

22-5414

No. \_\_\_\_\_

ORIGINAL

Supreme Court, U.S.  
FILED

AUG 06 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

LEROY LAMONT WELLS — PETITIONER  
(Your Name)

vs.

COLLETTE PETERS, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON ~~MERITS OF~~ YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

LEROY LAMONT WELLS  
(Your Name)

777 STANTON BLVD  
(Address)

ONTARIO, OREGON 97914  
(City, State, Zip Code)

N/A None  
(Phone Number)

### QUESTION(S) PRESENTED

- 1) Must the Court strike an unsigned ORDER or any unsigned paper, that PETITIONER objected to timely, and was not corrected following the objection?
- 2) Must a Defendant(s) file an Answer to a Complaint in District Court pursuant to the Magistrate Judge's Order to file an Answer, and if the Defendant fails to file any Answer to the Complaint, are Defendants in Default?
- 3) Upon the Court ordering the Respondent COLLETTE PETERS, et al to file a Brief in Opposition, and the Court receives instead an EXPRESS WAIVER of Right to Respond, (15-1)(15-2), and Respondents Defaulted in the District Court, Must the Defendants Default be entered, and is Petitioner entitled to Default Judgment in his favor pursuant to FRCP Rule 4-E, and as expressed in published FRCP Rule 4 WAIVER OF SERVICE OF SUMMONS?
- 4) Is Petitioner entitled to Default Judgment pursuant to FRCP Rule 54(c) in U.S.D.C. No. 2:16-cv-01930-JE, Wells v. Peters, et al, based upon the Defendants did default, and did file WAIVER of COLLETTE PETERS, et al, Right to Respond in U.S. Supreme Court No. 18-5049, Wells v. Peters, et al.?
- 5) Is it the accepted and usual course of Judicial proceedings for a U.S. Court of Appeals to issue only unsigned Orders and no Appellate Judgments, upon Appellee failing to file an answering Brief in Appeal?

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

☒ 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) John Doe PRISONER Defendants present at ODOC 3-7-14-Present. (2011)
- 2) et al.

At this time, Petitioner incorporates the Joinders of Parties filed in Wells v. Peters, et al. by Reference as 1) Petitioner is confined in isolation absent his legal property, and 2) The Defendant-Respondents are too numerous to Recoll from Memory. III.

## RELATED CASES

- Wells v. Peters, et al, ~~DC~~ No. 2:16-cv-01930-JE, U.S. District Court for the District of Oregon. NO FINAL JUDGMENT ON THE MERITS. Defendants Defaulted.
- Wells v. Peters, et al, No. 17-35696, U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT. Briefing stayed. No Signed Orders. No Judgment entered.
- Wells v. Peters, et al, 18-5049, U.S. Supreme Court. Waiver of Collette PETERS, et al Right to Respond filed July 5, 2018, CERTIORARI Denied.
- Wells v. Peters, et al, 19-35422, U.S. Court of Appeals for the Ninth Circuit. Briefing stayed. District Court Order Revoking IEP entered, Date UNKNOWN, District Court ORDER vacated, IEP status granted. NO Judgment ENTERED.
- Wells v. Peters, et al, 21-35903, U.S. Court of Appeals for the Ninth Circuit. NO JUDGMENT ENTERED, NO SIGNED ORDER OR JUDGMENT ENTERED. Briefing US NOT STAYED.

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## INDEX TO APPENDICES

APPENDIX A ORDER - UNSIGNED. NO JUDGMENT, NO ORDER SIGNED.

APPENDIX B NO FINAL JUDGMENT.

APPENDIX C ORDER AT DOCKET 227 BY MAGISTRATE JUDGE WAS VACATED. YET NO ORDER OR JUDGMENT WAS PROVIDED TO PETITIONER.

APPENDIX D ATTACHED UNSIGNED ORDER DENYING RECONSIDERATION OF PETITIONER'S OBJECTIONS TO UNSIGNED PAPER OF DOCKET ENTRY NO. 12. (REPORTED ORDER)

APPENDIX E ///.

APPENDIX F///.

## TABLE OF AUTHORITIES CITED

### CASES

None

### PAGE NUMBER

none

### STATUTES AND RULES

U.S. Supreme Court Rule 15.5 WAIVER	5(4)
Federal Rules of Civil Procedure (2016) Rule 4-E	5(4)
Federal Rules of Civil Procedure (2016) Rule 4-WAIVER OF SERVICE OF SUMMONS	5(4)
Federal Rules of Civil Procedure (2016) Rule 54(c) Default Judgment.	5(4)
Federal Rules of Civil Procedure (2016) Rule 55(a)	5(4)
Federal Rules of Civil Procedure (2016) Rule 11(a)	5(4)
<del>RULE 11</del>	(5) Implied.

### OTHER

U.S. Supreme Court Precedent Case law on the effects of a Defendant Default by failing to file and serve an Answer to the complaint, after being ordered to do so, and after appearing in a preliminary motion, and subsequent filing of that Defendant's express waiver. 111

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 13 to the petition and is

- ☐ reported at N/A; 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 N/A to the petition and is

- ☐ reported at N/A; 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 12 to the petition and is

- ☐ reported at 12; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the N/A court appears at Appendix 12 to the petition and is

- ☐ reported at 12; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was NO DECISION - NO SIGNED ORDER.

☐ 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: June 6, 2022, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including MP (date) on MP (date) in Application No. MPA MP.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

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

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

☐ An extension of time to file the petition for a writ of certiorari was granted to and including MP (date) on \_\_\_\_\_ (date) in Application No. MPA MP.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- AMENDMENT XIV "RIGHT TO DUE PROCESS" CLAUSE Under U.S. Const. III
- AMENDMENT VII "RIGHT TO CIVIL TRIAL" guaranteed under U.S. Const. III
- "RIGHT TO TRAVEL" - ARTICLE IV Sec. 2, U.S. Const. III
- RIGHT TO VOTE - AMENDMENT XV guaranteed under U.S. Const. III



## STATEMENT OF THE CASE

In *Wells v. Peters, et al*, No. 2:16-cv-01930-JG, Magistrate Judge Jelders modified the Action from Petition for Writ of Habeas Corpus to §1983 on its own motion, and issued Request for Waiver of Service of Summons. Counsel for Defendants Andrew Harrison Refused the signed Waiver and changed the mandatory word of "must" with the discretionary "may", "a default (judgment) may be entered." In specific part. The Court and the Counsel for Defendants conspired to Refrain the unconstitutional/discretionary language. Petitioner Demanded a Trial, and the Court did not schedule a trial. ~~Four~~ After the Defendants Default, Petitioner filed a series of "NOTICE OF DEFENDANT'S DEFAULT, four years after the Default.

The Magistrate Judge entered an Order that stated the Motion for the Clerk to enter the Defendants Default pursuant FRCP-Rule 55(a) was moot. Petitioner Appealed, and upon receiving No Signed Orders, Resumed seeking entry of the Defendants Default, and subsequently filed an Application for Entry of a Default Judgment under FRCP-Rule 55(2), to no avail. Petitioner filed Appeal, 9<sup>th</sup> Cir. No. 21-35963, and the Defendants failed to file Answer Brief by deadline 1/28/2022 or at anytime. No Signed Orders or Judgments were entered, and all unsigned Papers were objected to pursuant FRCP-Rule 11(a).

9<sup>th</sup> CIRCUIT ~~Circuit~~ U.S. Court of Appeals has so far departed from the accepted and usual Course of judicial proceedings and sanctioned the Oregon District Court's that it calls for an exercise of this Court's Supervisory Power.

Petitioner's 7<sup>th</sup> Amendment Right to a Trial was trampled, and all Court Rules appear not to apply to the Defendant-Respondents. 11/4.

## REASONS FOR GRANTING THE PETITION

In 9<sup>th</sup> No. 17-35696, 9<sup>th</sup> No. 19-35422, and 9<sup>th</sup> No. 21-35903, Wells v. Peters, et al, there are no signed Orders that are filed and Served on Petitioner, and Briefing was stayed in the first two Appeals. Notwithstanding the Defendants did Default after initially appearing, and subsequent filing of their Waiver of their Right to Respond in U.S. Supreme Court No. 18-5049, Wells v. Peters, et al, the lawsuit remains open, the Damages accruing and the Petitioner remains confined absent a Judicial determination of Probable Cause or Warrant of Arrest under ORS 133.110-issuance, 'absent an admissible basis of Confinement in One County Court Doc Ref No. 201404943/A157450, STATE OF OREGON v. LEROY LAMONT WELLS, which is the Cause of Action in Wells v. Peters, et al. The Respondents have launched a state action against Petitioner's Civil Rights, specifically Petitioner's Right to travel guaranteed under the Privileges and Immunities Clause, Art. IV sec. U.S. Const., and have intentionally deprived Petitioner of Voting in Oregon's 2022 Primary Elections, and are now interfering with Petitioner's qualifying to Vote, i.e. Traveling to Atlanta, GA, and submitting an Application to Register to Vote in time for the 2022 General Elections. Petitioner gave the Respondents and District Court notice of his intent to travel to exercise his Voting Rights. III.

III.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Is/Leary Court LSe/B

Date: 8/3/22