

ORIGINAL

FILED

JUL 17 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

NO. 227476

MICHAEL A. D'ANTONIO PETITIONER

VS

BOROUGH OF ALLENDALE ET ALS

REQUEST LEAVE OF THE COURT TO FILE
A MOTION FOR A REHEARING
PURSUANT TO RULE 44

MICHAEL A. D'ANTONIO BOROUGH OF ALLENDALE ET AL
Petitioner Defendants
PO Box 55 500 West Crescent Ave
Allendale NJ 07401 Allendale NJ 07401

-1-

RECEIVED

AUG 10 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

1. Petitioner is proceeding *in forma pauperis* under Rule 39.
2. Petitioner is in receipt of letter dated July 10, 2023, from the Court Clerk, stating that the full Court denied the Petition without comment. No further explanation of the Order is available. See Attached Exhibit.
3. This Courts Clerk sent a notice that, "The document received July 3, 2023 is herewith returned in light of the denial of the above entitled petition for a Writ of Certiorari on June 26, 2023."
4. Petitioner attaches a Document referred to as VOLUME 1, SUPPLEMENTAL APPENDIX OF DEFENDANT APPELLEE PASSAIC RIVER COALITION. This document was returned in the letter of July 10, 2023 in light of the denial of the above captioned Petition and is submitted under Rule 26.7 and 26.8 or on the Appendix used in the Court below if it conforms to the requirements of this Rule.
5. This Exhibit confirms the Petitioners claims in detail with the exception of the enforcement Action by the Securities and Exchange Commission (SEC).
6. Counsel Joseph L. Turchi and Counsel Michele L. Weckerly are Officers of the Court and are bound to an ethical standard beyond reproach. This exhibit is corroborating Proof beyond all doubt that supports the

Petitioners claims and Federal Violations of the Petition in Question, with 1 exception. The Defendants Counsel were not aware of the SEC intervention and the closing of the Municipal's Day to Day operations of the Defendant Borough of Allendale for several weeks, thereby causing the SEC to terminate the Borough Attorney David Bole, The Mayor Albert Klomburg, Borough CFO Paula Favata and the Chief of Police Robert Herndon. In addition 4-5 employees of the financial department were also terminated. The SEC will not give a finding of facts or reason at Law for their actions. This Court may be allowed to request a copy of the findings but they will not give it to me.

7. The Exhibit is identified as part of Case 2:16-cv-00816-CCC-JBC document 22-4 filed 05-05-16 with various page numbers before Judge Claire C. Checci. Petitioner will use the PRC numbers at the bottom of each page representing Torts and Compensatory and Punitive damages due to Michael A. D'Antonio.

8. The Sole Funding for development of 316 E. Allendale Ave PROPERTY WAS SUPPLIED BY PETITIONER, THEREFORE DAMAGES SHOULD BE AWARDED TO THE PETITIONER EXCEPT IN THE PRESENCE OF DENIALS OR PROOFS BY THE DEFENDANTS. WHICH IN FACT AND AT LAW THERE ARE NONE! THIS COURT SHOULD BE REMINDED THAT THE DEFENDANTS DID NOT DENY THE

COMPLAINT AND UNDER LOCAL RULE 4:5-5 EFFECT OF FAILURE TO DENY, A JUDGMENT AND WRIT OF EXECUTION SHOULD BE AWARDED TO THE PETITIONER.

9. PRC Appendix. 235,236,237,238, all show proofs of the Petitioners claims to grant rehearing and APP 239 with out prejudice, depicts the finding of the Main Investment Fund hidden from the taxpayers and proof of the interest earned and split among the Political Members. Mr. Turchi and Ms. Weckerly state in paragraph 17. "these accounts have been used by the Borough of Allendale for the transfer of funds in a surreptitious and improper manner". Paragraph 18 states that the Borough Clerk, Gwen McCarthy indicated that the account does NOT in fact exist! Paragraph 19 states that I obtained a letter dated February 25, 2008 from the Bank of America that states

" We have verified that the account 51-16-200-8540-451 exists and we are in the process of retrieving statements pursuant to subpoena. Mr. Turchi and Ms. Weckerly opine Obviously this statement by Ms. McCarthy is an outright lie, and a calculated misrepresentation of the truth."

10. David Pfund, Co-Counsel for Defendant Borough of Allendale refused to give/present the backs of the

Payroll Checks to prove how the system of getting the illegal earned interest to the Political Members. The CFO would Draft Checks to Fictitious Employees then the Political members would endorse them and deposit them in their personal accounts.

11. App. 240 23 and 24 prove the payroll fund was over funded. It shows that without Decembers transfer the payroll account was over funded by \$4,000,000.00.

12. App 241 shows that the Borough of Allendale and its employees have failed to respond to Access to Public Records for the Investment Account and the balances therein.

12. Footnote under paragraph 28 and continued in APP 242 indicated Petitioner shows numerous unexplained entries.

13. App 243 shows Millions of Dollars in surplus year 2003. This indicates over \$4 Million Dollars.

14. App 244 indicates "Water Rents" \$81,362.00 you simply can not rent water, you consume or use it! sub part 29 proves stockpiling funds to obtain interest. "The Borough of Allendale has used its inflated budget to stockpile funds and obtain interest with regard to the deposits related to same. These expenditures are neither explained nor warranted. The items listed are for improvements never made and for inflation of the Borough of Allendale's Budget.

15. App. 245 Sub Part 30 Most importantly, it should be

noted that recently before both Michael D'Antonio of Calm Development and Counsel for Calm, Thomas Monahan, the Borough of Allendale Attorney and the Mayor of Allendale (Vincent Barra) made repetitive statements that Petitioner's site would be included as a property designated in the Borough of Allendale's 3rd Round Housing Development and Fair Share Plan obviously it was not.

16. Part 31 Petitioner has made a formal objection to the Third Round Plan of the Borough of Allendale COAH plan. The Basis for objections are as follows: Report of Ms. Lonergan, the Borough's Planner, is not factual as to data and calculations contained within the report. The report extensively reduces the amount of Affordable Housing units required without adequate description or explanation. The Report's objective appears to be directed to the reduction of these housing obligations, thereby directly affecting those individuals seeking to have their premises so designated.

17. Petitioner had repeatedly requested his site to be listed as a site available and appropriated for COAH housing to no avail. This site does not have any of the restrictions and complications, including environmental issues, as do the sites selected by the Borough of Allendale. It appears that Allendale intentionally

excluded Petitioners site from 3 separate rounds of approval, despite its appropriateness for development.

18. Such actions by the Borough of Allendale are prejudicial and have been intentional to Petitioner resulting in Compensatory and Punitive Damages.

19. App 246 sub part C; sites that were inappropriately selected to damage Petitioners site. The Foreit Site a paving company with petroleum distillates leaching into the ground was not an acceptable site.

20. The Episcopal Church refused to be included and put into writing the fact that they would never develop Affordable Housing!

21. Petitioner under access to public records discovered a file marked **D'Antonio DO NOT SHOW TO HIM AT ALL**, which violated Petitioner's Civil and Constitutional rights.

22. Sub Section E Also found in the report was that Allendale's Third Round only requires 20 new units for third Round Approval. The Borough plan includes within its 3rd Round units to be constructed under round 2 along with combined credits under round 3. This drastically reduced the amount of required units and thereby reduced the number of properties designated, this is not supportable and devoid of logic. It was Illegal!

23. The Borough Planner listed in her preliminary report

that all sites in the Western Section of the town are wet which is false. The Petitioner holds the wetlands determination by the Army Corp of Engineers which proves the Petitioners property and the former Levin site which is fully approved for 34 lots which Petitioner holds a \$6 million dollar judgment on and was illegally stopped by the Borough under a fraudulent In Rem Foreclosure, after 24 years of not collecting any land taxes against Petitioner's Judgment Debtor Jack Levin.

A Punitive damage in the amount of \$25,500,000.00 which is the current value of 34 fully approved building lots.

24. The Borough in the last hour stopped another approved Development at Franklin Turnpike and West Orchard Street for \$7 million dollars acquisition and subdivided the parcel creating a park that no resident has visited since its development due to its commercial location. The Borough then offered 6 units instead of 24 units that would fit, at 8 units per acre and built only 6 units which would only cost \$500,000.00 but leveraged the property at \$3,300,000.00. Which earned interest.

25. It is the position of the Petitioner that I would have been able to satisfy the requirements of the Affordable Housing infrastructure more expeditiously and more cost effectively than any other developer/owner in the Borough of Allendale, see App 247. App 248 clearly

states the Petitioner was intentionally, inappropriately excluded from the Borough's 3rd Round Plan.

26. Violations of Constitutional Law by the Borough of Allendale include actions to fail to completely respond to and to provide evasive answers to various Public Records Requests filed by Petitioner Michael A. D'Antonio causing Irreparable and Punitive Compensatory Damages.

27. The Petitioner was subjected to illegal acts by a former resident and neighbor Stiles Thomas, the Borough's Marsh Warden who created intentional illegal water diversion methods off of the Levin Development site by allowing Levin to not complete a \$3 million dollar water retention basin which ultimately flooded Petitioners land damaging 2.5 acres denying 3 new homes to be built.

Punitive and Compensatory damages of \$2.8 million for build able lots and the profit off of 3 new homes.

28. App 248 edifies in subparts 33,34,35 the damages and requirements to rectify, causing additional Compensatory and Punitive Damages in the amount of \$300,000.00

29. The petitioner became aware of the Damages directly caused by the Borough of Allendale's Marsh Warden Stiles Thomas who is recently deceased by 2 months ago, under false reports to the Department of Environmental Protection by submitting a Photo of a Barred Owl an

endangered species. I did not receive a photo of the bird well into the Litigation, upon viewing it the photo showed a bird in a White Birch Tree. Barred owls only habitat in White Pine Trees. Mr. Thomas did not have any White Birch Trees on his property thereby creating additional Punitive and Compensatory damages against Petitioner.

30. Fraud and Misrepresentation and Violations of Constitutional Laws are present and Petitioner seeks the Courts determination as to Damage amounts to be Ordered in Restitution to Petitioner. Defendants reasoning and observation of the damages submitted, decided them to purchase an Insurance Rider to the Borough's Policy specifically in the Petitioner's name only, with Reimbursement amount of 80% of any Damage Award leaving the Borough to pay the remaining 20% from the surplus acquired from over Taxation and Interest earned.

31. Petitioner was damaged by not being allowed to construct Apartment Units for Affordable Standing, as such Petitioner is damaged by Punitive and Compensatory actions of the Defendants and Petitioner requests 30 acres of the Celery Farm which does not cost the Defendants anything. This award does give New Tax Ratables to offset the Illegal over Appropriation of the

Operating Budget with approvals for 240 units of Affordable Housing units.

32. Judge Checci and the Appellate Panel En Banc refused to decide Petitioner's submission under Document ECF 78-1 date filed 10/19/2022, whereby, Petitioner submitted jurisdiction predicated on the Orders of the Court ECF Documents 43, 48, 49, 54, 80, 81, 83, 84, 259, 260, 303, 304, 335, 348, 349 which were **not decided** by the District Court below, a violation of Petitioners 14th Amendment Rights of Due Process and Equal Protection and the Fair Housing Act of 1968.

33. The Questions presented for review by this application for Re-Hearing is to review the failure of the Federal Judge Claire Checchi and the Appellate Panel to uphold the responsibility of their Oath as a function of the Federal Judicial System which requires the Judges to: Do Justice, To Guarantee Liberty, to Enhance Social Standards (Fair Housing Act 1968) Resolve Disputes, Maintain the Rule of Law, and to grant Equal Protection and ensure Due Process.

34. Judge Checci and the En Banc Panel failed to comply with the requirements of Federal Relief or give a definitive resolution as to the submission of Petitioner seeking Leave of the Court for a rehearing En Banc on the

issue submitted on Page 4 regarding Justice Harlan's Decision Sniadach v Family Finance Corp. 395 U.S. 337 (1969) and failed to abide by N.J.S.A. 54:4-1, Franklin Bank vs Parker 136 NJ Super 476, 346, A 2d 1973 where the Defendant Richard Epstein did give a bribe to Captain Edgars of the Bergen County Sheriff's Office to not give final Notice to the Petitioner's Attorney Louis Capazzi or Petitioner. The Bribe was \$13,000.00 and then cause a final sale to Emigrant Bank which then paid an additional bribe of \$47,000.00 to issue a Sheriff's Deed. A Chancery Judge Innes discovered this and ordered the Bergen County Sheriff Office to return the Funds which they failed to abide by the Judge's Order.

35. This Petitioner is required to receive Justice for the violations as listed above and on October 26, 2022 the reviewing Panel issued a Caveat "**This disposition is NOT an opinion of the full Court and pursuant to I.O.P.**

5.7 does not constitute a binding precedent. Petitioner made a Statement of the Basis for Jurisdiction on February 16, 2023 denying Appellant's Motion to file an amended Petition for rehearing en Banc and failed to state that the denial was in compliance with the submitted reasons pursuant to FRCP 59 9a) (B) (2) FRCP 60 (a) (b) (1) (3) (d) (3).

36. The Circuit Court Judge Claire Checci failed to make a determination of violations of the RICO Predicates committed by the Defendants: Money Laundering, Fraud, Wire Fraud, Mail Fraud, Fraud in the Inducement and Fraud in the Concealment Petitioner was denied the return of his Home, denied Development Rights in accordance with the Fair Housing Act of 1968.

The return of the over taxation dollars which being doubled as Petitioner refused to pay the cash Bribe of \$50,000.00 to former Mayor Albert Klomburg for approval for Development Rights. Petitioner was denied Punitive and Compensatory Damages in the amount of \$30,000,000.00 for development and rental income of the 240 Units Petitioner should have been allowed to develop.

CERTIFICATION

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing Statements made by me are willfully false I am subject to punishment. The Grounds are limited to the intervening circumstances that the Petitioner discovered additional new evidence in support of the initial Petition which create circumstances of substantial and controlling effect and other substantial grounds not previously presented. The Joint appendix reveals the circumstances

and occurrences which have not been presented to the Justices. This reveals the individual Bank Account Numbers and factual fraud committed by the Borough of Allendale's Expert Ms. Lonergan which report is NOT factual and concurred by Two Attorneys who represent a Defendant in this matter and support Petitioner request for Compensatory and Punitive damages for the Affordable Housing denied to be built by Petitioner. I further state that this submission does not exceed 2,500 words meeting Rule 44 limit of 3,000 words.

August 5, 2023

Michael A. D'Antonio

Michael A. D'Antonio

CERTIFICATION OF SERVICE

I certify that I mailed an original of the above Motion to the Clerk's Office, Supreme Court of the United States, 1 First Street NE Washington DC 20543-0001 Certified Mail RRR 7022 0410 0000 1727 6249. The Following Defendants by Regular Mail. John W. Albohm 144 E. Allendale Ave Allendale NJ07401, Pfund McDonnell 139 Prospect Street Ridgewood NJ 07450, Passaic River Coalition Michele Weckerly 123 Egg Harbor Rd Suite 406 Sewell NJ 08080, Richard A. Epstein 1719 Basildon Road Mt. Pleasant SC 29466, Richard Malagiere 250 Moonachie Road Moonachie NJ 07074

August 5, 2023

Michael A. D'Antonio

Michael A. D'Antonio

CERTIFICATION OF GOOD FAITH AND NOT FOR DELAY

I certify that the petition for rehearing is presented in good faith with new and not before submitted support evidenced by the submission of the Supplemental Appendix of two Attorneys who represent a Defendant and support Petitioners position as submitted before this Court.

New Evidence and Support of Petitioner's submission is the attached Appendix prepared by Joseph L. Turchi and Michele L Weckerly Counsel for Defendant Passaic River Coalition.

August 5 2023

Michael A. D'Antonio
Michael A. D'Antonio



**Additional material
from this filing is
available in the
Clerk's Office.**