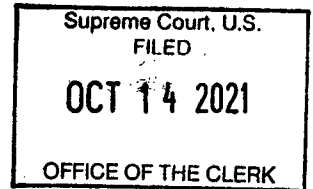


No. 21 A88

IN THE
SUPREME COURT OF THE UNITED STATES

HITOSHI OMBE, PETITIONER
vs
GEORGE COOK, ET. AL., RESPONDENTS



**APPLICATION TO TENTH CIRCUIT JUSTICE NEIL M. GORSUCH
FOR AN EXTENSION OF THE TIME TO FILE PETITION FOR A WRIT OF CERTIORARI**

Petitioner respectfully prays that an extension of the time to file PETITION FOR A WRIT OF CERTIORARI be granted.

I am the petitioner pro se with highly functional autism disability or least severe autism spectrum disorder and I would like to apply to Tenth Circuit Justice Neil M. Gorsuch for an extension of the time to file my PETITION FOR A WRIT OF CERTIORARI by Rule 13.5.

BACKGROUND (This is sufficient for the purpose of this application. The Court must understand that the matter is far more complex than should be because NM District Court created more issues and problems instead of resolving the problems. It is supported by Tenth Circuit.)

I found that I have autism disability 29 CFR 1630.2(j)(3)(iii) or autism spectrum disorder DSM-5, pages 50-59 late in my life about 11 years ago. In general, it has a broad range of severity and the DSM-5 at page 52 specifies three levels of required support. Level 1 requires support, Level 2 requires substantial support, and Level 3 requires very substantial support.

My litigation ability is substantially limited compared with most people in the general population. I am required to have Level 1 support. The Level 1 support is minimal on the part of court. Here the litigation ability is defined as the ability to perform effective and meaningful litigation activities.

The main point of my disability for this application is that the defendants and NM District Court subjected me to an institutional or managerial abuse of power and control by chronic and never-ending infliction of emotional distress. (Non-accommodation of autism disability results in infliction of emotional distress.) The defendants made me mentally crippled and sent me to NM District Court. Seven unqualified lawyers including two judges responded to my cases. The proceeding in NM District Court was a constant threat (and intimidation) to lose everything without any meaningful opportunity at all. Consequently, I continued to suffer from even more serious mental illness with depression and anxiety. Most seriously, I lost my ability. My disability progressed from Level 1 (before I began to deal with defendants) to at least Level 2 and possibly Level 3. In particular, my litigation ability was too severely limited to be functional or expect any tangible results. In other words, when I filed my first case in NM District Court on August 22, 2014, I was already mentally crippled. NM District Court refused to discuss my disability and committed to institutionally abuse its power and control. Tenth Circuit supports this abusive practices by completely refusing to understand my disability issues and needs. The total time I suffered from abusive power and control was at least 8 years and its negative effect on my litigation ability lasted until most recently.

In essence, I have been trying to litigate against all the defendants when I was mentally crippled. All of them failed because my litigation ability was too severely limited to be functional and at the same time NM District Court and Tenth Circuit did never understand whatever I wrote as I understand now. This is a very common problem which individuals with

autism disability face. See the list of related cases. In NM District Court, seven unqualified lawyers – two of which are judges i.e., District Judge and Magistrate Judge – trampled on me. They are unqualified because they do not have any background of autism disability or interest in autism disability at all. They must have been disqualified themselves from my cases but they did not. This should be a serious violation of professional code of conduct of any judicial officer and officer of court.

Tenth Circuit is totally nonsense. They have been illegally overwriting the determination made by the American Psychiatric Association and extremely judgmental against individuals with autism disability. Their basis of this is Garrett vs. Selby Connor Maddex & Janer, 425 F.3d 836, 840 (10-th Cir. 2005). NM District Court did the same. The most serious problem here is that they do never understand that this case does not apply to my cases, because they do not have any background of autism or they are unqualified. The disability issue is totally absent from this case. This case is decided before autism disability becomes legally significant by the enactment of the ADA Amendments Act of 2008, which is effective since January 01, 2009. Even though the ADA may not be directly applicable for the federal judiciary, the disability still remains as medical matter. Thus, it is reasonable and appropriate to treat me as if the ADA were applicable to the federal judiciary. The judiciary branch of the federal government must develop written disability policy consistent with the purpose of the ADA. So far they have been negligent.

The ultimate and most serious complaint I have against Tenth Circuit and NM District Court is that lawyers and judges grossly, ridiculously and absurdly underestimate the seriousness of autism and mental illness (depression, anxiety) like nothing, when they are indeed serious medical disorder and mental illness. They simply do not know what they did. I am the victim of their total nonsense.

JUSTIFICATION

Under the circumstances created by the defendants, NM District Court, and Tenth Circuit but absolutely not me, the only way to be able to effectively and meaningfully function as a pro se litigant before any authority is to wait until I heal from mental illness and recoup the lost ability. I have had no fault at losing my ability at all.

The lost ability means I could not think something like above background statement as I understand now but not before. My thinking has been awkward. I felt like something stuck in my brain. My thought was never smooth and free. My higher-order thinking ability was too severely limited to think the matter fully. The recoup took multiple steps. I noticed something different and felt better at each step.

At the end of September 2021, my draft of PETITION FOR A WRIT OF CERTIORARI was ready to finish by the deadline, November 01, 2021.

However, on October 04, 2021, I experienced with probably the last step of the recoup process of the lost ability. I looked at my draft document. Now, I have realized that I can make it much much better and attractive to the Court for serious consideration and debate than as it is now by substantial reorganizations and revisions with new insight of the matter. **It is therefore accurate to say that my disability was too severely limited to be fully functional to the best of my potential ability before any authority until October 04, 2021, unless further improvement and recoup of my thinking ability take place in the future, but it is probably not. However, never forget that I still have my disability and I am required extra time and efforts to overcome disability.**

Ultimately, this is the only substantively meaningful opportunity for all of the cases in the list of the related cases as I understand now. In order to assure the only opportunity is fully available to me, an extension of the time to file the PETITION is clearly justified. I

request an extension of 60 days, the maximum permitted by Rule 13.5. Since I have to do my state small claim case Hitoshi Ombe vs. Sierra Collision & Towing Services, LLC et. al. Case No. D-721-CV-2018-00151 (NMCourts.gov), an extension of 60 days is justified. Its scheduling conference is to be held on October 21, 2021. The Court may say they do not care the state matter. Well such an attitude makes it impossible to navigate the entire system which includes both federal and state matters. Besides more, I did not start to litigate because I wanted. I have had no other choice to resolve the matters. This is how an individual with autism disability has been excluded from the entire system. The same is true how the judges and lawyers have been excluding me because of my disability. A simple fact is that they are unable to see that I do have significant disability. The reason is that they cannot see it because I am also highly functional, yet I have significant disability. Consequently, the seven lawyers including two judges committed astronomical magnitude of mishandling of my cases. They totally lack most basic common sense expected of any reasonable persons. What they did is far beyond what any reasonable persons can think. They caused devastating damages. The only way to remedy the situation is to request the Supreme Court to intervene in it.

The Court is reminded that *"In determining whether an individual has a disability ... the focus is how a major life activity is substantially limited, and not what an individual can achieve."* 29 CFR 1630.2(j)(4)(iii). In order to reach what I am saying here, I have been thinking for some years but mental illness, especially depression prevented me from full understanding of these. And thinking is a major life activity, 29 CFR 1630.2(j)(1)(i).

I would like to bring to the attention of the Court, the effect of mental illness on my ability can be seen by comparison with the quality of the above BACKGROUND statement with the quality of the STATEMENT OF THE CASE in the case No. 18-9247 on file with the

Court. It is very obvious. Which one does anybody think is better to express the essentially same thing? Of course, this one is much much better. The difference is the effect of mental illness caused by the defendants and NM District Court. Please do never penalize me anything because the problems were caused by others including NM District Court. NM District Court has never understood or has any desire to understand whatever I wrote.

Since all of my cases involve with issues of mild mental disability, it is essential to take care of it first. However, NM District Court refused to do so and inhibited me to talk about my disability. This alone had a very significant negative impact on my mental illness and ability in addition to the illness caused by the defendants. Then I have been penalized by NM District Court and Tenth Circuit. Nobody can accept it. These are not challenges to the government authorities. These are mere statement of the facts.

JURISDICTION

This case is from **federal courts**:

Related to the case CA10 No. 20-2166

The date on which the United States Court of Appeals decided on my case was June 24, 2021. A copy of the ORDER AND JUDGMENT is attached.

A timely petition for rehearing was denied by the United States Court of Appeals on August 02, 2021. A copy of the ORDER denying rehearing is attached.

The deadline to file PETITION FOR A WRIT OF CERTIORARI is November 01, 2021, Rule 13.3. (Note the 90-th day October 31, 2021 is Sunday. Rule 30.1.)

The jurisdiction of this Court is invoked under 28 USC Section 1254(1).

Related to the case CA10 No. 18-2031; SCt No. 18-9247

I request an additional jurisdiction over the case No: 18-9247 on file as a consolidated

one case by an extraordinary motion because of the identical question and identical fact.

Case No: 18-9247 has not been reviewed by the Court yet.

See NOTICE OF INTENT to file an extraordinary motion to request an additional jurisdiction over the case on file upon filing the PETITION of the present case.

PARTIES

For the complete list of parties (respondents), see the ATTACHED LIST OF PARTIES.

QUESTION PRESENTED

The general question can be stated as:

How the Court must respond to pro se litigant with mild mental disability such as least severe autism spectrum disorder, DSM-5, pages 50-59 or equivalently highly functional autism disability defined by "*Autism substantially limits with brain function*" 29 CFR 1630.2(j)(3)(iii) and 29 CFR 1630.2(j)(4)(iii) to ensure that he may fully avail himself of justice system?

In the PETITION, I discuss various issues and problems on this question developed during the proceeding in NM District Court including a specific question of equitable tolling.

JUDGMENTS AND ORDERS TO BE REVIEWED

At this time, I list all the possible documents because my appeal is not based on any particular OPINION but on how the entire process handled by NM District Court with respect to my disability needs has had most substantially negative impact on my performance as a pro se litigant. Majority of the documents issued by them are possibly involved.

(A) Related to the case CA10 No. 20-2166 issued by Tenth Circuit

- ◆ JUDGMENT AND ORDER issued on June 24, 2021 (also jurisdictional)
- ◆ ORDER issued on August 02, 2021 (also jurisdictional)

- ◆ ORDER issued on December 21, 2020
- ◆ ORDER issued on January 29, 2021

Related to the case DNM No. 20-00786 issued by NM District Court

- ◆ FINAL JUDGMENT issued on October 15, 2020 (Document 14)
- ◆ MEMORANDUM OPINION AND ORDER OF DISMISSAL issued on October 15, 2020 (Document 13)
- ◆ MEMORANDUM OPINION AND ORDER IMPOSING RESTRICTIONS issued on January 08, 2021 (Document 47)
- ◆ MEMORANDUM OPINION AND ORDER DENYING SUPPLEMENTAL POST-JUDGMENT MOTION issued on December 23, 2020 (Document 41)
- ◆ MEMORANDUM OPINION AND ORDER DENYING MOTION TO RECONSIDER, GRANTING MOTION FOR EXTENSION OF TIME TO APPEAL, GRANTING MOTION DEEMING DOCUMENTS FILED TIMELY, AND DENYING POST-JUDGMENT MOTION issued on December 14, 2020 (Document 32)
- ◆ ORDER DENYING MOTIONS issued on November 05, 2020 (Document 18)
- ◆ MEMORANDUM OPINION AND ORDER GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS* AND SHOW TO CAUSE issued on August 10, 2020 (Document 4)

Related to the case DNM No. 16-01114

- ◆ FINAL JUDGMENT issued on November 20, 2017 (Document 35)
- ◆ MEMORANDUM OPINION AND ORDER GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS* AND DISMISSING COMPLAINT issued on March 07, 2017 (Document 24)

- ◆ MEMORANDUM OPINION AND ORDER issued on August 09, 2017 (Document 33)
- ◆ MEMORANDUM OPINION AND ORDER OF DISMISSAL issued on November 20, 2017 (Document 34)

(B) Related to the case CA10 No. 18-2031 issued by Tenth Circuit

- ◆ JUDGMENT AND ORDER issued on November 08, 2018
- ◆ ORDER issued December 10, 2018

Related to the case DNM No. 14-00763 issued by NM District Court

- ◆ RULE 58 JUDGMENT issued on January 25, 2018 (Document 195)
- ◆ MEMORANDUM OPINION AND ORDER issued on January 24, 2018 (Document 194).
- ◆ MEMORANDUM OPINION AND ORDER issued on January 24, 2018 (Document 193)
- ◆ MEMORANDUM OPINION AND ORDER issued on January 24, 2018 (Document 192)
- ◆ ORDER SETTING CASE MANAGEMENT DEADLINES AND DISCOVERY PARAMETERS issued on July 27, 2017 (Document 139)
- ◆ Amended Clerk's Minutes issued on July 27, 2017 (Document 138)
- ◆ INITIAL SCHEDULING ORDER issued on June 22, 2017 (Document 128)
- ◆ Clerk's Minutes with 9 Attachments issued on March 03, 2017 (Document 117)
- ◆ MEMORANDUM OPINION AND ORDER issued on September 03, 2015 (Document 96)
- ◆ MEMORANDUM OPINION AND ORDER issued on August 26, 2015

(Document 94)

- ◆ MEMORANDUM OPINION AND ORDER issued on August 21, 2015

(Document 93)

- ◆ ORDER issued on August 20, 2015 (Document 92)
- ◆ MEMORANDUM OPINION AND ORDER issued on August 19, 2015

(Document 91)

- ◆ MEMORANDUM OPINION AND ORDER issued on May 28, 2015

(Document 83)

- ◆ ORDER DENYING MOTIONS FOR APPOINTMENT OF COUNSEL issued on February 27, 2015 (Document 57)
- ◆ ORDER issued on February 11, 2015 (Document 53)

Related to SCt No. 18-9247, these are timely filed,

- ◆ PETITION FOR A WRIT OF CERTIORARI (denied without review)
- ◆ PETITION FOR THE REHEARING OF THE ORDER DENYING PETITION FOR A WRIT OF CERTIORARI (denied)

CONCLUSION

An extension of 60 days to file my PETITION FOR A WRIT OF CERTIORARI by Rule 13.5 should be granted.

RESPECTFULLY SUBMITTED,

Hitoshi Ombe October 14, 2021
Hitoshi Ombe, Petitioner Pro Se Date