

No. 22-5725

IN THE

SUPREME COURT OF THE UNITED STATES

Marty Joe Banghart, Pro se — Petitioner

VS.

Don Sullivan, Warden et al., and the Attorney General
of the State of South Dakota — Respondent(s)

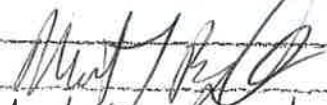
"On Petition for Rehearing"

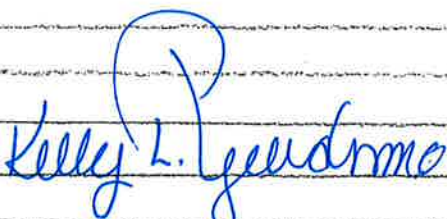
"Petition for Writ of Certiorari, No. 5725"

"Circuit Court of Appeals for the Eighth Circuit, No. 22-1633"

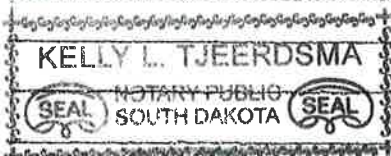
"District Court of South Dakota, No. 4:21-CV-04066-KES"

Date: 27th day of December, 2022


Marty Joe Banghart, Pro se.
1412 Wood St.
Springfield SD. 57062


Kelly L. Tjeerdsma

My Commission Expires Oct. 5, 2024



1 of 1

List of all known Parties

Marty Joe Banghart, prose, Petitioner

VS

Dan Sullivan, Warden et al, and the Attorney General
for the State of South Dakota, Respondent(s)

Attorney of Record for Respondents:

JENNIFER M. JOERGENSEN, 1302 E Highway 14,
Suite 1, Pierre S.D. 57501

1 of 1

Petition

This Courts decision not to entertain my Petition for Writ of Certiorari clearly detailing that there are Major Conflicts of Law between the Fourth, Fifth and Eleventh Circuit Courts of Appeals and the Eighth Circuit Court of Appeals which will cause Irreparable Damage with out This Courts Guidance.

The irreparable damage will come to any Petitioners who must submit a 28:2254 action to the Federal Courts of the Eighth Circuit. By and through This Courts refusal to grant guidance on the submitted question of: "Is Respondent (Attorney Generals within the Eighth Circuit) in a Writ of Habeas Corpus 28:2254 action required to attach all pertinent State Court Records, including any Trial Transcripts to its Answer/Response and

1 of 10

serve such on the Petitioners" This Court has just granted every State Attorney General under the Eighth Circuit "Carte Blanche" to ignore a District Courts Order to produce and serve all relevant Transcripts on the Petitioner, so Petitioner has the same records as the Court and Respondents for Fair and equal opportunity to litigate. the case at hand Justice Rutledge dissenting, Paragraph 13 in Angel v. Bullington, 330 U.S. 183, 67 S. Ct. 657, 91 L. Ed. 832, 1947 U.S. Lexis 2649 (U.S. February 17, 1947). "It is grounded in policy that unless a litigant gets a real bite at the Apple of discord he should not be foreclosed from another attempt. Its basis is that in such a case it is better and more just not to stop litigation than it is to stop the showing of the truth and hereby bring about a forfeiture of valuable substantive rights

2 of 10

without giving at least one full and fair, which means fairly certain, opportunity for securing decision upon them"

I clearly was not given even one opportunity for a real bite at the Apple of Discord in Federal Court which has been detailed by me at District Court, Court of Appeals, Certiorari and now on Petition for Rehearing. I have never had the same records of the Opposing Party and The Court which is "a forfeiture of valuable substantive rights by not allowing me the one Full and Fair, which means fairly certain, opportunity for securing decision upon them" (Justice Rutledge). Without full access to the same records as The Court and Opposing Party, NO Party has the opportunity to fully and fairly litigate their case in any Court of Law, which is the loss of the Substantial Right of Due Process.

3 of 10

This Court's refusal also makes it quite clear that if the Petitioner is not wealthy or Privileged they will not be afforded any "Constitutional Right to Due Process" as the cost to acquire transcripts as a prisoner are extremely prohibitive unless you or your Family are wealthy or Privileged in which case the petitioner more than likely would have an attorney who has unlimited access to the Courts Electronic Court System, which a prisoner has absolutely no access too.

Additionally, irreparable damage will also come as more and more Judges continue to cite discretion as their reason for disregarding rules set out Pursuant to the United States Code Service (USCS) requirements. These rules are not established to allow an individual Judge to just disregard them

when they don't fit their established narrative.
As in my case where Judge Duffy set precedence
in her Court by clearly outlining the requirements
of the respondent in Franklin v. Dooley No. 4:15
-CV-04149-LJP, 2015 WL 9608750 at 2 (D.S.D.
Nov 23, 2015) yet when the South Dakota Attorney
General submits a Rule 12(b)(6) motion to dismiss
on my case (same motion as in Franklin v. Dooley)
the Judge used her discretion to not require the
Attorney General to hold to her already established
precedence. Abuse of Discretion was identified
in the Question presented for Review.

If there are conflicts between the Eighth
Circuit Court of Appeals and the Fourth, Fifth and
Eleventh Circuit Courts of Appeals it is This Courts
Duty and Responsibility to decide the proper
Interpretation, Application and Guidance of all laws,

5 of 10

Rules and Rulings of all Courts of the United States. This Court has had at least two opportunities (Fla. Dep't of Corr. v. Rodriguez, 2015 U.S. Lexis 679, 574 U.S. 1122, 135 S. Ct. 1170, 190 L. Ed. 2d 913, 83 U.S. L.W. 3608 (U.S. January 20, 2015) and This Case currently in front of This Court) through Certiorari to set out guidance and at this point has "Shirked" its duty to do so.

With This Courts denial of My Petition for Writ of Certiorari it has the Potential for far reaching harm in even the most basic civil case where document production by either party that falls under all the Cited Federal Rules of Civil Process in this Petition can now be cited whatever way the Judge wishes to use there discretion to fit their Narrative at the time. Due to this

6 of 10

fact even the established guidance currently in the Fourth, Fifth and Eleventh Circuit Courts of Appeals can now be questioned using my case as a citing authority as all applicable Habeas and Civil Rules have been cited by me from District Court to Appeals Court and now on Certiorari to This Court.

The longer This Court delays in setting the guidance establishing that the Due Process Right of Fair and Equal protection of the laws in all Courts of the United States of America will continue to cause irreparable harm to those without Wealth or Privilege when the Judges in Circuits like the Eighth Circuit use discretion to deprive a litigant their rights established under the Constitution of the United States.

This Courts denial of This Petition also grants all

7 OF 10

Federal District Courts the implied right to review a case Ex parte even when the case is a two party adversarial case. When the Court allows one party and the Court access to all records of the case but deprives the opposing party access to the same records that the Court and other party have, Clearly describes an Ex parte decision by the Courts.

In my Case, I clearly described this in District Court, Court of Appeals for the Eighth Circuit and now on Certiorari to This Court. Ex parte decisions have never been allowed by any Court when a case has opposing litigants. IF the Court and one party has records the opposing party does not have, the Court is tasked, especially when moved to ensure all parties have equal access, which never happened in my Case.

This Courts denial of this Petition will most definitely bring a multitude of additional cases to This Court on an already overloaded Court causing less and less of the required thorough review of each and every case that is properly submitted to This Court.

Conclusion.

I am hereby asking This Court by this Petition for Rehearing to reconsider its denial of my Petition for Writ of Certiorari. The consequences I have listed should offer enough weight to This Court to once again review and Grant my Petition for Writ of Certiorari so that Guidance can be established before any further irreparable harm comes at the hand of the Courts which were established to protect all citizens of the United States equally and fairly.

9 of 10

Signature Page.

Date: 27th day of December 2022

Marty Joe Banghart

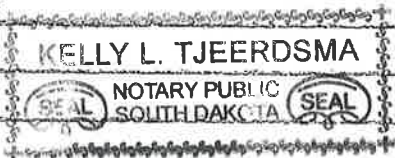
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10 of 10

Certification of a Party Unrepresented by Counsel

This Petition for Rehearing is restricted to intervening circumstances of a controlling effect or to other substantial grounds not previously presented and is presented in Good Faith and not for delay.

Date: 27th day of December, 2022

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