No. 22-1120

In the Supreme Court of the United States

PAULA PARISI, PETITIONER,
v.
PETER C. ANDERSON, UNITED STATES TRUSTEE FOR REGION 16, RESPONDENT,

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR REHEARING

PAULA PARISI
In Pro Se
13547 Ventura Blvd. #623
Sherman Oaks, CA 91423
(818) 282-0207
paula@paulaparisi.com

Superfast Copy & Bind • Los Angeles • 310-452-3352 • SuperfastSantaMonica.com

No. 22-1120

In the Supreme Court of the United States

PAULA PARISI, PETITIONER,
v.
PETER C. ANDERSON, UNITED STATES TRUSTEE FOR REGION 16, RESPONDENT,

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR REHEARING

PAULA PARISI
In Pro Se
13547 Ventura Blvd. #623
Sherman Oaks, CA 91423
(818) 282-0207
paula@paulaparisi.com

Superfast Copy & Bind • Los Angeles • 310-452-3352 • SuperfastSantaMonica.com

Table of Contents

TABLE OF AUTHORITIES

Cases

Constitution, Statutes

Secondary Sources

PETITION FOR REHEARING

Pursuant to this Court's Rule 44.2, Petitioner Paula Parisi petitions for rehearing of the Court's order denying certiorari. Rule 44.2 says a petition for rehearing may be brought "limited to intervening circumstances of a substantial or controlling effect or other substantial grounds not previously presented."

Petitioner requests rehearing so this Court may ask the U.S. Department of Justice, counsel of record for the court-designated respondent, the U.S. trustee, to submit a response before you finalize the decision to dismiss. Alternatively, that the petition for certiorari be granted with remand to the U.S. Court of Appeals for the Ninth Circuit with instructions to provide legal reasoning to support the sua sponte designation of the U.S. trustee appellee. The Ninth Circuit's memorandum decision addressed the claim of prejudicial misjoinder by writing merely that it is "without merit." (App. 3.)

GROUNDS FOR REHEARING

Substantial grounds not previously stated include the propensity of the lower courts to subject self-represented litigants to memoranda deemed unworthy of publication, which though flawed languish, unchecked. Uniform application of law is a cornerstone of the U.S. justice system. When rulings are based on novel interpretations of law, the reasoning should be plainly stated so as to inform the entire community (also known as notice), that all may avail themselves of the latest practice and theory.

I. Precedent Demands Publication

Precedential action, where a court deviates substantially from express rules and common practice, demands some sort of accountability. It's difficult to imagine a circumstance where it is fine to skip meaningful acknowledgment. Rules are not made to be bent. Should unusual circumstances require it, transparency is required. The words "This disposition is not appropriate for publication and is not precedent" (App. 3) is not license for "anything goes." Predictability and stability are among the qualities of the court that serve the public, and society relies. By granting this rehearing petition the Court would signal accountability. On something of a quantum mechanical level, perhaps, but atoms do move the universe. The alternative is the clear impression that what happens to an individual is not worth the time or attention of the courts, that transgression against a citizen, while regrettable, is ultimately trivial.

In *Citizens United v. Federal Election Comm'n, 558 U.S. 310, 386 (2010)*, this Court held that "the Government may not suppress political speech on the basis of the speaker's corporate identity." The federal judiciary and speaking up for the middle class (arguably, the "new poor"), including oneself is a form of political speech (though presumably the dictate would extend beyond "political speech"). If a corporation can identify as an individual "speaker," an individual justly may avail themselves of the speaking forums typically reserved for corporations. This includes being respectfully afforded a voice in

complex federal civil litigation, if the individual so desires. With *Citizens United* the Court leveraged U.S. Const. Amend. I to make spending money the equivalent of expressive "speech." A splashy precedent and well published. The result of *Citizens United* makes clear unlimited corporate speech is a form of "expression" highly concentrated in a societal subset, the moneyed class. For the sake of continuity, we can call them "the two percent," the approximate measure of cases in which the Court grants certiorari each term.

Marketplace estimates it costs anywhere from $100,000 to $2 million to bring a civil case to argument in these hallowed halls. Speaking freely on a level playing field at the appellate level of the courts, where common law is made and statutory law retooled, is a vital exercise of a citizen's free speech, and should not be made economically unfeasible. A demonstrable pattern denying meaningful access to the federal civil courts based on a ability to buy one's way in would be facially unjust — a man-made obstruction, since the rules and information are free.

If corporations are extended the expressive rights of the individual, the individual should likewise be able to avail themselves of the levers of power and influence as constitutionally provided, whether or not backed by copious funds and a law firm.

II. None Above The Law, None Below

The news has been awash recently with quotes to the effect that "no one is above the law." No one should be below it, either. "By law, federal judges must swear or affirm that they will 'do equal right to the poor and to the rich," writes Richard M. Re, professor of law at the University of Virginia of "this frequently overlooked oath, which I call the 'equal right principle.'" Re says the principle "has historical roots dating back to the Bible and entered U.S. law in a statute passed by the First Congress."

Reinforcing as it does so powerfully the "frequently overlooked" (*ibid.*) tenet of equal protection under law, we cite this Court's June 29 decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* as an intervening circumstance of a substantial effect. The prevailing petitioner, *SFFA*, sought "to defend human and civil rights secured by law, including the right of individuals to equal protection under the law." Any "law which operates upon one man," they maintained, should "operate equally upon all." *Ibid., 600 U. S. ____ (2023) (SFFA).*

Although *SFFA* deals with race discrimination, its equality principles surely are color blind. (Isn't that the point?) "To its proponents, the Equal Protection Clause represented a "foundation[al] principle"—"the absolute equality of all citizens of the United States politically and civilly before their own laws." *Id., p.10,* citing Cong. Globe, 39th Cong., 1st Sess., 431 (1866) (statement of Rep. Bingham) (*Cong.*

Globe). The equal protections under U.S. Const. Amend. V and XIV give "to the humblest, the poorest, the most despised of the race the same rights and the same protection before the law as it gives to the most powerful, the most wealthy, or the most haughty." Id. at 2766. (*Ibid.*) Self-represented litigants fall in or between one of those categories.

In *Faretta v. California*, 422 U.S. 806 (1975), this Court stated:

> In the federal courts, the right of self-representation has been protected by statute since the beginnings of our Nation. Section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92, enacted by the First Congress and signed by President Washington one day before the Sixth Amendment was proposed, provided that "in all the courts of the United States, the parties may plead and manage their own causes personally or by the assistance of counsel."

That assurance rings hollow if the lower courts are permitted to selectively apply the law as involves individuals who are not represented by counsel. A Decisions that break precedent but remain unpublished, bypassing the formality of well-articulated legal support — it's a trend that upends the notion of equal justice. That is has documentably happened to this Petitioner, and from what we've read and seen, countless others.

Retired U.S. Seventh Circuit Court of Appeals Judge Richard Posner has written quite effectively on the topic. He is quoted in the *ABA Journal* saying ""The basic thing is that most judges regard these people as kind of trash not worth the time of a federal judge." By "these people," he is referring to pro se litigants. Posner claims he was ostracized by his peers for speaking out on the matter. It is a topic the courts appear careful to avoid.

Constitutional compliance aside, why should they want to change? Inertia is the natural state of entrenched power. As the record in this case abundantly demonstrates, the courts will take short cuts, circumventing due process, for convenience in disposing of matters brought by pro se litigants. Coupled with the economic challenges that lead to self-representation, the propensity to sweep under the rug credible allegations of discretionary abuse in vaguely worded unpublished opinions is a double whammy. It seems unlikely an officer of the court would voluntarily put to paper an argument as specious as 11 U.S.C. §307 permitting a judge to sua sponte join the DOJ as party on appeal. To do so would be to argue an extralegal position — one seemingly invented solely for *this* Petitioner along with the mysterious, uncited invocation of "general practice" (App. 34a). That is why we petition this Court to make the request for the sake of transparency and equal justice. The DOJ as appellee and amicus is also novel.

To permit Petitioner's principal argument to go unanswered, insofar as a cogent response, as to what

are demonstrably unprecedented court action (including the U.S. trustee as "appellee" and "amicus," a clear conflict, assuming one is not doing the "wink, wink") means the effect of denying this rehearing petition reinforces the notion of a two-tier system of justice, one for the powerful and privileged and another for the average citizen whose taxpayer dollars generate the majority of federal tax revenue (42.1 percent, compared to 31.9 percent corporate). It is reasonable to surmise that if those measures don't correlate directly to the federal court subsidization, the citizenry surely contributes a significant portion.

The substantive injustice imposed by lack of equal application of law and less than fully administered due process were points not raised in the movant's petition for certiorari, which focused on technical infractions. Uniform application of law must be unilaterally embraced, as selective application of "equal justice" rather defeats the purpose (as in "separate but equal"). In *SFFA* race is the characteristic on which the Court ruled justice must be blind, it is surely not the *only* characteristic. "Ratified as it was after the Civil War in 1868, there is little doubt what the Equal Protection Clause was intended to do: stop states from discriminating against blacks. But the text of the Clause is worded very broadly and it has come a long way from its original purpose. For example, despite its reference to 'state[s],' the Clause has been read into the Fifth Amendment to prevent the federal government from discriminating as well," The Constitution Center writes of equal protection.

Another chronic injustice that has become entrenched procedure in the federal courts is that of summarily denying pro se petitioners the opportunity to avail themselves of oral argument. There were no fewer than a half-dozen instances in the federal courts below where disposition included language to the effect that "the court finds that oral argument would not be helpful" and the matter decided on paper. Routine denial of the opportunity to speak for oneself in a courtroom is, arguably, a suppression of free speech, as is the absence of meaningful listening. *Mathews v. Eldridge*, 424 US 319, 333 (1976) says "The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner."" *Armstrong v. Manzo*, 380 U. S. 545, 552 (1965). See *Grannis v. Ordean*, 234 U. S. 385, 394 (1914).

III. Failure Of Due Process

Speaking from experience, due process protocols are not always a priority in cases involving pro se litigants. The most recent example, in this court, was when the U.S. Department of Justice, failed to electronically notice Petitioner its waiver of the right to file a response. This Court's Rule 29.3, pertaining to "Any document required by these rules to be served," specifies: "An electronic version of the document shall also be transmitted to all other parties at the time of filing or reasonably contemporaneous therewith ...") Exceptions include "the electronic address of the service address of the party being served is unknown and not identifiable trough reasonable efforts." Petitioner's email address

is on the cover of the petition and on the docket. Also excepted: "if the party filing the document is proceeding pro se and in forma pauperis," also not true of the DOJ, to our knowledge.

Petitioner did not receive electronic notice, although the document was electronically filed to the Court. Failure to compliantly notify Petitioner electronically was prejudicial, because by the time the DOJ's "snail mail" was received the 14-day window to object had passed. Had notice been timely and compliant Petitioner would have known instantly and had time to express her position by motion, for about $50, versus rehearing, at a cost of roughly $500. For the average American, a not insignificant difference.

Notice is an integral part of due process, and service indivisibly aligned with notice. "Notice and a meaningful opportunity to be heard are essential conditions of constitutional due process." *In Re Mallinckrodt PLC*, Bankr. Court, D. Delaware (2022). Also see: *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (stating, "[t]he notice must be of such nature as reasonably to convey the required information. . ."). In evaluating whether due process requirements have been met in a particular case, the proper inquiry is whether the notice was reasonably calculated under the circumstances to apprise interested parties of action being taken and afford them an opportunity to present their objection. *Mullane*, 339 U.S. at 314.

"The proper inquiry in evaluating notice is whether a party acted reasonably in selecting means

likely to inform persons affected, not whether each person actually received notice." *In re New Century TRS Holdings, Inc.*, 465 B.R. 38, 48-49 (Bankr. D. Del. 2012) (quoting In re Charter Co., 113 B.R. 725, 728 (M.D. Fla. 1990).

As any responsible individual (or corporation) appreciates the opportunity to accept responsibility for and remedy their own mistakes, so too that provision is afforded the courts.

CONCLUSION

In the interest of justice, this petition for rehearing should be granted and the U.S. Department of Justice, counsel of record for the court-designated respondent, the U.S. trustee, to submit a response before this Court finalizes the decision to dismiss. Or, alternatively, that the petition for certiorari be granted with remand to the U.S. Court of Appeals for the Ninth Circuit with instructions to provide legal reasoning to support the sua sponte designation of the U.S. trustee as appellee.

Respectfully submitted,

Paula Parisi

Paula Parisi
Petitioner in Pro Se

July 2023

CERTIFICATE OF PARTY

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

Paula Parisi
Petitioner in Pro Se
July 2023