUTY. THEREFORE BY THE LAW AND RULES OF CIVIL PROCEDURE § 55(A), 56(A) AND ARTICLE III SECTION I & II § 1341, 1347, & 1361, THE RESPONSIBILITY OF THE CLERK[S] WERE TO FILE A DEFAULT, NON-ANSWER JUDGEMENT AND/OR SUMMARY JUDGEMENT IN FAVOR OF THE PETITIONER. BY THE OTHER PARTIES OWN ACQUIESCENCE THEY CONCEDED TO THE TRUTH OF THE MATTER. SO TO DISMISS THIS MATTER WITHOUT PREJUDICE THEN NOT RE-OPEN TO ALLOW THE PETITIONER THE OPPORTUNITY TO RESOLVE OR SETTLE THIS MATTER IS PREJUDICE TO THE PETITIONER, "THE PARTIES DEFAULTED" THERE MUST BE A SOLUTION AND REMEDY. THEY CAN NOT OVER LOOK THE FACTS AND NOT RE-OPEN THIS MATTER FOR A TRIAL AND HEARING BUT DISMISS ON A CASE THAT NEVER HAD THE OPPORTUNITY TO BE HEARD ESPECIALLY WHEN THE OPPOSING PARTIES DEFAULTED BEFORE THE DISMISSAL.

Also SEE: Rule 60 Relief From A Judgement

WReale

STATEMENT OF THE CASE

THESE LOWER COURTS RELINQUISHED THEIR JURISDICTION, AND FAILED TO DO THEIR DUTY BY LAW, REFUSING TO RE-OPEN THIS MATTER AND ENTER A DEFAULT JUDGEMENT TO RESOLVE AND/OR SETTLE THIS MATTER, BUT RESERVED THE RIGHT TO CORRECT AND DO THEIR DUTIES REQUIRED BY THE FEDERAL RULES AND LAW AND ENTER A DEFAULT JUDGEMENT IN FAVOR OF THE PETITIONER, TO DISMISS CV-12-01719 PHILIP ROS MOTION TO RE-OPEN, BECAUSE OF THE "EXTRAORDINARY CIRCUMSTANCES" AND THE DISTRICT COURT "ERROR'S" AND THE DEPARTMENT OF CORRECTION I FILED TO THE 9TH CIR. CT OF APP. YET THE FACT IS THE OPPOSING PARTIES ALREADY DEFAULTED.

REASONS FOR GRANTING THE PETITION

I BENNY D GIBSON FILED A CIVIL COMPLAINT AGAINST THE CITY OF PHOENIX ET AL
CASE NO 2:12 CV-01718, THE PARTIES FILED A STOP ACTION IN MARCH
BECAUSE I WAS SENT TO PRISON CITING NECKY HUMPHREY BUT THIS
CIVIL COMPLAINT WAS FILED BEFORE HAND, SO BECAUSE OF MAILING AND
LOCATION WITH-IN THE SYSTEM THE ALLEDGE THEY DID NOT KNOW MY
WHEREABOUTS, THE CASE WAS DISMISSED WITHOUT PREJUDICE IN JUNE 2016
I SENT NOTICE WITH-IN 60 DAYS FOR STATUES AND SUBMITTED MY
ADDRESS REMIND YOU THAT THE PARTIES NEVER CONTESTED OR DISPUTED
THE FACT OF THE MATTER, SO I FILED TO RE-OPEN BY THE U.S
DISTRICT OWN REQUEST OR SUGGESTION SEE APPENDIX B APRIL 9, 2019
LETTER. FURTHERMORE BY THE U.S. DISTRICT COURTS OWN OMISSION
THERE WAS NEVER A FILE RESPONSE BY THE OPPOSING PARTIES, THAT PUT
THEM AT A COMPLETE DEFAULT UNDER CIVIL AND FEDERAL RULES
SO I AM PETITIONING THIS COURT TO GATHER ALL DOCUMENTS (NOT INCLOSED)
FROM THE DISTRICT COURT OF ARIZONA AND THE NINTH CIRCUIT COURT OF
APPEALS FOR REVIEW AND TAKE JURISDICTION AND CONSIDER THE
CIRCUMSTANCES AND OPEN THIS CASE FOR A BRIEFING SCHEDULE AND
JUDGEMENT ON THE OPPOSING PARTIES NON-ANSWER DEFAULT.

THE INTEGRITY ARE BEING CHALLENGED
U.S. CT. IS CALLED IN QUESTION WHEN THE LOWER CT GO AGAINST THERE
RULES

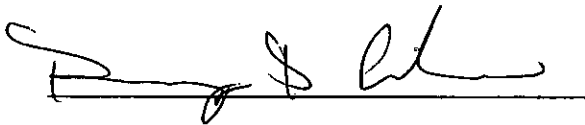
THE INTEGRITY OF THE S.C.O.T.U.S. ARE BEING CHALLENGED AND ARE
BEING CALLED INTO QUESTION WHEN THE LOWER COURTS GO AGAINST THEIR
RULES

WITH-IN THE APPENDIX YOU WILL FIND ALL THE PETITIONER DILIGENT EFFORTS TO RE-OPEN THIS MATTER FOR A RESOLUTION AND/OR SETTLEMENT REMEDY AND ALL THE COURTS ~~AND~~ OPINIONS AND ORDERS IN THE PETITIONER POSSESSION BUT WHAT YOU WON'T FIND IS ANY DISPUTE, RESPONSES GENUINE EFFORTS BY THE OPPOSING PARTIES OPPOSING TO THE MATERIAL FACTS OF THE MATTER. ALONG WITH THE COURT(S) DOCKET'S THIS COURT WILL COME TO THE CONCLUSION THAT A DEFAULT JUDGEMENT IS THE CORRECT AND ONLY REMEDY TO THIS MATTER BY THE OPPOSING PARTIES ACQUIESCENCE.
AFFIDAVIT'S AND DEFAULT JUDGEMENT REQUEST (MOTION'S) ENCLOSED

CONCLUSION

The petition for a writ ~~of habeas~~ should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to be "R. J. L.", written over a horizontal line.

Date: _____