

Supreme Court, U.S.
FILED

JUN 23 2022

OFFICE OF THE CLERK

No. 21-8259

IN THE

SUPREME COURT OF THE UNITED STATES

IN re: Johnny Brett Gregory — PETITIONER
(Your Name)

vs.

____ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Petition for writ of Mandamus and/or Prohibition
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Johnny Brett Gregory
(Your Name)

172 Webb Drive.
(Address)

Calhoun GA 30701
(City, State, Zip Code)

470-633-6277
(Phone Number)

ORIGINAL

RECEIVED

JUN 23 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

On August 24 2021, submission of # 1 Notice of filing of Federal

Tort claims Act (FTCA) complaint for review to District Judge Thomas W Thrash Jr. in Gregory v. United States Probation office Case Number: 4:2021mi0003, the Public Remark: Judge Thomas W Thrash Jr. declines to allow the complaint to be filed as a civil case. Two of the Eleventh Circuit's Judges previously rejecting a motion for reconsideration on this very (FTCA) claim.

Should this court issue a writ of mandamus ordering the United States court of Appeals for the Eleventh circuit to issue a writ of mandamus, where there are no extraordinary circumstances warranting withholding the (FTCA)?

11
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:

(1) Kathryn S. Whitlock, State Bar No. 756233-
Firm Hawkins Parnell & Young, LLP, 303 Peachtree St, N.E.
Suite 4000 (404-614-7483) E-mail Kwhitlock@hpylaw.com
Atlanta GA 30064. (lower court proceedings only)

(2). The United States Court of Appeals
Judges Rosenbaum and Grant for the Eleventh circuit
is the Respondent in this court proceedings.

RELATED CASES

Johnny Brett Gregory vs. United States Probation Office
N.D. Ga, No 4:21-mi-0003-TWT

Johnny Brett Gregory vs. Kathryn S. Whitlock, Robert L.
Goldstucker, Patrick N. Arndt and Nall & Miller LLP,
N.D. Ga, No 4:21-cv-00035-TWT.

Gregory vs. Goldstucker et al 11th cir case number 21-10650-JJ

Gregory vs. Robert Goldstucker, et al 11th cir case number
21-10650.

In re: Johnny Brett Gregory 11th cir Mandamus number
21-12346-D.

Gregory vs. Winegarden, state court GA, Case # 21106510

State of Georgia vs. Johnny Brett Gregory et al,

state court case # 09-CI-1374-M

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 Sup. Ct. Rule 20.1
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 Sup. Ct. R. 10(a)

OTHER

Jurisdictional Question

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OTHER

Jurisdictional Question

V,
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 E 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 United States district court appears at Appendix A to the petition and is

☐ reported at _____; 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.

V i,
JURISDICTION

☐ For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was February 10 2022.

☐ 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: March 29 2022, and a copy of the order denying rehearing appears at Appendix F.

☐ 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. § 1254(1).

*This Courts jurisdiction is timely invoked under the
All writs Act, 28 USC 1651*

☐ For cases from **state courts:**

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

☐ 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).

STATEMENT OF THE CASE.

This is a civil Federal Tort Claims Act (FTCA) proceedings, have been change into a criminal matter by presiding Judge Thomas W. Thrash

On August 20, 2021, Mr. Gregory filed his FTCA Complaint with the United States District Court, Northern District of Georgia (Rome) civil Docket for Case # : 4:21-mi-00003-TWT (See App. A) Submission of 1 Notice of filing of complaint for review to District Judge Thomas W. Thrash Jr. Per. 2 Order in 4:21-cv-35-TWT, the clerk is directed not to accept any Complaint for filing without the express written consent of the undersigned or Magistrate Judge Johnson, (See App. A)

on August 24 2021 the Docket Remark: Judge Thomas W. Thrash Jr. declines to all the complaint to be filed as a civil case (Entered: 08/24/2021)

2.

On August 24, 2021 the court Docket text read: Miscellaneous Case Terminated. (Entered 08/24/2021) Id.

On September 1, 2021, Mr. Gregory filed his Notice of Appeal

On September 21, 2021 (Doc 8) Mr. Gregory filed his Application to appeal in forma pauperis.

On September 29, 2021 Judge Thomas W. Thrash pass his order Denying 8 Application to appeal in forma pauperis.

Therefrom, Mr. Gregory was issued an Jurisdictional Question on November 1 2021 from the Eleventh Circuit clerk, Walter Pollard C. (See App. B)

On November 9, 2021 Mr. Gregory filed his Response to the Jurisdictional Question (See App. C)

On July 12, 2021 Mr Gregory filed an Original proceeding for "Emergency writ mandamus, Prohibition and Injunction" arising out of his civil complaint for review of a decision by the Social Security Administration ("SSA proceeding"), as well as other civil proceedings. In the SSA proceeding, Mr Gregory filed a motion, pursuant to Fed. R. Civ. P. 59(e), seeking review of Magistrate Judge Walter Johnson's refusal to recuse himself. In his Mandamus petition, which is clear to understand, Gregory ask the Eleventh Circuit: (1) order Judge Johnson to file his Rule 59(e) motion in the SSA proceeding; (2) direct the district court to file a 2019 civil Federal Tort Claim proceeding; (3) stay his SSA proceeding the outcome of his Rule 59(e) motion; (4) Suspend Judge Johnson and District Court Judge Thomas Thrash from any involvement with his cases and (5) Void Judge Thrash's order closing another of Gregory's cases related to a 2009 forfeiture action.

4.

On August 6 2021 the Circuit Judges Jordan and Newson Denied Gregory's mandamus petition (See, Exhibit C)

This Mandamus Supersedes prior district Court Judge Thomas W. Thrash orders and/or Docket text that direct the clerk's office not to file into an existing case of Mr Gregory, as in Johnny Brett Gregory vs. Kathryn S. Whitlock, Robert L. Goldstucker, Patrick W. Arnet and Nall & Miller, LLP case number 4:2021 CV 0035 presiding Judge Thomas W. Thrash Order Dismissing Case on February 17, 2021 (Doc. 8) placing and imposed upon Johnny Brett Gregory a illegal filing restriction that the Judge's current procedure effectively denies Mr. Gregory as a restricted filer meaningful access to appellate review and Open up the Court doors for a writ of mandamus.

REASONS FOR GRANTING THE PETITION

Petitioner recognizes that the writ of Mandamus is an extraordinary remedy reserved for extraordinary circumstances.

Those circumstances exist here, where the Superior Court of Whitfield County

State of Georgia Civil Action 09-CI-1374-M Order on Complaint for forfeiture and the Court of Appeals for the Eleventh Circuit lower Court has disregarded the State Court order that required the Federal Court to issue

a Mandamus proceedings for compensating the petitioner who have suffered property loss and damage caused by the negligent and wrongful act of the United States Probation office Counter terrorism unit (CTU) Agency as this Court should exercise its discretion to issue the writ.

6.

"The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usage and principles of law",

28 U.S.C. 1651 (a). Issuance of an extraordinary writ such as a writ of mandamus or prohibition, "is not a matter of right, but of discretion sparingly exercised" and, to justify granting such a writ, "the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court". SUP. CT R. 20.1.

Here, The conditions by the district Court who has placed a filing restriction on Mr. Gregory due to his excessive filing is so burdensome, however, as to deny Mr. Gregory a Pro Se litigant meaningful access to the courts. See: Bounds v. Smith, 430 U.S. 812, 97 S.Ct. 1491, 52 L.Ed. 2d 72 (1977).

A writ of mandamus or prohibition is appropriate where a lower court's action constitutes a "judicial usurpation of power" or amounts to a "clear abuse of discretion." Cheney v. U.S. Dist. Ct. for D.C., 542 U.S. 367, 380 (2004) (quotations omitted); See also, e.g. Mallard v. U.S. Dist. Ct. for S.D. of Iowa, 490 U.S. 293 309 (1989).

This Court considers three factors when determining whether to grant such a petition: 1) the party seeking the writ must "have no other adequate means to attain the relief he desires - a condition designed to ensure that the writ will not be used as a substitute for the regular appeals process"; 2) the party seeking the writ must show a "clear and indisputable" right to the writ's issuance; and 3)

this Court must decide, in its discretion, that the writ is appropriate under the case's circumstances. Cheney, 542 U.S. at 380-81 (quotations and citation omitted); see also Kerr v. Dist. Ct. for the N.D. of Cal., 426 U.S. 394, 403 (1976).

8.

Alternatively, this court may construe a petition for an extraordinary writ as a petition for writ of certiorari. See, e.g., Calderon v. Thompson, 523 U.S. 538, 549, (1998). This court will grant a petition for writ of certiorari only "for compelling reasons." Sup. Ct. R. 10. One such reason is that a lower court "has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's Supervisory power." Sup. Ct. R. 10(a)

Footnote 1. Petitioner Gregory here has not combined a certiorari petition with another pleading in violation of United States Supreme Court Rule 12.4. He simply asks, in the alternative, that the petition be construed as one for certiorari if it fails under the standards for mandamus and prohibition. Parties often file petitions for certiorari in alternative to petitions for an extraordinary writ. See. In re Whitehead, 519 U.S. 1107 (1997) (mem).

A. Petition for writ of Mandamus and/or prohibition.

This Court should grant the writ of mandamus and/or prohibition. First, Petitioner has a "Clear and indisputable" right to the requested writ and exceptional circumstances justify its issuance. *Cheney*, 542 U.S. at 380; see also *Sup. Ct. R. 20.1*. The Eleventh Circuit has failed to comply with 28 U.S.C. 1651 (a) and this Court's precedent and, as a result, has guaranteed significant additional delay in this USCA 11 case 21-13106. Second, granting the petition would aid this Court's appellate jurisdiction by preserving the integrity of appellate procedure, is void as to the extent the district court to reverse its screening determination made pursuant to a previously issued filing restriction, remains robust, the petitioner only alternative forum to seek relief is for a writ of mandamus in this Court. Based on two Eleventh Circuit judges have effectively rejected his position,

10.

and because he will have suffered irreparable harm as of today's date.

Petitioner cannot obtain the relief he seeks from another court. SUP. CT R. 20.1; Cheney, 542 U.S. at 380-81. Petitioner lacks a clear procedural vehicle to challenge the Eleventh Circuit's Order in that court. Moreover, even if such a vehicle exists, pursuing relief in the Eleventh Circuit would be futile. Petitioner has opposed the Jurisdictional Question. (See App C.)

B. The circumstances warrant granting the petition

Finally, the circumstances here warrant this Court's intervention to grant the petition for writ of mandamus and/or prohibition. See Cheney, 542 U.S. at 380-81.

CONCLUSION

For the reasons set forth above
this Court should grant the
petition for writ of mandamus
and/or prohibitions.

Dated June 16th 2022

Respectfully Submitted.
~~Johnny Brett Gregory~~
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