No. 22-881

In the
Supreme Court of the United States

MARTIN J. ZIELINSKI,

Petitioner,

v.

WISCONSIN LABOR AND INDUSTRY REVIEW COMMISSION (LIRC), LIRC EMPLOYEE AND LAW CLERK, SUE BURNS, AZCO INC., TRAVELERS INS. CO., AZCO AND TRAVELERS REPRESENTATIVE, RICHARD C. DAVIS, SHAWN STEVENS, TEIRNEY CHRISTENSON, BOB MENARD, DR. WARREN SLATEN, WISCONSIN DEPARTMENT OF JUSTICE,

Respondents.

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

PETITION FOR REHEARING

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The petitioner, Martin J. Zielinski, Pro Se, petitions the United States Supreme Court for a rehearing under Rule 44 for the following reason; the petitioner motioned the Court for extra words due to the fact that I couldn't possibly explain every aspect of this very confusing set of conspiracy circumstances within the word limit, but was denied. I believe it affected my due process rights and would have made this Rule 44 application unnecessary. This denial kept the petitioner from notifying the Court that there was a serious conflict of interest in the Seventh Circuit Court of Appeals that I strongly believe influenced their ability to be free of bias and prejudice. During my time in federal court, I discovered that if the state court judges violated know law intentionally, they could be held responsible and sued in their "individual capacities" for these violations. I served the county circuit judge and the three court of appeals judges for failing to force the Labor and Industry Review Commission (LIRC) to forward to the circuit court, the petitioner record, within 30 days of filing an appeal of the LIRC order. This is required by Wisconsin law and not at the judge's discretion. The circuit judge and the three courts of appeal judges refused to follow this law despite being motioned to do so. These motions were illegally denied and greatly affected the petitioner's due process and equal protection under the laws and rights under the United States Constitution and its laws. The petitioner served the state court judges and none of the Wisconsin state court judges responded to the direct allegations against them within 30 days as required by law. These state judges were also notified that the petitioner's former

attorneys, and respondents in this matter, refused to provide the petitioner the full record, as required by law, which severely affected my Constitutional rights. There were no ramifications against respondents, Shawn Stevens and Teirney Christenson, and the DWD, for not providing the full record to the petitioner upon their dismissal of this case. The federal judge also did nothing when notified of this development.

The conflict of interest developed in the seventh circuit when the petitioner notified the chief judge of the seventh circuit, Amy Coney Barrett, that one of the Wisconsin court of appeals judges, Kitty K. Brennen, who was served for violating known Wisconsin law intentionally, is the mother of one of the seventh circuit judges, Michael B. Brennen. Doc 19. This fact encompasses grounds mentioned in Rule 44(2). "Grounds shall be limited to intervening circumstances of a substantial or controlling effect or substantial grounds not previously presented." This "conflict of interest" met both of these requirements. Though Michael B. Brennen was not one of the seventh circuit judges who ruled in this matter, there are substantial and controlling effects, due to the fact that all these seventh circuit judges are friends and colleagues. An attack on one is an attack on all. Nothing made legal sense in the seventh circuit final ruling that my case was "frivolous and meritless." Not once were these words used in any ruling by any Wisconsin court or for that matter the federal court. I believe "conflict of interest," mentioned above, is a "substantial and controlling effect," that had no basis in law or fact. The law is clear in this regard that all

judges in this nation sign an oath to rule without bias and prejudice. Judicial canons and rules for professional conduct were all cited by the petitioner at every level of judgment in this matter. These rules were totally ignored by all judges at all levels in violation of these laws and legal requirements.

In federal court nothing changed, as far as illegal conduct of bias and prejudice by the judge. After being notified that the petitioners former attorneys, and the DWD, respondents in this matter, refused requests to comply with the law and forward to the petitioner the full record in this matter, the Judge did nothing even though I presented evidence in the record that these violations occurred. EF-16-03: The Ethical Obligation of the Lawyer to surrender the File upon Termination of the Representation. Though maintained in the lawyer's office, the clients file is the client's property and SCR 20:1.16(d) requires a lawyer to surrender the file upon termination of the relationship. The lawyer must honor a request for the file from the client. The fact that the lawyer may have previously provided copies of documents to the client during representation does not relieve the lawyer of the duty to provide the client with the complete file when the representation is terminated. Further the duty to surrender the file is not conditional and the lawyer may not withhold a file to coerce payment of fees, or other reasons that benefit the lawyer. In this matter the file was withheld due to the fact that the respondent lawyers, Stevens and Christenson, committed "contract fraud" and didn't provide the complete file in a weak attempt at covering up this

breach of law. This fraud included the fact that not all medical evidence was part of the petitioners file when the settlement was signed, a violation of DWD law. Supposedly the federal judge in 2017 issued a final order in this matter, (on the docket I have there is no final order issued in 2017), despite the fact that the petitioner notified the court that these respondents did not provide me with the full record. The respondents, DWD, and the petitioner's former lawyers violated the law in this matter and nothing was done about this issue. The judge continued to allow the petitioner to file pertinent papers with the court and never ruled, at that time, that I couldn't continue in my effort to provide facts and law in support of my claim. Everything that I filed was accepted by the clerk at that time. The judge was aware, or should have been aware, that this case involved fraud upon the court by officers of the court, which are felonies that have no statute of limitations. The petitioner admits that he was confused by the service requirements but ended up getting all respondents properly served, including the state court judges who committed fraud as mentioned above. The petitioner requested from the district court some sort of legal help with court procedure, that I couldn't understand with the pain and headaches I suffer from, numerous times. How can I be blamed for jurisdictional deficiencies when the judge refused to offer some sort of help. I wasn't asking for a lawyer. On 8/21/2020, the petitioner filed 73 exhibits with an affidavit explaining each exhibit in detail, Doc 59. Doc. 59 caption reads, (attachments # 1 proposed pleading, # 2 exhibits) (box), this entry is fraudulent and doesn't reflect the 73 exhibits I

filed. This proves that the federal judge interfered with the duties of the clerk and that the clerk illegally docketed the 73 exhibits as just 2 exhibits, which is also fraud by the clerk. The petitioner then filed to reopen the case on 08/21/2020 and filed motions for summary judgment, and Rule 60. Doc 61,62. Despite the 73 exhibits, that proved my case without a shadow of doubt, the judge illegally denied my motions and declared the case remained closed. This was another fraudulent act by this judge. Not able to comprehend this illegal act by the judge (I didn't know at the time that the docket stated that I had only 2 exhibits filed) I couldn't figure out what was going on. The petitioner then discovered that a civil rights, Section 1983 and 1985(3) conspiracy claim, was the way to proceed and filed that Motion, on 04/19/2021. The petitioner also filed a motion to add parties (Wisconsin state judges and Aurora health care for violation of the privacy act), which was well within my rights, Doc. 67. The Department of Justice then filed a motion for sanctions and joinder to motion for sanctions on 06/07/2021. To the petitioner this was an illegal motion due to the fact that the DOJ had the legal file from the DWD and should have been aware of the crimes that were committed by the above-named respondents. Attorneys Foley and Bradley motioned for Joinder in motions for sanctions for their respondent clients, knowing full well the crimes that these judges committed against the petitioner. (another crime). The federal judge was notified, by the filed 73 exhibits, that this sanction was illegal and unwarranted. Once the state court judges were served everything went downhill from there. On

06/17/2021, the federal judge issued a text only order which stated "Defendants and any other punitive party, including those parties that plaintiff has moved to add (such as state court judges, see EFC No. 67) are NOT obligated to respond to the plaintiff filings dated 04/19/21 or any further motion, summons, or paper filed subsequent to this order. The case remains closed. The petitioner considers this obstruction and violation of my civil rights. The judge then ordered, on 09/03/2021, that the plaintiff's motions for a civil rights claim, to add parties, and to include past filings 66, 67, & 68 are denied. The unopposed Motions for sanctions are granted in part. The clerk of court shall return unfiled any document that plaintiff attempts to file under this case number (Case No. 2: 17-cv-471) except for appeal and any papers related to such an appeal. The plaintiff is ordered to stop serving papers relating to this case until further notice to the contrary. First the plaintiff had no idea at that time that the docket was illegally modified by the judge and clerk to reflect the fact that the petitioner only filed two exhibits instead of the 73 I filed. Secondly, and very important, is the judge stating that the sanctions were unopposed. The reason these sanctions were unopposed is the fact that the petitioner never received these motions for sanctions from the respondents. I'm not stating that these respondents didn't serve me with these sanctions, I'm stating that I did not receive them. If I don't receive them, I can't respond. The Clerk of court communicated to me that I can't file electronically and the respondents are required to serve me a physical copy of their filings, which I didn't get. The petitioner maintains that his civil and Constitutional

rights were violated when the federal judge refused the petitioners right to be heard and that I had every right to add state court judges and Aurora Health, if they violated known law intentionally.

Proof can be had when the Seventh circuit ruled on 1 Dec. 2021. Quoting the order, "Appellant Appeals the district court's order of September 3, 2021- a sanctions order against the appellant, ordering "that the Clerk of Court shall return unfiled any document that plaintiff attempts to file under this case number (Case No. 2:17-cv-471) except for an appeal and any papers related to such an appeal" and also ordering appellant "to stop serving papers relating to this case upon other parties until further notice to the contrary." That order is appealable, and appellant's notice of appeal referencing that order is timely in light of the district court's September 29, 2021 order granting an extension of time to appeal. It appears, therefore, that this court has jurisdiction over appellant's appeal. Obviously the seventh circuit agreed with the petitioner's contention that the district court violated my due process right to be heard.

Once the petitioner filed the 73 exhibits, and motions for summary judgment and Rule 60 for fraud upon the court by officers of the court, the district judge stated that Rule 60 didn't apply to my case in his court, the petitioner filed to have the judge removed from my case citing: 28 U.S.C. section 144 and 145. Under 144; Bias and prejudice of a judge. "Whenever a party to any proceeding in district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a

personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such a proceeding." And 145 (a) Any justice, Judge, or Magistrate Judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. Due to the fact that the district judge prevented the petitioner from filing any more papers with the court as mentioned above, these important laws were dismissed by the judge on his own accord, in violation of this law. This is the moment when the judge refused to allow the petitioner to be heard. The law also states that the clerk not give the petitioners 144 and 145 filing directly to the judge in question but to the chief justice. This was never done due to the fact that the judge interfered with the clerk's duties and kept this important filing from ever being filed. This is a violation of law and obstruction of justice denying the petitioner his Constitutional rights and equal protection under the laws. This was fully explained by petitioner in his brief to the Seventh Circuit but fell on deaf ears. These judges have a total disregard for their oath of office. Under Title 28 sec. 453: All judges take this oath of office swearing to uphold the United States Constitution.

A complaint is actionable against judges under Title 42 Sec. 1985(3), whose immunity does not extent to conspiracy under color of law. Sec 1985(3) reaches both conspiracies effectuated through purely private conduct.

The petitioner alleges a "class based", invidiously discriminatory animus is behind the

conspirators action as the court records reflect. That the actions were clearly the product of bias and prejudice of the court. See *Griffen v. Breckridge*, 403 U.S. 88, 102 (1971).

It appears, based on the evidence presented, that the U.S. Constitution and laws of this country don't apply equally to all of its citizens. The petitioner can attest to that. Judges are fully aware of their legal obligation they have to be impartial and free of bias and prejudice. The petitioner strongly believes that any reasonable observer, such as the clerks of the Supreme Court who decided my case was worthy of the Justices attention. The clerks could plainly see that the petitioner's time in federal court system was rife with bias and prejudice. I believe that these clerks came to this conclusion due to the fact that they have no bias and prejudice. How could anyone foresee, that bias and prejudice in this matter, could make its way to the Seventh Circuit and then to the Supreme Court itself? It's certainly not the petitioner's fault that these judges violated known law, they swore to uphold, intentionally. When the petitioner goes to the federal courthouse computer and doesn't see the 73 exhibits he filed I knew something was terribly wrong in mudsville. The petitioner wondered what else was manipulated in this matter that obstructed justice. The petitioner insists that the 73 exhibits never made its way to the seventh circuit or the court would not have ruled the the petitioner's case was "Frivolous and Meritless.

The petitioner would like to end this Rule 44 reconsideration by quoting three more laws:

Boyd v. United, 116 U.S. 616, 635 (1885)

> Justice Bradley, "it may be that it is the obnoxious thing in its mildest form; but illegitimate and unconstitutional practices get their first footing in that way; namely by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that Constitutional provisions for the security of persons and property should be liberally construed. A close and liberal construction deprives them of half of their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the courts to be watchful for the Constitutional rights of citizens, and against any stealthy encroachments there on. Their motto should be "Obsta Principiis".

Downs v. Bidwell, 182 U.S. 144 (1901)

> "It will be a sad day for American liberty if the theory of a government outside Supreme law finds lodgment in our Constitutional Jurisprudence. No higher duty rests upon the court then to exert its full authority to prevent all violations of the principles of the court."

Gomillion v. Lightfoot, 364 U.S. 155 (1906) cited also in *Smith v. Allwright*, 321 U.S. 649, 644 (1944)

> "Constitutional 'rights' would be of little value if they could be indirectly denied.

CONCLUSION

The petitioner is grateful that there is a Rule 44 that allows for reconsideration. I thank the Supreme Court for one more opportunity to be heard and pray that this filing will change the minds of the justices that hear my claims in the interest of fairness and justice. I pray that the justices will understand that I didn't file Rule 44 to harass the respondents or burden the court, I felt that I needed to complete this important legal process and that I had no right to complain about this matter if I didn't.

Respectfully and sincerely submitted,

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Petitioner Pro Se

RULE 44(2) CERTIFICATE

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

s/ Martin J. Zielinski
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CERTIFICATE OF SERVICE

I, Donna J. Moore, hereby certify that 40 copies of the foregoing Petition for Rehearing in 22-881, *Martin J. Zielinski v. Wisconsin Labor and Industry Review Commission (LIRC), et al.*, were sent via Two Day Service to the U.S. Supreme Court, and 3 copies were sent via Two Day Service and e-mail to the following parties listed below, this 8th day of June, 2023:

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All parties required to be served have been served.

State of Ohio
County of Hamilton

I further declare under penalty of perjury that the foregoing is true and correct. This Certificate is executed on June 8, 2023.

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Subscribed and sworn to before me by the said Affiant on the date below designated.

Date: 6-8-2023

Notary Public

[seal]

DOUGLAS S. MOORE
Notary Public, State of Ohio
My Commission Expires
December 18, 2027

DOUGLAS S. MOORE
Notary Public State of Ohio
My Commission Expires
December 18, 2021

CERTIFICATE OF COMPLIANCE

No. 22-881

MARTIN J. ZIELINSKI,

Petitioner,

v.

WISCONSIN LABOR AND INDUSTRY REVIEW COMMISSION (LIRC), LIRC EMPLOYEE AND LAW CLERK, SUE BURNS, AZCO INC., TRAVELERS INS. CO., AZCO AND TRAVELERS REPRESENTATIVE, RICHARD C. DAVIS, SHAWN STEVENS, TEIRNEY CHRISTENSON, BOB MENARD, DR. WARREN SLATEN, WISCONSIN DEPARTMENT OF JUSTICE,

Respondents.

As required by Supreme Court Rule 33.1(h), I certify that the Petition for Rehearing contains 2,867 words, excluding the parts of the Petition that are exempted by Supreme Court Rule 33.1(d).

State of Ohio
County of Hamilton

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

Executed on June 8, 2023.

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Sworn to and subscribed before me by said Affiant on the date designated below.

Date: 6-8-2023

Notary Public

[seal]

NOTARY PUBLIC STATE OF OHIO

DOUGLAS S. MOORE
Notary Public, State of Ohio
My Commission Expires
December 18, 2027

DOUGLAS S. MOORE
Notary Public, State of Ohio
My Commission Expires
December 19, 2027