No. 22-1128

In the Supreme Court of the United States

AMOS N. JONES,

Petitioner,

v.

CAMPBELL UNIVERSITY, ET AL.,

Respondents.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fourth Circuit

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

Respondents restate the Questions Presented as follows:

1. Whether the District Court abused its discretion in sanctioning Petitioner for skipping his properly noticed deposition;

2. Whether the District Court abused its discretion in sanctioning Respondents only $500 for harmless incomplete compliance with a local Alternative Dispute Resolution Rule;

3. Whether the District Court and the Fourth Circuit correctly interpreted Petitioner's motion for a Rule 26 sanction of "default judgment" as a request for only substantive relief;

4. Whether the Fourth Circuit or this Court should provide an advisory opinion on the potential judicial reassignment of future threatened litigation;

5. Whether the Fourth Circuit abused its discretion in denying a baseless and defamatory motion to disqualify Respondents' counsel; and

6. Whether the Fourth Circuit "reinstated" *Dred Scott v. Sanford*, 60 U.S. 393 (1856).

RULE 29.6 DISCLOSURE STATEMENT

Campbell University has no parent corporation and no publicly held company owns 10% or more of its stock.

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BRIEF IN OPPOSITION

Petitioner seeks this Court's review of the trial court's order on indisputably discretionary sanctions. Following a review of the parties' jointly submitted record on appeal, the Fourth Circuit found no abuse in the District Court's discretion. Such a routine application of unambiguous facts to settled law does not warrant this Court's review.

Petitioner's sole basis for review of the sanction against himself is that the lower courts should have given greater weight and consideration to the excuses he provided for skipping his own deposition. Conversely, Petitioner's sole basis for review of the sanction placed on Respondents is that the lower courts should have given less weight to Respondents' arguments that incomplete compliance with a local Alternative Dispute Resolution rule requiring in-person mediation attendance four months into the COVID-19 pandemic was, at most, *de minimis*.

Petitioner does not even assign error to the lower courts' statements of law that a request for substantive sanctions becomes moot when the underlying case is dismissed, let alone allege some kind of circuit split. Instead, Petitioner merely argues that the lower courts misinterpreted his requested sanction, while failing to cite any actual evidentiary support.

Whether the case should be reassigned on remand became moot when remand was unnecessary, and Plaintiff voluntarily dismissed his action. Instead, Petitioner seeks an advisory opinion on the

potential need for reassignment of a hypothetical lawsuit he claims will be filed in the future.

The Fourth Circuit did not abuse its discretion when it denied Petitioner's Motion for Disqualification. The offensive, defamatory, and unsupported allegations raised by Petitioner do not warrant consideration or review by the Court and Petitioner cannot cite to any law even inconsistent with the Fourth Circuit's denial, let alone conflicting with other circuits. This is not a genuine issue for appeal – it is an attempt to smear fellow members of the bar.

Petitioner makes no argument of any existing circuit split on any matter of law because there is none. Nor is there any profoundly important issue. Nor has there been a departure from any accepted and usual course or judicial proceeding that could warrant exercise of this Court's supervisory power. Instead, Petitioner only objects to the lower courts' factual findings and weight assigned to particular arguments. Even if this Court elected to undertake review, such a review would be futile. The lower courts' decisions are well founded in settled law and supported by unambiguous facts.

STATEMENT OF THE CASE

I. Factual Background

Due to the unique procedural posture of the Petition, including that Petitioner voluntarily dismissed his suit in its entirety prior to any decision on the merits, a recitation of the underlying factual

allegations is not appropriate here. No fact finder has ever made a ruling on the substantive allegations underlying Petitioner's claims, those facts were not on review at the Fourth Circuit, and they played no part in any of the questions presented.

For the purpose of context only, Petitioner was formerly employed by Respondent Campbell University's law school as an Associate Professor. Petitioner failed to timely and properly submit an application for tenure during his final year of eligibility and he was not granted tenure. He then brought suit. Respondents deny the allegations in the Petition, consistent with their Answer to the Second Amended Complaint.

A. Respondents' Alleged Incomplete Compliance With Local ADR Rule 101.1(d).

The relevant facts for this Petition are those which resulted in the District Court's sanctions. The parties mutually agreed to conduct a mediated settlement conference on June 19, 2020. CA JA114. Appearing on behalf of Respondents were: two attorneys, named defendant Robert Clyde Cogswell, Jr., and previously dismissed named defendant and Dean of Campbell University's law school, J. Rich Leonard. However, named individual defendants Dr. John Bradley Creed, President of Campbell University, and Timothy Zinnecker, professor of law, were absent while managing university affairs during the COVID-19 pandemic and teaching summer classes, respectively. Dr. Creed and Campbell's insurance representative were available by phone

while Dean Leonard and Mr. Cogswell held predetermined settlement authority on behalf of all defendants. CA JA115.

Petitioner objected to the absences of Dr. Creed and Professor Zinnecker, but ultimately Petitioner and his attorneys elected to proceed with nine and one-half hours of settlement negotiations. CA JA114-15. After the mediation resulted in an impasse, Petitioner filed a motion for sanctions, citing Local ADR Rule 101.1d(h), which requires a person's attendance at a mediation settlement conference. CA JA17. Noting that the mediation was able to proceed and that Petitioner's efforts were not wasted, the District Court sanctioned defendants $500.00 for the "technical" violation of the local rule. CA JA116-17.

B. Petitioner Skipped His Deposition Without Notice to Respondents.

Respondents solicited Petitioner's counsel for agreeable dates on which to take Petitioner's deposition as early as August 17, 2020. CA JA241. Petitioner's counsel did not provide any dates and instead filed a unilateral Motion to Stay Discovery. CA JA19, 248, 253, 259. Respondents opposed the motion and again sought mutually agreeable deposition dates on August 21, 2020. CA JA248. Respondents did not receive a response and impending deadlines forced Respondents to notice Petitioner's deposition for October 5, 2020, while continuing to offer flexibility in scheduling and inviting Petitioner's collaboration. CA JA253-57. Petitioner's counsel merely indicated that October 5th

would not be available and provided notice of a separate administrative hearing for which Petitioner needed to appear on October 7-8, 2020. Petitioner offered no alternative dates. CA JA260, 264.

Respondents then offered to move the deposition to a mutually agreeable date the week of October 12, 2020. CA JA367. Respondents noted impending discovery deadlines and advised that unilaterally failing to appear at the deposition would require Respondents to file a Motion to Dismiss. CA JA367-68. When Petitioner failed to respond, Respondents noticed Petitioner's deposition for November 10, 2020, and asked that Petitioner notify them if he was unable to attend no later than October 30, 2020. CA JA386-89. Petitioner concedes the he received this notice and never attempted to contact Respondents to alert them of any conflict. CA JA557.

Petitioner unilaterally elected to skip his deposition without notice to Respondents. Respondents' two counsel appeared at the deposition with a court reporter, videographer, and independent medical examiner. As a result, Respondents incurred more than $30,000 in wasted fees and costs. CA JA392-448.

II. Procedural Background

Petitioner initiated this action in the Superior Court of the District of Columbia on December 12, 2017. CA JA37. Respondents removed the matter to the District Court for the District of Columbia and

moved to dismiss for lack of personal jurisdiction. CA JA10.

Petitioner argued that venue and personal jurisdiction were proper in the District of Columbia because Dean Leonard is a former federal bankruptcy judge. Therefore, Petitioner argued, the District Court in the District of Columbia could disqualify all judges in the Eastern District of North Carolina, where Campbell University is located and where all relevant events occurred, and commandeer jurisdiction. The District Court for the District of Columbia ultimately transferred the matter to the Eastern District of North Carolina and sanctioned Petitioner's counsel for his specious jurisdictional arguments. CA JA12, 13, 554.

Respondents filed a Motion to Dismiss for Petitioner's failure to attend his deposition. Petitioner's response in opposition was the first time he provided any notice of a conflict with the deposition date. Pet. App. 3a. The Magistrate Judge assigned to this case recommended that the Respondents' Motion to Dismiss with prejudice be granted and ordered Petitioner to pay Respondents $7,014.65 of the more than $30,000 in costs and fees associated with the skipped deposition. Pet. App. 40a-49a. Petitioner objected to the recommendation that the case be dismissed with prejudice and appealed the recommendation and the award of costs and fees to the sitting District Court Judge, but did not appeal the costs and fees amount. CA JA25.

Petitioner then filed a new motion for sanctions pursuant to Rule 26(g)(3). The motion exclusively sought "default judgment against all Defendants, with damages limited to those specified in Plaintiff's Rule 26(a)(1) Initial Disclosures…." Petitioner repeated his specific request for only substantive relief throughout his motion and supporting memorandum. Pet. App. 3a.

The Honorable Judge Terrence W. Boyle did not accept the Magistrate Judge's recommended dismissal with prejudice and converted it – at the request of Petitioner – to a dismissal without prejudice. Judge Boyle then reviewed the monetary sanction to determine whether it was "clearly erroneous or contrary to law." Judge Boyle declined to disturb the award because it was "both contemplated by the Federal Rules of Civil Procedure and adequately supported by this record." Judge Boyle denied the motion for substantive Rule 26 sanctions as moot, now that Petitioner's claim was dismissed. Pet. App. 29a-35a.

Petitioner appealed Judge Boyle's order. The Notice of Appeal to the Fourth Circuit did not include an appeal of the $500 mediation sanction. CA JA574.

Following the submission of a Joint Appendix and opposing briefs, the Fourth Circuit issued an unpublished, *per curiam* decision affirming the challenged order. The Fourth Circuit reviewed the imposition of sanctions for abuse of discretion and found none. Pet. App. 2a-3a.

The Fourth Circuit noted that the representatives present at the mediation had full authority to settle the case on behalf of all defendants and Petitioner was not prejudiced by the absence of the parties who failed to appear. Petitioner's efforts in attending the mediation were still put to use and therefore a costs and fees sanction was not necessary. Pet. App. 3a.

In contrast, the Fourth Circuit found that Respondents could accomplish nothing at Petitioner's deposition due to his unexcused absence. In upholding the discretionary sanctions, the Fourth Circuit cited the "significant need to deter parties from unilaterally deciding not to attend a properly scheduled deposition." *Id*.

Finally, the Fourth Circuit noted Petitioner's concession of the legal principle that motions for sanctions seeking substantive relief become moot when a case is dismissed. Because the only sanction sought in Petitioner's Rule 26 motion was default judgment, the Fourth Circuit affirmed the District Court's orders. *Id*.

Petitioner then substituted himself for his appellate counsel and filed a Petition for Rehearing *En Banc* and a Motion to Disqualify Appellee's Counsel. CA Doc 26, 27, 29. The fabrications and defamatory insinuations in Petitioner's motions did not warrant response and Respondents elected not to respond, consistent with Fourth Circuit Local Rule 27(d)(1). No judge requested a poll under Fed. R. App. P. 35 and

the Fourth Circuit summarily denied Petitioner's motions. CA Doc. 30.

REASONS FOR DENYING THE PETITION

I. Certiorari Is Unwarranted To Review The Fourth Circuit's Application of Settled Law.

Challenges to discretionary trial court sanctions and discretionary appellate orders do not satisfy any of the criteria that may warrant review by this Court. Petitions for certiorari will only be granted "for compelling reasons." Sup. Ct. R. 10. These reasons include when:

> (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;…
> (c) a…United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

Id. In contrast, "[a] petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law." *Id*.

There is no issue of law relevant to this matter that is disputed among the circuits. In fact, the Petition does not even allege such a dispute for Respondents to disprove. Rather, all of Petitioner's questions presented ask this Court to re-weigh the facts and re-apply the law correctly stated by the lower appellate court. This fact is driven home by Petitioner's argument in favor of certiorari – instead of arguing a circuit split, he repeatedly cites to his lower court briefing, flatly arguing that the Fourth Circuit reached the wrong conclusion.

The first and second questions presented by Petitioner are whether the Fourth Circuit erred in holding that the District Court did not abuse its discretion in sanctioning the parties. The questions, as stated by Petitioner, then list five factors he claims excuse his sancitonable conduct and circumstances which he believes should warrant greater sanctions on Respondents.

Petitioner does not claim that 'abuse of discretion' is the incorrect standard or that there is any disagreement among the circuit courts regarding the correct standard of review. Even if he did, it is well established by this Court that District Court sanctions are reviewed for abuse of discretion. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 55 (1991). The Fourth

Circuit applied the correct and undisputed law of the land.

Instead, Petitioner exclusively argues that the Fourth Circuit misapplied the facts in considering whether the District Court abused its discretion with respect to sanctions imposed on the parties. This is a consideration regularly left to the lower courts and not worthy of this Court's review.

The third question presented is whether the Fourth Circuit erred in holding that requests for substantive sanctions are moot following dismissal of the underlying action. Once again, Petitioner fails to cite to any disagreement among the circuits for this basic legal holding and does not challenge whether this is an accurate statement of law. In fact, Petitioner's appellate counsel at the Fourth Circuit conceded that substantive sanctions are moot following dismissal.

Instead, Petitioner argues that he sought more than substantive relief in his motion for Rule 26 sanctions. He seeks review of the motion to make a fact determination of whether non-substantive relief was ever requested. However, he fails to cite to any request for non-substantive sanctions. Instead, as Respondents showed in their Response Brief at the Fourth Circuit, and which Petitioner failed to rebut in his Reply, Petitioner exclusively and repeatedly sought only substantive relief. Petitioner's request for new findings of fact applied to settled questions of law does not warrant this Court's review.

The fourth question presented is whether the Fourth Circuit erred in declining to reassign the matter on remand. Again, Petitioner cites no conflict among the circuits. He cites no legal principles supposedly violated by the order. Instead, the Fourth Circuit did not need to address reassignment, not only because the arguments were frivolous and sanctionable, but because its holding left nothing to remand.

The fifth question presented is whether the Fourth Circuit should have disqualified Respondents' counsel. Petitioner cites no split among the circuits on any rule of law or standard for disqualifying counsel. Instead, Petitioner disagrees with the Fourth Circuit's application of Petitioner's invented 'facts' and baseless allegations to rules governing disqualification. Application of such rules by lower appellate courts do not warrant review by this Court, especially when such rulings are left to the discretion of the lower court.

The sixth and final question presented is whether the Fourth Circuit's rulings revive *Dred Scott v. Sanford*, 60 U.S. 393 (1856). Even if this argument were coherent, Petitioner again fails to cite any disagreement among the circuits about what circumstances may inappropriately 'revive' the *Dred Scott* decision.

Simply put, Petitioner fails to even allege any legal controversy – let alone prove one – which could require this Court's attention.

II. Petitioner's Justification for Review Is Not Recognized By This Court.

Petitioner's primary justification for this Court's review is that his questions presented are entitled to "clear judicial answering" in anticipation of refiling his previously voluntarily dismissed claims. Such an argument is unavailing for several reasons.

First, there is already a "clear judicial" answer on the question of sanctions. The District Court, in its discretion, found that certain conduct justified sanctions. The Fourth Circuit, after reviewing the record, found that this determination was not an abuse of the District Court's discretion. Similarly, the Fourth Circuit answered the "questions" on disqualification and the *Dred Scott* argument by quickly dispensing with both. There is no great legal issue still pending in this case. There is no question left open requiring this Court's intervention.

Second, the question on judicial re-assignment was not addressed because it is moot. Plaintiff voluntarily dismissed his suit and the underlying action no longer exists. The only way *this* case could go back to the District Court is if this Court overturns the Fourth Circuit's decision, remands, and then the Fourth Circuit remands to the District Court. Because this will not happen, addressing judicial reassignment is unnecessary.

In reality, Petitioner seeks an advisory opinion on judicial reassignment *if* he re-files this suit, *if* it is in the Eastern District of North Carolina, and *if* it is

assigned to Judge Boyle. It is well established by this Court that "federal courts established pursuant to Article III of the Constitution do not render advisory opinions. For adjudication of constitutional issues 'concrete legal issues, presented in actual cases, not abstractions' are requisite." *Golden v. Zwickler*, 394 U.S. 103, 108 (1969) (quoting *United Public Workers of America (C.I.O.) v. Mitchell*, 330 U.S. 75, 89 (1947)). Granting certiorari, only to be asked to render an advisory opinion, is not an appropriate use of this Court's review.

Third, Petitioner's request for substantive Rule 26 sanctions has already received "judicial answering" and further review is unnecessary for the same reason it was originally denied – the underlying claim has been dismissed and a request for substantive relief is moot as a matter of well-established law.

Petitioner's invocation of constitutional provisions and the specter of *Dred Scott* are red herrings, last failed gasps at creating a controversy for this Court. The crux of Petitioner's arguments is (1) that courts should honor orders from other jurisdictions and the District Court failed to recognize other orders and (2) if Petitioner receives any adverse ruling it constitutes treating him as a non-citizen. These arguments do not require this Court's attention.

There is no competing order from another tribunal that the District Court failed to honor. First, Respondents were sanctioned for a technical violation of a Local ADR Rule. The District Court clearly honored its prior order requiring mediation, even

though Respondents still contend there was no violation. Second, Petitioner was sanctioned – not because he elected to fulfill an obligation with another tribunal – but because he did so admittedly without providing notice to Respondents, causing Respondents to incur needless waste for which they will not be fully compensated.

Petitioner's *Dred Scott* argument warrants even less attention. Petitioner offers no evidence of disparate treatment on the basis of his race. Time and time again, the trial court treated Petitioner with leniency, offering multiple chances to correct mistakes, despite Petitioner's inflammatory rhetoric towards Respondents, their counsel, and even the judiciary. Indeed, the District Court's temperament and restraint in this matter should be a model to all trial judges. Far from a second-class citizen, Petitioner was given almost preferential treatment and threw the courtesy back in the trial court's face.

Even if Petitioner could point to a conflict among the circuits – which he does not even attempt – or an important issue – which he cannot – the lower court ruling is unpublished. The decision from which Petitioner seeks review has no precedential value within the Fourth Circuit and does not warrant this Court's effort in review.

III. The Fourth Circuit Correctly Affirmed the District Court's Orders.

Even if Petitioner could make any coherent argument why this Court should undertake review – which he cannot – such review would be futile because the Fourth Circuit clearly decided the matter correctly, based on undisputed facts and well-settled law.

A. Petitioner Was Appropriately Sanctioned for Unilaterally Skipping His Well-Noticed Deposition.

The Fourth Circuit correctly held that the District Court did not abuse its discretion in sanctioning Petitioner for skipping his well-noticed deposition. Petitioner argues that a third consideration of his justifications will excuse his absence. Specifically, he cites: (1) a pending motion to stay discovery, (2) a pending protective order, (3) a pending voluntary dismissal, (4) a voluntary "written commitment" to stop providing written discovery, and (5) an order to appear virtually in another matter on the same day and time. Even if this Court desired to reexamine the record considered by the Fourth Circuit, it would quickly dispense with each excuse.

As to the pending motions, the very nature of their pendency shows that they do not permit a party to unilaterally skip a well-noticed deposition. Instead, the parties were quickly approaching discovery deadlines. Without an order staying discovery and without Petitioner's cooperation on establishing

acceptable dates, Respondents were forced to pick a date. Even in doing so, Respondents offered to reschedule if the date conflicted with other obligations. The Federal Rules of Civil Procedure do not permit a party to avoid depositions by simply closing their eyes and ears to requests. Until a court excuses attendance, discovery goes on.

The Petitioner's claim of a voluntary stay to all written discovery is equally unavailing. In support, the Petition cites to a 41-page exhibit filed in the District Court, but cannot cite to the precise page where this supposed "voluntary written commitment" resides. Even if it does exist, a prior, informal agreement between the parties does not supersede a District Court's order opening discovery and setting a discovery deadline. Even if it could, it does not justify Petitioner's silence in response to receiving the Notice of Deposition.

Petitioner relies on an order from another jurisdiction compelling his virtual presence on behalf of a client in another matter as justification for skipping his deposition. Further, he raises – for the first time – a full faith and credit argument. What Petitioner fails to disclose, however, is that (1) this order was issued the day before Respondents noticed Petitioner's deposition, (2) Petitioner did not bring this to Respondents' attention until *after* he skipped the deposition and *after* the filing of a Motion to Dismiss, and (3) his active representation of a client in another matter directly contradicts his claim that he required a stay of this case because of what he now categorizes as his "orthopedic calamity." Pet. 13.

When Respondents set the date of Petitioner's deposition, they solicited Petitioner's cooperation to select a mutually agreeable date, should he have a conflict. Clearly, if Petitioner had provided this one order beforehand, Respondents would have rescheduled. He admits he did not. Petitioner's sanction was not due to a failure to honor another tribunal's order, it was for Petitioner's hiding of that order, forcing Respondents to incur thousands of dollars of waste. The full faith and credit clause is inapplicable.

B. The Fourth Circuit Correctly Upheld the District Court's Mediation Sanctions.

The Fourth Circuit did not err when it found that the District Court did not abuse its discretion in setting mediation sanctions. Even if this Court elected to re-weigh the evidence considered by the District Court and the Fourth Circuit to determine whether the $500 sanction was appropriate – which it should not – it would still find no error in the lower courts' decisions.

First, Respondents maintain that there was no violation of the local ADR rule. The rule permits the absence of named parties if all parties consent to the absence. E.D.N.C. Local ADR Rule 101.d(h). Petitioner discovered the absences, but chose to proceed anyway, thereby waiving any objection.

Second, there was no bad faith on the part of Respondents – in direct contrast with Petitioner dodging his deposition. The only absent individuals were the President of Campbell University – who was tending to administrative matters at the height of the COVID-19 pandemic – and Professor Zinnecker – who was teaching a summer course. Their absences were not deviously manufactured in an attempt to thwart settlement efforts. In fact, individuals with authority to reach a global settlement were present and attended the nine and one-half hour mediation.

Third, the absence of Dr. Creed and Professor Zinnecker had no impact on settlement efforts. As Petitioner inappropriately states, the parties eventually reached a post-mediation tentative settlement, without the live, in-person involvement of either Dr. Creed or Professor Zinnecker. In contrast, Petitioner's absence from his deposition completely destroyed the Respondents' ability to even partially complete the deposition.

Even if this Court believes a sanction of more than $500 is warranted, such is not the appropriate standard. Rather, the question is whether the District Court's decision to impose a $500 sanction is an abuse of its discretion. Clearly it is not.

C. Substantive Sanctions are Moot Following Dismissal.

Motions for sanctions seeking substantive relief become moot when the underlying action is dismissed. This is an uncontroversial opinion, seemingly

unchallenged by either the Petitioner or Petitioner's appellate counsel, below. Instead, Petitioner appears to suggest that the lower courts misinterpreted his requested relief. Even if this Court found it worth re-examining whether the lower courts correctly interpreted the facts – which it is not – it would reach the same conclusion.

Petitioner's sole argument is that his Motion for Rule 26(g)(3) sanctions "did not merely seek substantive relief, but sought specific monetary sanction and any other remedy just and proper under the Rule." Pet. 13. However, the Petition does not – and cannot – cite to any such "specific" language. In contrast, Respondents can cite to the plethora of language where Petitioner repeatedly and exclusively sought substantive relief: "The requested sanction is specified in Plaintiff's Memorandum in Support of this Motion…" [D.E. 183 at 2]; "**default judgment against Defendants as follows**" [D.E. 184 at 11 (emphasis in original)]; and "default judgment against all Defendants, with damages limited to those specified in Plaintiff's Rule 26(a)(1) Initial Disclosures…" [*id.*].

Petitioner's appellate briefing is telling. When Respondents noted this concession in their Response Brief below, Petitioner did not cite the "specific monetary sanction" he claims now, but instead left the issue unaddressed. The Fourth Circuit's holding that Petitioner sought substantive relief, which was mooted by his voluntary dismissal, was correct.

There are no issues presented in the Petition that warrant review by this Court. Petitioner has not even attempted to claim a dispute among the circuits, any important issue, or any departure from the accepted and usual course of judicial proceedings to justify this Court's exercise of supervisory power. Sup. Ct. R. 10. Instead, the asserted errors consist solely of alleged erroneous factual findings or, at most, misapplication of a properly stated rule of law. Even if this Court undertook review, it would be a waste of the Court's resources, as the record clearly shows the lower courts did not err.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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