

RKB

No. 22 - 6582

**IN THE SUPREME COURT OF THE UNITED STATES**

*In re: Elaine Mickman,*  
Petitioner

Supreme Court, U.S.  
FILED

APR 20 2023

OFFICE OF THE CLERK

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***Rehearing* for Extraordinary Relief of Writ of Mandamus  
from the Supreme Court of the United States for the  
Pennsylvania Unified Judicial System**

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**PETITION FOR WRIT OF MANDAMUS**

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Elaine Mickman  
1619 Gerson Dr.  
Narberth, PA 19072  
(610 6671832)

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1.

### **GROUNDS FOR GRANTING REHEARING**

Petitioner, without any other option for legal representation, respectfully requests the Court grant extraordinary relief under **28 USC § 1651** Writ of mandamus to compel the Pennsylvania Unified Judicial System to restore Petitioner's protected 14th Amendment Constitutional Right usurped without authority or justification.

Substantial and Controlling grounds not previously presented exist. Usurping Petitioner's Constitutional Due Process Right can't be justified by even a varied "strict scrutiny standard", "intermediate scrutiny" nor a "rational basis review". Usurping Constitutional Rights conflicts with state and U.S. case law "held", **Rule 210 PA 63.1, 42 PA 4902, PA Const. Article V(10c), \*231 PA 233.1(e)**, and the **14th Amendment** which is a Controlling Ground promised to all under the Constitution, in fact, the US Supreme Court Justices assert it is the Constitution which provides them independent self-oversight under *Separation of Powers*.

Petitioner asserts a Substantial Ground of Legal Inequality resultant of a domestic abuser. The state Court in the underlying case granted Petitioner's opposing party a motion filed in "bad faith" as a "tool" to create a legal barrier to bar Petitioner's court access in the abuser's continued control and abuse of Petitioner.

\*231 PA 233.1(e) excludes matters (always modifiable) governed by family court.

2.

Petitioner's personhood is marginalized, stripped of dignity and 14th Amendment right by the usurping of a guaranteed and promised Constitutional Rights via an abuser manipulating the court. Abusers often economically and legally abuse their victim through the court, especially when there is financial disparity between the victim and abuser. Women are disproportionately impacted by domestic abuse.

Statistically, more than 25% of women experience domestic abuse in their lifetime.

Granting Petitioner relief will close a loophole that enabled the abuser's continued abuse of her through the court. Legal Inequality is effectuated when laws are not effectively implemented by the Court which enables a system of inequality that especially impacts domestic abuse victims by allowing their abuser to perpetrate through the court with impunity. Legal Inequality against a domestic abuse victim is legitimized by the Court enabling an abuser to weaponize or misuse the Court to continue controlling a domestic abuse victim who can't be ensured equal protection and constitutional equality when the Court orders-away Civil Rights that belong to an individual and fundamental privileges guaranteed by the 14th Amendment.

The ***Violence Against Women Act*** recognizes domestic violence as a national crime. Victims' Rights under *42 U.S.C. Section 10606(b)* includes: 1.) "*The right to be treated with fairness and with respect for the victim's dignity and privacy*".

3.

However, the *VAWA* doesn't protect victims from abusers weaponizing civil court.

*"All persons born or naturalized in the U. S., and subject to the jurisdiction thereof, are citizens of the U. S. and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U. S.; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws"*, yet the Court did the opposite to Petitioner when *"Avoidance of a constitutional right is tantamount to an illegitimate revision."*  
*"It is...an ad hoc obfuscation and affront to a petitioner's equal rights guaranteed ...by the 14th Amendment of the U.S. Constitution. Such action falls... within the category of "usurpation of power".....which mandamus is classically available."*

***DeBeers Consol. Mines, Ltd. v. United States, 325 U.S. 212, 217 (1945).***

A Controlling Ground is the 14th Amendment due process requirement prior to the government taking away an individual's life, liberty, or property, and prohibits denying any person within the jurisdiction equal protection of the laws, yet the Court never conducted a hearing or a meaningful manner prior to taking away Petitioner's rights. *"The right to a hearing prior to the deprivation is of constitutional statute and does not depend upon the nature of the right violated"*.

*“The rationale for granting procedural protection to an interest that does not rise to the level of a fundamental right lies at the very heart of our constitutional democracy: the prevention of arbitrary use of government power.” Howard v. Grinage, 82 F.3d 1343, 1349 (6th Cir. 1996). “The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” McKesson Corp. v. Div. of Alcoholic Bevs. & Tobacco, 496 U.S. 18, 39 n.22, 110 S. Ct. 2238, 2251 (1990).*

Controlling case “holds” in *Sniadach v. Family Finance Corp.*, “it was mandated that a pre-deprivation hearing occur before wages could be garnished and other basic necessities were in issue and the consequences of deprivation would be severe.” The due process “Mathews Test” applied in *Goldberg v. Kelly* 397 U.S. 254 (1970) “A pre-deprivation hearing was required to terminate welfare benefits which could have resulted in a devastating loss of food and shelter. The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be condemned to suffer grievous loss,..and depends upon whether the recipient’s interest in avoiding that loss outweighs the governmental interest in summary adjudication.” Petitioner’s deprived due process impacted her private interest by condemning her to suffer grievous loss for an underlying matter which outweighs the Government’s interest with no Administrative burden.

Ordering-away Petitioner's Constitutional Rights deprives rights framed in the Constitution, binds and prejudices the underlying case to a case law conflict, and deprives Petitioner property.

The U.S. Supreme Court's decision in *Marbury v. Madison*, 5 U.S. holds:

*"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".*

Petitioner's case is a "re-branded" form and reminder of the *Dred Scott* case, not by denying court access to a former slave, rather by denying Petitioner court access from the domestic abuse victim category being controlled or "enslaved in essence" by her domestic abuser. It is intolerable for the court to enable any adverse party to have their opposing party barred from court as a legal strategy.

*Yick Wo v. Hopkins*, 118 U.S. 356 (1886), "...the U.S. Supreme Court ruled a law

*....race-neutral on its face, but administered in a prejudicial manner, is an*

*infringement of the Equal Protection Clause in the 14th Amendment to the U.S.*

*Constitution...the very idea that one...may be compelled to hold his life,..means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable...where freedom prevails, as being the essence of slavery itself."*

6.

While Petitioner does not assert race-discrimination, indeed this instant case involves Equal Protection Clause infringement of a domestic abuse victim being prejudiced and revictimized by the court subjecting Petitioner to an impact that is “so stark and dramatic” it is unexplainable just as non-racial was unexplainable in *Yick Wo v Hopkins* (1886).

“*Writs of mandamus being supervisory in nature are appropriate to cure such issues.*” ***United States v. Bertoh, 994 F.2d 1002, 1014 (3d Cir. 1993).***

“*There is nothing that would render it inappropriate to issue the writ.*” ***Re: Volkswagen of America, Inc., 545 F.3d 304 (5th Cir. 2008)***

A party must show (1) a clear abuse of discretion or clear error of law; (2) a lack of an alternate avenue for adequate relief; and (3) a likelihood of irreparable injury.

The Pennsylvania Court usurping Petitioner’s right to access court is malfeasance, manifestly abuses discretion and errs in Rule ***210 PA 63.1 Introduction...***

“***No substantive or procedural rights are created, nor are any such rights diminished.***” , overlooks Article V (10c) of the PA Constitution which prohibits “abridging” rights, and ignores law ***42 PA 4902 finds and declares as follows:***

(1) “*It is of paramount importance to the citizens of this Commonwealth that all individuals who seek lawful redress of their grievances have equal access to our system of justice.*”

The PA Supreme Court declined Petitioner a discretionary appeal leaving no alternate avenue for adequate relief while suffering irreparable injury.

The Controlling Ground of the 14th Amendment Due Process Right guaranteed to all in the Constitution can't be ordered-away at the mere motion of an adverse party or abuser to flout laws and undermine the court system for legal redress.

Petitioner suffers irreparable injury without Equal Protection of the law for legal redress of an underlying matter including fraud. **28 U.S.C. § 1651** authorizes the Supreme Court to issue "all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law," including writs that order government officials and judges to take a certain action or prohibit them from doing so and confining lower courts to proper exercise of their jurisdiction.

Petitioner was denied a ministerial act by the judiciary, then subsequently denied the ordinary procedural appeal process. *"The right of access to the courts is basic to our system of government, and... well established...that it is a fundamental right protected by the Constitution."* "Equality of treatment in this respect is not left to depend upon comity between the states, but is granted and protected by the Federal Constitution." The Court unfairly and inequitably treated Petitioner by usurping her legal equality, marginalizing her personhood, and placing her "below the law" with a callous indifference, contrary to the Constitution and laws.

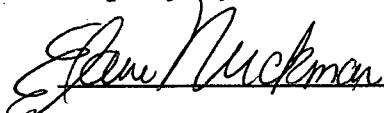
8.

Ordered-away rights for anyone is a threat to rights for everyone, therefore it is of paramount importance that the court does not tolerate barriers as an abuser's legal strategy to block a victim from court access to vindicate their statutory and constitutional rights in court. Inaction by the U.S Supreme Court will pave the way for future stripping of inalienable fundamental Constitutional Rights and allow for a selective barrier to our justice system for some rather than ensuring a justice system promised to all. Court access must be safeguarded for all. Indeed, this case warrants the exceptional exercise of the U.S. Supreme Court's discretionary powers since adequate relief cannot be obtained in any other form or from any other court when Petitioner has a clear indisputable right to the relief requested.

## **CONCLUSION**

*Wherefore* , Substantial and Controlling Grounds, Petitioner respectfully requests the U.S Supreme Court ***Grant*** Rehearing for a Writ of Mandamus to compel the Pennsylvania Unified Judicial System to restore Petitioner's Due Process Right by vacating or nullifying a May 27, 2021 Order and, or, any other order depriving Petitioner Constitutional Rights, Equal Protection, and court access.

*Respectfully Submitted,*

 Elaine Mickman May 8, 2023

Elaine Mickman

IN THE SUPREME COURT OF THE UNITED STATES

**GOOD FAITH CERTIFICATE**

This hereby certifies that the foregoing *Rehearing* for Extraordinary Relief for Writ of Mandamus is filed in Good Faith for grounds not previously presented and not for delay.

The filing is verified to be true and correct to the best of my knowledge.

 May 8, 2023

Elaine Mickman  
1619 Gerson Dr.  
Narberth, PA 19072

No. 22-6582

IN THE  
SUPREME COURT OF THE UNITED STATES

ELAINE MICKMAN — PETITIONER  
(Your Name)

VS.

PENNSYLVANIA UNIFIED JUDICIAL RESPONDENT(S)

**PROOF OF SERVICE**

I, Elaine Mickman, do swear or declare that on this date, May 8, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Pennsylvania Judicial Center

601 Commonwealth Ave. Suite 4500

PO Box 62575, Harrisburg, PA 17120

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 8, 2023

Elaine Mickman  
(Signature)

**SOCIAL SECURITY**  
Suite 120  
1700 Markley Street  
NORRISTOWN PA 19401

**Social Security Administration  
Supplemental Security Income  
Notice of Change in Payment**

Date: November 27, 2022  
BNC#: 22S1664A94459 DI

0355393 00355393 1 AV 0.455 CN6LNA T1109 P20  
COLA MO4 11/20 227 22S1664A94459  
ELAINE G MICKMAN  
1619 GERSON DR  
NARBERTH PA 19072-1231

04013124AR013439. CN6LNA 0355393  
0000000000



We plan to increase your monthly Supplemental Security Income (SSI) payment from \$841.00 to \$914.00 beginning January 2023. The amount will change because of a rise in the cost of living. You will continue to get the new amount each month unless there is a change in the information we use to figure your payment.

The rest of this letter explains more about your SSI payments. It also tells you how to find affordable health care.

We explain how we figured the monthly payment amount on the worksheet at the end of this letter. The explanation shows how your income, other than any SSI payments, affects your SSI payment. We include explanations only for months where payment amounts change.

**When You Will Receive Your Payments**

Your bank or other financial institution will receive your monthly payment of \$914.00 around January 1, 2023, and on the first of each month after that.

See Next Page

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

April 26, 2023

Elaine Mickman  
1619 Gerson Drive  
Narberth, PA 19072

RE: In Re Elaine Mickman

Dear Ms. Mickman:

The petition for rehearing in the above-entitled case was postmarked April 20, 2023 and received April 25, 2023 and is herewith returned for failure to comply with Rule 44 of the Rules of this Court. The petition must briefly and distinctly state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

You must also certify that the petition for rehearing is presented in good faith and not for delay.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,  
Scott S. Harris, Clerk

By:

  
Redmond K. Barnes  
(202) 479-3022

Enclosures

