

No. _____

In The
Supreme Court of the United States

IN RE DEBORAH WALTON,
Petitioner,

ON PETITION FOR A WRIT OF MANDAMUS TO
THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF INDIANAPOLIS

Hon. Judge Sara Evans Barker,
Hon. Judge James R. Sweeney II,
and Hon. Judge James P. Hanlon

PETITION FOR A WRIT OF MANDAMUS

The Petitioner Deborah Walton, Pro Se, respectfully
Petitions for a Writ of Mandamus to the United States
Supreme Court. In the alternative, the Petitioner
respectfully requests that the Court treat this Petition
as a Petition for a Writ of Mandamus.

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QUESTIONS PRESENTED

Did the District Court err by misinterpreting the Order from the Seventh Circuit Court of Appeals?

Did the District Court denying the Petitioner her First Amendment Rights?

STATEMENT OF RELATED CASES

The related cases that are pending before the District Court are as follows: **1:17-cv-01888-SEB-MPB**; **1:21-cv-00419-JRS-TAB** and **1:21-cv-00365-JPH-TAB**.

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PETITION FOR A WRIT OF MANDAMUS

Petitioner respectfully petitions for a Writ of Mandamus to the United States District Court for the Southern District of Indianapolis, the Hon. Judge Sara Evans Barker, Hon. Judge James R. Sweeney II, and Hon. Judge James P. Hanlon in that the Orders issued by the court and these judges violate petitioner's constitutional rights under the First Amendment.

RELIEF REQUESTED

The Petitioner Deborah Walton, petitions this Court for a Writ of Mandamus reversing the District Court orders that barred her from filing motions, pleadings and complaints.

OPINIONS BELOW

The judgment of the Seventh Circuit Court was entered September 1, 2022, and the Southern District Court of Indianapolis Orders were entered on September 13, 2022, September 14, 2022, September 15, 2022, and September 16 of 2022.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. 1651.

CONSTITUTIONAL PROVISIONS

U.S. Constitution, Amendment I:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

STATEMENT OF THE CASE

The Petitioner Deborah Walton, petitions this Court for a Writ of Mandamus reversing the District Court orders, that barred her from filing motions, pleadings and complaints.

FACTUAL BACKGROUND

The Petitioner, Deborah Walton ("Petitioner"), filed a complaint against First Merchants Bank for violations under the Fair Credit Billing Act, (FCBA), (part of the Truth In Lending Act) 15 U.S.C § 1666 *et. seq.* and Regulation Z. Yet the District Court granted the motion, for Judgment on the Pleadings, in favor of the First Merchants Bank.

First Merchants Bank relied solely on fraudulent emails that they fabricated, and submitted to the District Court, to obtain a judgment on the pleads; after the third amended complaint was filed. First Merchants Bank answer, was accompanied by exhibits; which consisted of fraudulent emails, for the purpose of deceiving the District Court, in believing they met their obligations under the Fair

Credit Billing Act. The fraudulent emails were ignored by both the District Court, and 7th Circuit Court of Appeals.

The panel of Judges at the Seventh Circuit and Judge James Sweeney at the District Court, all based their decision on Fraudulent emails. Hence, the order that went up on Appeal from the District Court is under cause number **1:21-cv-00419-JRS-TAB**, at [Dkt 109], and the order from the Seventh Circuit is under case number No. 22-1240. **App. 1 – App. 5**

The Petitioners Appeal addressed issues of material facts, and the lack of both courts allowing the Petitioner her rights to of Due Process. The case concerning the Order from the Seventh Circuit Court of Appeals under cause number No. 22-1240 will also be petitioned for a writ of certiorari with the U. S. Supreme Court.

REASONS FOR GRANTING THE WRIT

THIS COURT MUST ISSUE A WRIT OF MANDAMUS REVERSING THE RULING OF THE DISTRICT COURT JUDGES THAT DENIED THE PETITIONER HER FIRST AMENDMENT RIGHT TO FILE COMPLAINTS, PLEADINGS AND MOTIONS IN THE DISTRICT COURT

- I. Did the Three District Judges error by misinterpreting the Order From The Seventh Circuit Court of Appeals, or does Title 18, U.S.C. § 241 and Title 18, U.S.C. § 242 apply to their actions. This Issue Is Properly Reviewed by Mandamus.**

Pursuant to the U.S. Supreme Courts Rule 20, the District Court Judges orders, are reviewable pursuant to a writ of mandamus. This Court analyzes five factors in determining the propriety of mandamus:

- (1) The party seeking the writ has no other adequate means, such as a direct appeal, to attain the relief she desires.
- (2) The petitioner will be damaged or prejudiced in a way not correctable on appeal.
- (3) The district court's order is clearly erroneous as a matter of law.
- (4) The district court's order is an oft-repeated error, or manifests a persistent disregard of the federal rules.
- (5) The district court's order raises new and important problems, or issues of law of first impression.

Bauman v. United States Dist. Court, 557 F.2d 650, 654-55 (9th Cir. 1977) (citations omitted).

These factors are only guidelines and raise questions of degree, including how clearly erroneous the district court's order is as a matter of law and how severe the damage to the petitioner will be

without relief. 557 F.2d at 655. Furthermore, these factors need not all point the same way or even all be applicable in cases where relief is warranted. *Id.* The existence of clear error as a matter of law, however, is dispositive. *Calderon v. United States Dist. Court (Nicolaus)*, 98 F.3d 1102, 1105 (9th Cir. 1996).

The *Bauman* factors favor issuance of the writ in this case. As to the following factors:

(1). The Petitioner is seeking the writ because she has no other adequate means, such as a direct appeal, to attain the relief she desires. Hence the Seventh Circuit Court of Appeals made it very clear that the Petitioner is not to file anything further with this court.

The 7th Circuit Court of Appeals Order clearly states: This appeal is **DISMISSED** as frivolous. The clerks of all federal courts in this circuit are hereby **ORDERED** to return unfiled any papers submitted to *this* court by or on behalf of Deborah Walton, with the exceptions previously noted. **App. 1 - App. 6**

(2). The petitioner will be damaged or prejudiced in a way not ever correctable on appeal. The Petitioner has an upcoming jury trial that was ordered by the Seventh Circuit Court of Appeals, which was Remanded back to the Southern District of Indianapolis under cause number is **1:17-cv-01888-SEB-MPB**. This case is pending for a Jury Trial, therefore; if the most recent Order entered by the Hon. Judge Sarah Evans Barker is binding, the Petitioner Deborah Walton will be prejudiced by such order, in a way not correctable on appeal,

especially since the Seventh Circuit has barred the Petitioner from filing any Appeals for two years.

The following Order was just recently entered:

Hon. Judge Sarah Evans Barker in Southern District Court, entered an **ORDER** under cause number **1:17-cv-01888-SEB-MPB**; which clearly states: On September 1, 2022, the Seventh Circuit issued an order imposing the following sanction on Plaintiff Deborah Walton for her repeated filing of frivolous suits and appeals in this district: "We now direct the clerks of all federal courts in this circuit to return unfiled any papers that Walton tries to file for two years, other than in cases concerning a criminal prosecution against her or a habeas corpus proceeding. *Walton v. First Merchants Bank*, 2022 WL 3999965, at *2 (7th Cir. 2022) (citing *Support Sys. Int'l, Inc. v. Mack*, 45 F.3d 185, 186 (7th Cir. 1995)). **Thus, we need not consider Walton's Notice to the Court Concerning Future Appeals to the U.S. Supreme Court**" [Docket No. 428], and the clerk is directed to return any unfiled papers that Walton attempts to file in this case for two years, per the Seventh Circuit's imposition of the *Mack* bar. **App. 7 – App. 8**

The petitioner will also be damaged and prejudiced in a way that is not correctable on appeal. The Petitioner has a pending fee hearing, that will require her to submit evidence, and call witnesses in the S.D. of Indianapolis under cause number is **1:21-cv-00419-JRS-TAB**. The Order that was entered by the Hon. Judge James R. Sweeney II, which is binding, therefore, the Petitioner Deborah Walton

will be prejudiced by such order, in a way not correctable on appeal, especially since the Seventh Circuit has barred the Petitioner from filing any Appeals for two years.

The following Orders were just recently entered, states the following:

The Hon. Judge James R. Sweeney II, entered an Order under cause number is **1:21-cv-00419-JRS-TAB**, which clearly states: The Seventh Circuit has barred Deborah Walton *from filing any papers in all federal courts* in the Seventh Circuit for two years, with two exceptions not applicable here. See *Walton v. First Merchants Bank*, No. 22-1240, WL 3999965 (7th Cir. Sept. 1, 2022). Walton presented a Notice to the Court Concerning Future Appeals to the U.S. Supreme Court on September 12, 2022. Because the Clerk's Office was unaware of the Seventh Circuit's order, it erroneously accepted her papers for filing. Walton's Notice to the Court is now stricken from the docket. **App. 9**

The Hon. Judge James R. Sweeney II, entered a second Order under cause number is **1:21-cv-00419-JRS-TAB**, which clearly states: Vexatious litigant Deborah Walton is subject to a filing bar in all courts of the Seventh Circuit as a result of her persistent pursuit of frivolous litigation. See *Walton v. First Merchants Bank*, No. 22-1240, 2011 WL 3999965, at *2 (7th Cir. Sept. 1, 2022). Walton presented the instant case to this Court on September 12, 2022. Because the Clerk's Office was unaware of the Seventh Circuit's order, it erroneously accepted Waltons papers and opened the instant case.

Because Walton was prohibited from filing this case and cannot file any other papers in this Court for two years, she cannot prosecute this matter and it must be dismissed. Accordingly, this action is **DISMISSED WITH PREJUDICE**. Judgment consistent with this Order shall now issue. **App. 10 – App. 12**

The Hon. Judge James P. Hanlon, entered an Order that was pending under cause number is **1:21-cv-00365-JPH-TAB, App. 13 – App. 16**. Therefore, if the Hon. Judge James P. Hanlon, had read the order, he would have seen the following: **ORDERED** to return unfiled any papers submitted to this court by or on behalf of Deborah Walton, with the exceptions previously noted. **App. 1 – App. 6**

(3). The District Court Judge Sarah Evans Barker's order, Judge James R. Sweeney's orders, and Judge James Hanlon's order are clearly erroneous as a matter of law.

The Order from the Seventh Circuit is very clear: The 7th Circuit Court of Appeals Order clearly states: This appeal is **DISMISSED** as frivolous. The clerks of all federal courts in this circuit are hereby **ORDERED** to return unfiled any papers submitted to this court by or on behalf of Deborah Walton, with the exceptions previously noted. **App. 1 – App. 5**

The language in *Mack* 45 F.3d 186, 186 (7th Cir. 1995), is as follows:

“As explained in this opinion, the clerks of the federal courts of this circuit are hereby **ORDERED** to return unfiled any papers

submitted to these courts either directly or indirectly (as by mail to individual judges) by or on behalf of Richard Mack, with the exceptions noted in the opinion. The injunction issued by the district court, though of limited significance in light of our order, is **AFFIRMED.**"

Therefore, the *Bauman* factors favor issuance of the writ in this case, since the Petitioner has no other adequate means to obtain relief, and cannot obtain review by direct appeal from a judgment after trial, especially since the Seventh Circuit has barred the Petitioner from filing an Appeal for two years, and because the harm obtained review by direct appeal from a judgment after trial, because the harm – exclusion from the trial process – will already have occurred during the trial. Moreover, the resolution of this issue does not depend on facts to be developed at trial.

II. The District Court Has Denied The Petitioner Her First Amendment Right.

The Judicial Branch of government performs the essential role of ensuring that all persons, should be able to enforce their legal rights, and the First Amendment recognizes the right to access the courts as the principal means by which the Judicial Branch performs this role. *See Marbury v. Madison*. In *Marbury v. Madison*, Chief Justice Marshall stated: "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to

afford that protection. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803). Through civil litigation, persons can seek enforcement of their legal rights against entities and persons who violate them. They can also seek to invoke the law-making authority of judges to define the common law. Finally, they can seek to enforce provisions of the Constitution against entities or persons who transgress them. It is imperative that all persons have access to the Judicial Branch of government to enforce their rights under law. The First Amendment to the Constitution of the United States of America is the legal basis of the right to access the courts. It provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

CONCLUSION

It is very apparent, the three District Judges are interpreting the Order from the Seventh Circuit Court of Appeals, in three different way, yet all of which; have come to the conclusion that the Petitioner is barred from filing any motions, pleadings, and complaints with the Southern District of Indianapolis for two years. The Order and Final Judgement that came down from the Seventh Circuit Court of Appeals is very clear, the Seventh Circuit wrote the following Order, and reiterated it, in the Final Judgment, with almost the identical language as follows:

The Order from the Seventh Circuit is very clear:

This appeal is **DISMISSED** as frivolous. The clerks of all federal courts in this circuit are hereby **ORDERED** to **return unfiled any papers** submitted to **this** court by or on behalf of Deborah Walton, with the exceptions previously noted.

App. 1 – App. 5

The FINAL JUDGMENT from the Seventh Circuit is very clear:

This appeal is **DISMISSED**, with costs, as frivolous. The clerks of all federal courts in this circuit are hereby **ORDERED** to return unfiled any papers submitted to **this** court by or on behalf of Deborah Walton, with the exceptions previously noted. The above is in accordance with the decision of this court entered on this date. **App. 6**

The portion of the Order from Hon. Judge Sarah Evans Barker states the following:

“We now direct the clerks of all federal courts in this circuit to **return unfiled any papers** that Walton tries to file for two years, other than in cases concerning a criminal prosecution against her or a habeas corpus proceeding. **App. 7 – App. 8**

What the Hon. Judge Sarah Evans Barker left out was the following:

....courts in this circuit are hereby **ORDERED** to return *unfiled any papers submitted* to *this* court by or on behalf of Deborah Walton.

Hence, there is nothing in Judge Barkers Order that expressed the fact that the Petitioner has had a pending case before her court, since 2017, and the words "*this court*" is referring to the Seventh Circuit Court of Appeals.

The portion of the Order from Hon. Judge James R. Sweeney II states the following:

The Seventh Circuit has barred Deborah Walton from filing *any papers in all federal* courts in the Seventh Circuit for two years, with two exceptions not applicable here. **App. 9**

What the Hon. Judge James R. Sweeney II left out was the following:

....courts in this circuit are hereby **ORDERED** to return *unfiled any papers submitted* to *this* court by or on behalf of Deborah Walton

Hence, there is nothing in the Order from the Seventh Circuit's Order that states *any papers*....

Although, Hon. James P. Hanlon, raised the argument that since the Petitioner can not file any motions until September 1, 2024, he had no chose but to dismiss her case in accordance with Fed. T.R. Civ. 41(b) with prejudice.

However, apparently Hon. Judge James P. Hanlon, failed to interpret what the Seventh Circuit meant by the following:

....courts in this circuit are hereby **ORDERED** to return **unfiled any papers submitted** to **this** court by or on behalf of Deborah Walton.

Therefore, what the Petitioner has concluded in the Orders, from Judge Barker, and Judge Sweeney, is that a case that is not frivolous awaiting a jury trial, can be put on hold, while; a case that is pending attorney fees, gives Judge Sweeney the power to deny the Petitioner her right to due process. However, the Order from Judge Hanlon, dismissing a case that was awaiting a Default Judgment from the Clerk of the courts since June 21, 2022, is without merit, since the Seventh Circuit Court of Appeals made it very clear, that they were barring the Petitioner from filing any future cases with the Seventh Circuit. There is nothing in the Order from the Seventh Circuit that directs all District Courts in the circuit to dispose all pending cases, nor reject any filings in the District Court. emphasis added.

Respectfully submitted this 23rd day
of September, 2022.

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