

Supreme Court, U.S.  
FILED

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No. 22A946

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In the Supreme Court of the United States

XIRUI SHI, APPLICANT

v.

The COURT OF COMMON PLEAS OF ALLEGHENY COUNTY  
THE SUPREME COURT OF PENNSYLVANIA  
RESPONDENTS

**EMERGENCY APPLICATION FOR STAY  
TO THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY  
PENDING FILING OF PETITION FOR WRIT OF  
CERTIORARI**

EMERGENCY APPLICATION FOR STAY PENDING FILING OF PETITION FOR  
WRIT OF CERTIORARI

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States  
and the Supreme Court of Pennsylvania and the Court of Common Pleas of Allegheny County

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SUPREME COURT, U.S.

I

**PARTIES TO THE PROCEEDINGS**

Xirui Shi is the respondent intended to be Plaintiff and Petitioner in the proceeding below.

The Court Of Common Pleas Of Allegheny County was the Respondents in the proceeding below.

Borough of Churchill was Plaintiff in the proceeding at the Common Pleas Court.

Nan Shi was the Defendant in the proceedings at the Common Pleas Court.

**RELATED PROCEEDINGS**

The Supreme Court Of Pennsylvania:

*Xirui Shi v. The Court Of Common Pleas of Allegheny County*, No. 2 WM 2023 (Apr. 3, 2023)

The Court Of Common Pleas of Allegheny County:

*Borough of Churchill v. Nan Shi*, No. GD-19-006367 (Feb. 23 2023)

II

**RULE 29.6 STATEMENT**

As required by this Court's Rule 29.6, Applicant hereby state that she is individual and thus have no parent entities and do not issue stock.

Dated: 04/25/2023

Respectfully Submitted

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**TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY AND THE SUPREME COURT OF PENNSYLVANIA:**

Xirui Shi, respectfully submits Application for Stay the filing and disposition of a petition for a writ of certiorari and any further proceedings in this Court. Applicant's property located on 308 Edgewood Drive, Turtle Creek, PA 15145, by final order of the Common Pleas Court of Allegheny County will be exposed to public sale on May 1st, 2023. Because of the Court of Common Pleas of Allegheny County's refusal to file, Applicant cannot pursue any other proceeding, and the application for stay to the Supreme Court of Pennsylvania has been denied. The stay sought is not available from any other court or judge. As the denial of petition Writ of Mandamus, Application for stay and Petition for Prohibition decided an important federal question in a way that conflicts with relevant decisions of this Court, Applicant can file petition for a writ of certiorari within 90 days after entry of the judgment. Through affidavit, Applicant promises to file petition for a writ of certiorari within the time limit (App C).

**OPINIONS BELOW**

The Per Curiam Order of The Supreme Court of Pennsylvania denying the Petition for Writ of Mandamus, Application to Stay and Prohibition is included in the Appendix to this Application at App. A.

The Final Judgement of the Court of Common Pleas of Allegheny County included in the Appendix to this Application at App. B.

**JURISDICTION**

Due to the nature of the case that petitioner is been blocked by the the Court of Common Pleas of Allegheny County to submit fillings and Petitioner's Petition for Writ of Mandamus, Application to Stay and Prohibition to The Supreme Court of Pennsylvania was also been denied, the relief sought is not available from any other court or judge. The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a), 28 U.S.C. §§ 1651(a) and 2101(f).

**CONSTITUTIONAL PROVISIONS INVOLVED**

The First Amendment, U.S. Const. amend. I, provides in relevant part:

Congress shall make no law respecting \* \* \* or abridging the freedom of speech.

The Fourteenth Amendment, U.S. Const. amend. XIV, provides in relevant part:

“No state shall \* \* \* 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.”

The Supremacy Clause, U.S. Const. art. VI, para. 2, provides in relevant part:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof \* \* \* shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”



**STATEMENT**

The issue arises from the Court of Common Pleas of Allegheny County refusing to accept filing solely because “you can only file an answer in this case, the complaint needs to be removed from your document”. Following the refusal of filings, petitioner petitions The Supreme Court of Pennsylvania for Writ of Mandamus to direct the Court of Common Pleas of Allegheny County to compel with the State and Federal Constitution to accept the filing. The Court of Common Pleas of Allegheny County, continued the trial process and issued a final order, after being noticed and awarded that the Petition for Writ of Mandamus is pending decision (Docket Records available at 2 WM 2023 and GD-19-006367). On April 3, 2023, the Supreme Court of Pennsylvania, by Per Curiam Order, ordered to grant Petitioner’s Application for leave to file original process, but denied the petition for Writ of Mandamus, Application for stay and Petition for Prohibition without opinion (available at 2 WM 2023).

**REASONS FOR GRANTING THE APPLICATION**

“In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court” 28 U.S.C. § 2101(f). Under the All Writs Act, 28 U.S.C. § 1651(a), this Court or an individual Justice has the broad discretion to stay a lower court’s order in “exigent circumstances” where “the legal rights at issue are indisputably clear.” *Ohio Citizens for Responsible Energy, Inc. v. Nuclear Regul. Comm’n*, 479 U.S. 1312, 1312 (1986) (Scalia, J., in chambers) (citations omitted). This Court will

stay a lower court's order if there is "(1) a reasonable probability that four Justices will consider the issue sufficiently meritorious to grant certiorari; (2) a fair prospect that a majority of the Court will vote to reverse the judgment below; and (3) a likelihood that irreparable harm will result from the denial of a stay." *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam); see also *Nken v. Holder*, 556 U.S. 418, 427–29 (2009); *West Virginia v. EPA*, 577 U.S. 1126 (2016); *Anderson v. Loertscher*, 137 S. Ct. 2328 (2017). Applicants have satisfied each of these standards here.

**I A High Probability That This Court Will consider the issue sufficiently meritorious to grant certiorari and a majority of the Court will vote to reverse the judgment**

1. The Court of Common Pleas of refuse to accept Applicant's filing provide the reason that "you can only file answer in this case, the complaint needs to be removed from your document" is a clear violation of a Freedom to Speech.

Individual has a fundamental right to freedom of speech when it comes to submit filings. This is why it is a widely adopted idea that no pleading or other legal paper shall be refused for filing as matter of content rather than form. The federal and some state, include Pennsylvania itself, goes further to set rules that "The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice" Rule 25 of Federal Rules of Appellate Procedure. "No pleading or other legal paper that complies with the

Pennsylvania Rules of Civil Procedure shall be refused for filing \*\*\* upon a requirement of a local rule or local administrative procedure or practice pertaining to the electronic filing of legal papers.” 231 Pa. Code § 205.4 e(2).

The Judicial Branch of this Country should be open and is not a private entity. As been vested judicial power and the last line to protect justice and rights of people, it is more harmful to the society if Judicial Branch restricts people’s right to express.

2. The Court of Common Pleas of Allegheny County refuse to accept Applicant’s filling provide the reason that “you can only file answer in this case, the complaint needs to be removed from your document” is a clear violation of The Due Process Clause and Fourty States’ Consitution.

After being rejected, the applicant was not given a minimum opportunity to be heard. This is a clear conflict with the decision of *Boddie v. Connecticut*, 401 U.S. 371 (1971). “Prior cases establish, first, that due process requires, at a minimum, that, absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard.” The reason for refusal has nothing related with a countervailing state interest of overriding significance. It is simply a forbidden of free expression.

The Pennsylvania Supreme Court, by Per Curiam Order, without opinions and explanations, ordered to agree that the Court of Common of Allegheny County can refuse filling for the

reason that “you can only file answer in this case, the complaint needs to be removed from Constitution. Based on applicant’s experience with the Pennsylvania State Judicial System, it seems that refusal of filling not as a matter of form is normal. Applicant has only been involved in a total amount of three cases, while has been rejected by the courts in this state for filling for two times (Please see App. D)

Stated in *Marbury v. Madison*, 5 U.S. 137, “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.” “The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right.” Given the judicial power, if courts prevent freedom of Speech and prevent people from being heard, none of the substantive rights, including the Bill of Rights, can be protected.

**II Applicants Will Suffer Irreparable Harm Absent A Stay, And the other party will not suffer any harm**

Pursuant to Final Order of the Court of Common Pleas of Allegheny County, the property Applicant lived in until it has been boarded up will be exposed to public sale on May 1st, 2023. Applicant will permanently lose the property without the stay and it is clearly an irreparable injury. While, there is no harm befalling the lower court and borough as a result of a stay. Instead, the Court of Common Pleas of Allegheny as part of the honorable judiciary system of this Commonwealth and U.S. State of America has the duty to

establishing, maintaining, and enforcing, and should themselves observe, high standards of conduct and should be pleased to observe the integrity and independence of the judiciary be preserved without the influence of government agency. There is no harm befalling Borough. The Churchill Borough enjoin applicant without notice and hearing, and sent the owner to Forbes Hospital and detained the owner in that hospital for four days without medicine, the owner nearly died. The property has been boarded up by Churchill police when the applicant is out of the property. After that, the Applicant never returned back to the property, all the applicant's personal belongings, including the IDs, other types of documents, medicine and medical records are all locked inside. Churchill Borough obtained a writ of execution that cannot be found in the court record. Clearly, as a government entity with executive power, Churchill Borough is more powerful than applicant.

### **Conclusion**

The final order of the Court of Common Pleas and Supreme Court of Pennsylvania should be stay pending the filing and disposition of a petition for a writ of certiorari and any further proceedings in this Court.

Respectfully submitted.

A handwritten signature in black ink, appearing to be 'Xiui Shi', written in a cursive style with a large loop at the end.

Xiui Shi

Pro Se