No. 22-723

In The

Supreme Court of the United States

Jonathan VanLoan,

Petitioner,

vs.

Nation of Islam, et al.,

Respondents.

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

Brief in Opposition

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Corporate Disclosure Statement

Respondent Providence Health & Services has the parent company of Providence St. Joseph Health. The other respondents presenting this opposition are not corporations.

Opposition To Petition For Certiorari

The petition should be denied because it fails to present a reason, much less "compelling reasons," for review based on the considerations set forth in Rule 10 of the Rules of the Supreme Court of the United States.

In his petition, Jonathan VanLoan asserts that the Third Circuit Court of Appeals applied the wrong Supreme Court standard. But the distinction that petitioner asserts is not there. Petitioner asserts that the correct standard for assessing his allegations was "clearly baseless," citing *Neitzke v. Williams*, 490 U.S. 319 (1989) and *Denton v. Hernandez*, 504 U.S. 25 (1992). Petitioner contends the Court of Appeals incorrectly applied the standard of *Hagans v. Levine*, 415 U.S. 528 (1974) of "frivolousness." The cases petitioner cites for the standard of "clearly baseless" follow the case that stated the standard of "frivolousness."

In the proceedings below, petitioner never asserted that the wrong standard was being applied.

Moreover, petitioner's assertion of different standards is incorrect. In *Neitzke*, in the context of interpreting the in forma pauperis statute,

28 U.S.C. § 1915 subd. (d), which "authorizes federal courts to dismiss a claim filed in forma pauperis 'if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious'" (*Neitzke,* 490 U.S. at 324), the Court approvingly cited *Hagans* for the rule that a "complaint that fails to state a claim may not be dismissed for want of subject-matter jurisdiction unless it is frivolous." (*Neitzke* at 329; citing *Hagans,* 415 U.S. at 536-537.) *Neitzke* further cited *Hagans*, stating: "A patently insubstantial complaint may be dismissed, for example, for want of subject-matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). See, e.g., *Hagans v. Lavine*, 415 U.S. 528, 536-537, 94 S.Ct. 1372, 1378-79, 39 L.Ed.2d 577 (1974) (federal courts lack power to entertain claims that are "'so attenuated and unsubstantial as to be absolutely devoid of merit'")." (*Neitzke* at 327, fn. 6.)

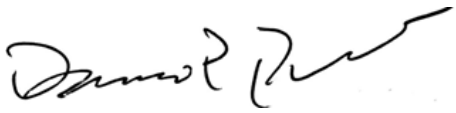
While *Denton v. Hernandez*, *supra*, 504 U.S. 25, did not refer to *Hagans* by name, the Court approved of *Neitzke's* application of the "frivolous" standard from *Hagans*, stating: "As we stated in *Neitzke*, a court may dismiss a claim as factually frivolous only if the facts alleged are 'clearly baseless,' 490 U.S., at 327, 109 S.Ct., at 1833, a category encompassing allegations that are 'fanciful,' *id.*, at 325, 109 S.Ct., at

1831, 'fantastic,' *id.*, at 328, 109 S.Ct., at 1833, and 'delusional,' *ibid.* As those words suggest, a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." (*Denton* at 33.)

Conclusion

The petition should be denied.

Respectfully submitted,



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