

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

Dennis A. Lynch — PETITIONER  
(Your Name)

VS.

U.S. Trustee Andrew R. Miller RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):  
\_\_\_\_\_  
\_\_\_\_\_

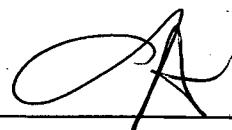
Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: \_\_\_\_\_  
\_\_\_\_\_, or

a copy of the order of appointment is appended.

  
(Signature)

RECEIVED
MAY 31 2023
OFFICE OF THE CLERK SUPREME COURT, U.S.

**AFFIDAVIT OR DECLARATION  
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Dennis Myll, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

<b>Income source</b>	<b>Average monthly amount during the past 12 months</b>		<b>Amount expected next month</b>	
	<b>You</b>	<b>Spouse</b>	<b>You</b>	<b>Spouse</b>
Employment	\$ <u>0</u>	\$ <u>  </u>	\$ <u>  </u>	\$ <u>  </u>
Self-employment	\$ <u>4,000</u>	\$ <u>3,000</u>	\$ <u>4,000</u>	\$ <u>3,000</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Gifts	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Alimony	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Child Support	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Unemployment payments	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
<b>Total monthly income:</b>	<b>\$ <u>4,000</u></b>	<b>\$ <u>3,000</u></b>	<b>\$ <u>4,000</u></b>	<b>\$ <u>3,000</u></b>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Self			\$ 4000
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
MA			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 32000  
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
Checking	\$ 32000	\$ 0
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home  
Value \_\_\_\_\_

Other real estate  
Value \_\_\_\_\_

Motor Vehicle #1  
Year, make & model \_\_\_\_\_  
Value \_\_\_\_\_

Motor Vehicle #2  
Year, make & model \_\_\_\_\_  
Value \_\_\_\_\_

Other assets  
Description Farm Home/Land  
Value Not mine

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>J</u>	\$ <u>0</u>	\$ <u>0</u>
<u></u>	\$ <u></u>	\$ <u></u>
<u></u>	\$ <u></u>	\$ <u></u>

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
<u>J. A.</u>	<u>Daughter</u>	<u>22</u>
<u>A. A.</u>	<u>Daughter</u>	<u>26</u>
<u></u>	<u></u>	<u></u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>1000</u>	\$ <u>0</u>
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>400</u>	\$ <u>0</u>
Home maintenance (repairs and upkeep)	\$ <u>3 80</u>	\$ <u>0</u>
Food	\$ <u>800</u>	\$ <u>0</u>
Clothing	\$ <u>0</u>	\$ <u>0</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>0</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>0</u>

	<b>You</b>	<b>Your spouse</b>
Transportation (not including motor vehicle payments)	\$ 800	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
<b>Insurance (not deducted from wages or included in mortgage payments)</b>		
Homeowner's or renter's	\$ 0	\$ 0
Life	\$ 0	\$ 0
Health	\$ 500	\$ 0
Motor Vehicle	\$ 100	\$ 0
Other: _____	\$ 0	\$ 0
<b>Taxes (not deducted from wages or included in mortgage payments)</b>		
(specify): _____	\$ 0	\$ 0
<b>Installment payments</b>		
Motor Vehicle	\$ 0	\$ 0
Credit card(s)	\$ 0	\$ 0
Department store(s)	\$ 0	\$ 0
Other: _____	\$ 0	\$ 0
Alimony, maintenance, and support paid to others	\$ 0	\$ 0
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 1000	\$ 0
Other (specify): _____	\$ 0	\$ 0
<b>Total monthly expenses:</b>	<b>\$ 4900</b>	<b>\$ 0</b>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes  No

If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form?  Yes  No

If yes, how much? \_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes  No

If yes, how much? \_\_\_\_\_

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

40 Booklets is a burden.

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

Executed on: May 16, 2023, 2023



(Signature)

NO. 23-\_\_\_\_\_

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SUPREME COURT OF THE UNITED STATES

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Dennis Atiyeh,

*Petitioner,*

vs.

U.S. Trustee Andrew R. Vara,

*Respondent,*

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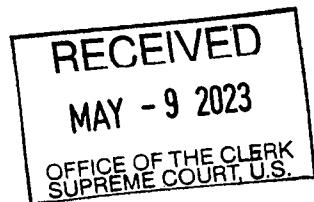
On petition for a Writ of Certiorari to  
the United States Court of Appeals  
for the Third Circuit

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**PETITION FOR A WRIT OF CERTIORARI**

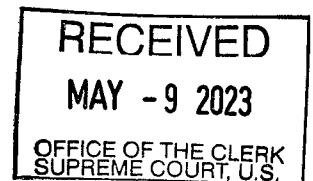
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Dennis Atiyeh  
5828 Park Valley Road  
Schrnecksville, PA 18078  
Land Line: 610-799-5037  
Pro-Se



## I. QUESTIONS PRESENTED

1. Petitioner has not appeared in a courtroom before a judge in person from the start of the Chapter 11 case in over three years, including appeals. The opportunity to be heard at a meaningful time in a meaningful way to date has never occurred pro-se or with requested to seek counsel. Were Petitioner's Constitutional Rights, including Fifth Amendment Due Process Rights, violated?
2. When the Court denies an in-person hearing, then forces a Zoom hearing knowing the Petitioner was incapable of Zoom technology on his own without legal counsel. Were the Petitioner's Constitutional Rights, including the Fifth and Fourteenth Amendments, property, Bankruptcy Entitlement rights violated?
3. Did the Court abuse its discretion by violating the Cares Act and numerous State Supreme Court Judicial Emergency Orders, (which postponed all non-emergency and non-essential civil cases, and shut down law firms and the courts) by forcing a hearing for a Pro se Petitioner's non-essential and non-emergency case? Did the Trustee and Court discriminate against a Pro se litigant?



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<b>A.</b>	<b>TO AVOID CONSTITUTIONAL DEPRIVATIONS, FOR "OFF THE GRID" LITIGANTS AND PRO SE LITIGANTS, THOSE NOT TECHNICALLY SAVVY OR NOT FINANCIALLY CAPABLE OR THOSE WHO CHOOSE AGAINST (QUESTIONABLE) ZOOM HEARINGS; NOR FOR THESE REASONS HAVE THEIR CONSTITUTIONAL RIGHTS VIOLATED, DISREGARDED OR TAKEN AWAY. FURTHERMORE, THESE CITIZENS, INCLUDING PETITIONER, SHOULD NOT BE SUBJECT TO DISCRIMINATION AND/OR ABUSE OF DISCRETION BY A GOVERNMENT, U.S. TRUSTEE OR COURTS.</b>	
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#### **IV. Petition for Writ of Certiorari**

Dennis Atiyeh is a United States Citizen in good standing with God, Country, Church, Community, and is a USDA federally recognized farmer living in Schnecksville, Pennsylvania off the grid. A Pro-Se litigant respectfully petitions this Court for a Writ of Certiorari to review the non-binding judgment of the Third Circuit Court of Appeals in the Eastern District of Pennsylvania.

#### **V. Opinions Below**

The non-binding decision of the lower court of the Third Circuit Court of Appeal denying the petitioner's appeal dated February 9, 2023.

#### **VI. Jurisdiction**

Petitioner's Appeal to the Third Circuit was denied on February 9, 2023. Petitioner invokes this Court's jurisdiction under 23 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the Third Circuit Court of Appeals, Non-Binding Judgment.

#### **VII. Constitutional Provisions Involved**

United States Constitution, 5<sup>th</sup> Amendment.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## United States Constitution, 14<sup>th</sup> Amendment.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States 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 United States; 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

### Abuse of Discretion

Discretion is the flexibility given to a court or judge to make decisions based on circumstances and their own judgment within legal principles.

Discretion is abused when the judicial action is arbitrary or unreasonable.

### Discrimination

Invidious discrimination describes “the act of treating a class of persons unequally in a manner that is malicious, hostile, or damaging. It refers to discrimination that is motivated by animus or ill will towards a particular group, rather than based on a legitimate, non-discriminatory reason.”

Cornell Law Library

### VIII. STATEMENT OF CASE

God transcribed the Holy Scriptures to Man. The formation of the Church Law to Common Law to the Founding Fathers to the Constitution to the Bill of Rights to the Amendments. The history of the United States legal system has been developed over thousands of years. It has recently fallen into tohu-bohu due to the Co-vid virus. Three years have past, not once has the Petitioner had the opportunity to be heard at a meaningful time in a meaningful way. The Fifth and Fourteenth amendments were established by God-fearing Founders who were lead by the teachings of Jesus Christ written in the Bible to protect the children/citizens of our God-fearing Country from abuse of discretion and discrimination. Millions of United States citizens live off the grid. No computers, no cell phone, no texts, no e-mails, no different from the Apostles and the Founding Fathers. When one lives off the grid, do they forfeit their Constitutional Rights? The answer is clearly NO! That's what is happening to Millions of Americans yesterday, today and tomorrow. Petitioner has experienced Constitutional violations, abuses of discretion and discrimination first-hand. Petitioner requested, on numerous occasions, an in-person hearing, filing a motion requesting a hearing was denied. The Trustee and Court knew the Petitioner was off the grid and not technologically savvy, not using a computer, cell phone, Internet, and television, and unable to proceed via Zoom individually and without counsel. A continuation would not have been a big deal. No one had driven a distance to Reading or Philadelphia for that reason people were not being inconvenienced. In April 2021, the Judge had continued the original hearing of the

Trustee's Motion to Dismiss with Prejudice at the actual hearing via telephone. The Judge gave the Trustee consideration and continuance, but did not grant the Petitioner the same consideration. The Petitioner received the notice the night before leaving the Petitioner without out proper time for preparation for a hearing and unable to access a zoom hearing. The Petitioner called in for the hearing explaining the situation and asked for a continuance. The judge did not grant it and went on with the hearing without the Petitioner. The Petitioner had not been given proper notice to prepare for a Zoom hearing and was unable to and therefore, did not participate via Zoom. Petitioner requested to have the opportunity to hire a new counsel on the record to the Court and to the Trustee and was denied by the Court. The numerous unusual circumstances, Co-vid induced mail delays, riots in cities delaying processing of payment which were clearly mailed and postmarked on time, clerk of court shutdowns, restricted court hours, Cares Act, numerous State Supreme Court Emergency Orders, to name a few, caused the Trustee and Judge to abuse discretion by not using consideration and discretion of the Petitioner's obligations. They knew the Petitioner was at an extreme disadvantage due to these numerous unusual circumstances. Petitioner was deprived of Chapter 11 protection entitled to petitioner and was deprived of property by the Abuse of Discretion and discriminatory acts of the Trustee and Court.

Should have the Judge included my original response to the Trustee's original Motion to Dismiss. In April 2021, the Court on the Motion to Dismiss held a hearing. Petitioner filed a timely response. The Trustee requested a continuance that the new hearing would be via Zoom. The Petitioner objected.

At the new hearing May 4, 2023 on the Motion to Dismiss, that the Petitioner objected to, the Court gave the response to Trustee's Motion to Dismiss no weight. The Petitioner response to the Trustee's Motion to Dismiss was on the record. The Court gave it no merit. The Judge erred.

Trustee commits perjury in his Motion to Dismiss. The Court disregarded that fact. The Judge's law firm practices in the Eastern District where the Trustee governs over the Judge's law firm. This is a clear conflict of interest. The act of perjury, the very clear fact was enough for dismissal of the Motion to Dismiss, yet the Judge gives zero consideration. Perjury committed by the Trustee alone is alone grounds for dismissal. The Trustee clearly commits perjury in his Motion to Dismiss.

The trustees and judges were all benefited with the protection of the Cares Act and the numerous State Supreme Court Judicial Emergency Orders, along with Presidential and Gubernatorial Orders. Petitioner was not protected by any of the above. Petitioner lives off the grid. I drove hours to Reading, PA on numerous occasions in person during ice and snow to the drop box at the federal court's location as the clerk's office was closed or on limited two day per week schedule. Petitioner due to Co-vid mail delays received documents a month after being mailed

from the Trustee or Court. Petitioner received the Motion a day before the May 4, 2021 Zoom hearing objected to Zoom was denied via U.S. mail which had been denied three weeks earlier. It took three weeks to receive the denial. It was received the day before the hearing, which did not provide allowable time for Petitioner to prepare and arrange for a morning hearing. The Court and Trustee were well aware of the Covid mail delays going on throughout the country and the fact that the Petitioner is not an attorney or electronic filer. The disregard they showed for a non-electronic filer is discrimination; discrimination against a Pro se litigant. This is also Abuse of Discretion, knowing the Petitioner potentially or would not receive the notice in a timely fashion; the notice should have been given or sent more in an appropriate fashion due to the circumstances. The Petitioner received notice that the Motion Objecting to the Zoom Hearing was denied. The hearing was not rescheduled and would occur on May 4, 2021. The Trustee commits perjury in his Motion to Dismiss by stating payments were late wrongfully charged petitioner and filings were late, which was untrue. The riots in Portland, Oregon caused mail to the Trustee's offices in Portland to be late. The shutdown of the Clerk's office in Reading caused the filings and reports to be late. If one observed the postmarks to the Trustee payment Center in Portland and the filing stamps and the dropbox in Reading, Pennsylvania, clearly Petitioner was not in violation. Knowing the unusual circumstances and the lateness of the Judge's own Order, the Petitioner's five-day notice, the Petitioner had less than a 24-hour notice. Knowing the status and reason for the Petitioner's file Motion, the Clerk of Courts

should have called and stated the Motion to Continue the Zoom Hearing had been denied. It only shows at that point they knew their intentions to dismiss the case with prejudice regardless. Every Motion Petitioner filed and every request before the Court was denied and objected or contested to by the Trustee. The Trustee commits perjury, fraud, and bad faith knowing what he filed in his Motion to Dismiss is a lie and an abuse of discretion. The court commits the same by permitting it. Petitioner was not provided with the protections of the numerous co-vid state and federal orders. Petitioner's case was clearly a non-emergency, non-essential case. Research indicates that Petitioner's case was the only case of its kind being heard via Zoom. A God-fearing, Pro-Se litigant was discriminated against by the Trustee and Court. The Trustee used 10 year old and 5 year old cases.

Trustee's Witnesses at the Motion to Dismiss were the actual defendants to Petitioners disputed claims. Claims 13-1, 14-1, 15-1, lawyers who were having a hearing on disputed claims that the Petitioner filed. The claims were scheduled to be heard by the Court along with Adams, four lawyers against Petitioner. Truly a conflict of interest. The Judge's law firm answers to Adams, which is a conflict of interest. Who's to say they are not taping the Zoom to embarrass or ID me for a hit man out of Philadelphia by video taping the zoom hearing. They all commit conspiracy with the Judge. All have an interest. If a Pro se litigant I succeeds they all lose future clients, more time to deal with the unorthodox pro-se litigants in court and Trustee. Never a Pro se has had a confirmed plan ever. Of course, that's why my plan was unattainable. They discriminated and abused their discretion. They

violated Congress, Senate and the President's Care's Act and their instructions to give Pro-Se litigants every consideration. Since Trustee Adams and Vara have been in the Eastern District, I would question whether there have been any God-fearing pro se litigants to attain a confirmed plan. In my experience, discrimination clearly has reigned against pro-se litigants.

## 2. The Appeal

The Third Circuit Court of Appeal Petitioner filed a timely appeal to the Third Circuit Court of Appeals. No oral arguments or phone conferences have ever occurred. The Judgment was nonbinding. There was no rehearing which by law is mandatory. A final judgment was issued on February 9, 2023. Petitioner has filed a Writ of Certiorari within 90 days. The Appellate Court does not give Petitioner's response to Trustee's Motion to Dismiss which was filed on the record timely for the original April 6, 2021 Motion to Dismiss Hearing that was rescheduled at the Trustee's request until May 4, 2021. The Court erred in not giving it any consideration. The Appellate Court errs in not giving any consideration. My Motion clearly proves perjury and fraud by the Trustee. Documents that the Trustee discriminates against Pro se litigants.

Petitioner's Fifth and Fourteenth Amendment Rights were violated. Petitioner was never given Due Process; the opportunity to be heard at a meaningful time in a meaningful way. Over a three-year period by any Court or Judge never instituted the process to Petitioner. Furthermore, Petitioner's property was violated paying over \$50,000 to Portnoff Law.

The Third Circuit Court of Appeals permitted Portnoff to take Petitioner 's Property.

Petitioner filed for a Stay from Portnoff selling Petitioner's farm or taking the disputed tax money, which is contested in Bankruptcy and State Court. The matter was on appeal to the Third Circuit. The Third Circuit denied the Automatic Stay.

The Third Circuit Judges used distorted untrue facts that are truly unrelated to the appeal matter to draw their conclusion and make their unbinding judgment.

Petitioner is a United States Citizen for the Judges to infer that a foreign entity proves the contrary of Petitioner's appeal is improper and violates Petitioners Constitutional Rights. There is no testimony related to the facts the Judges state in their order. The Third Circuit is in a state of tohubohu. The judgment must be reversed as they relied upon undocumented, unrelated, untrue, hearsay facts off the internet to make their judgment.

### 3. Abuse of Discretion/Discrimination

The Judge and Trustee discriminated against Pro se Petitioner.

On the record, on numerous occasions I requested time to seek legal counsel. No time was granted even during Co-vid, Cares Act and numerous State Supreme Court Orders, record snow in February 2021, numerous unusual circumstances. The Court kept scheduling hearing forcing me into a Zoom hearing for contested claim 15-1 that a family member helped. When a litigant requests time to hire counsel a judge and trustee are obligated to granting the Pro se litigant time. The trustee and judge became more forceful scheduling numerous Motions and hearings. The Court abused its discretion. The Chapter 12 Trustee made the condition for conversion to

Chapter 11 that Petitioner hires an attorney in order to convert to Chapter 11. The Judge was aware of that fact and approved the attorney I hired, and then the lawyer was fired due to him stating that you dispute your creditors after you attain a Plan. The attorney who I fired knew that claims 13-1, 14-1, and 15-1 were all disputed in the time they he was retained and paid, and never disputed them before the Court. That was the only reason Petitioner could not attain a Plan. In defense Co-vid and numerous law firm shutdowns, unusual circumstances caused legal delays. Petitioner only needed to resolve three disputed claims, 13-1 and 14-1 with two one hour hearings which were scheduled a week after the Trustee's Motion to Dismiss Hearing on May 4<sup>th</sup> 2021, which the Court cancelled as moot after Order Dismissing the Case with Prejudice and a three year bar. Once the disputed amount was resolved, Petitioner would simply change the Plan to include the amount owed over 5 years allotted the Bankruptcy, which was extended by the Cares Act. The Trustee and Court were very aware of my case. No time was allotted to hire new counsel. The Trustee and Judge abused their discretion by violating my 5<sup>th</sup> and 14<sup>th</sup> Amendment Rights by not granting time. Petitioner's Entitlement to Chapter 11 was violated. The attorneys who I consulted stated to me the case was complicated. They stated they needed time or they feared they would get on the bad side of the Trustee or Judge, which would harm their current clients or their legal reputation with the Trustee and Court. The Chapter 12 Trustee stated to me that the new Chapter 11 Small Business Plan was complicated and an attorney who knew Bankruptcy Code was needed in order for my Chapter 12 case to be converted to a

Chapter 11. The case was converted under that one condition. The Chapter 11 Trustee knew that clause. The Judge converted the case based on that condition. The Trustee and Judge both abused their discretion by forcing Petitioner to proceed without counsel. Filers who were represented by counsel were not forced to proceed. A United States Citizen who is Pro se seeking bankruptcy protection is struggling financially is typically struggling or an “off the grid” citizen may not have the resources for Zoom or the internet and cannot afford an attorney to represent them in Bankruptcy Court. They are forced to file Pro se. Pro se litigants are discriminated against by a U.S. Trustee Vara and Adams with the Court’s blessing; They are all lawyers with conflicts of interest with increased workloads due to Pro se litigants. If a Pro se litigant succeeds less clients for lawyers, more work for trustees and judges. The Chapter 12 Trustee never cited Petitioner with bad faith, all fees and reports were filed timely, all meetings, hearings, etc., were timely. The Chapter 12 Trustee never charged me with being a serial filer. The Chapter 12 judge, Judge Fitzsimons, never charged me with any bad faith, serial filings or anything out of the ordinary for the record.

The Trustee’s Motion to Dismiss with Prejudice or convert to a Chapter 7 proves he is discriminating and bias. The Trustee never moves to convert to a Chapter 7 due to his friends; his conspirators would be harmed/delayed by a conversion to a Chapter 7. Trustee and his conspirators, and the Judge never even mention the Chapter 7 conversion, which would have benefited the Petitioner and the Government. The Petitioner would have discharged his debts then ended his case.

The Government would no longer have the paperwork or resources to deal with the case without the Covid backlog. Petitioner's family members helped with a Zoom hearing held for a contested creditor in which Petitioner lost, but was literally lost the entire time. Muted out, not able to object, not seeing what was being submitted to the Court, not knowing who was or wasn't videoing or taping the hearing.

Petitioner was overwhelmed as the Judge who would not give me time to find new counsel forced me into that hearing. Having family help was a violation of the terms of a Zoom hearing. Petitioner was then attacked and called a liar by the Judges stating I had a Zoom hearing and I am capable or I called into a Zoom hearing. I do not have a computer. My family members were not available on May 4, 2021. My daughter had class. I did not have any other access at that point of time. My case was on the very verge of dismissal everything was at stake; I wanted an in-person hearing like the Constitution assures United States citizens. It was a non-emergency, non-essential case.

The Trustee uses a 10-year -old case from 2011 to claim I was a serial filer and filed in bad faith. The 10-year-old case violates Statute of Limitations and uses it to incriminate Debtor of wrongdoing. The case was dismissed without prejudice and the charge of bad faith was not introduced. The Trustee and Court abuse their discretion by permitting the 10-year old case to be used against Petitioner. This was brought up in Petitioner's Motion Objecting to Trustee's Motion to Dismiss. The Trustee again perjures himself by claiming the same Creditors have not been paid that Petitioner files to avoid payment. The Judge simply had to compare the

Tax authorities and utilities. The Trustee knew this yet perjures himself with the intent to violate Petitioner's Fifth and Fourteenth Amendment Rights, plus abusing his discretion as a U.S. Trustee. Furthermore, discriminating against a Pro se Christian Petitioner with the Court's blessing. Represented Bankruptcy filer were treated differently. This was all documented in Petitioner's Motion to Trustee's Motions, which never received the Court's consideration or the Appellate Courts consideration. I believe there has never been a Pro se litigant in the Eastern District to successfully complete a Bankruptcy Plan. Pro se litigants are a threat to lawyers, judges, who own Bankruptcy Law Firms. Pro se litigants are also more difficult to deal with especially for government employees like Adams and the Judge. Clearly more reasons to discriminate and legally bully Petitioner. Pro se litigants are discriminated against in the Eastern District of PA and the Third Circuit. Petitioner called the U.S. Trustee more than 12 times; Trustee Adams never called back or responded. Both the Trustee Snyder and Cox responded to all communications Petitioner requested.

Off the grid litigants, Pro se litigants as a class or classification of people who are not technically savvy or capable or choose against Zoom should not have their Constitutional Rights violated. This is discrimination.

## IX. Reasons for Granting the Writ

**TO AVOID CONSTITUTIONAL DEPRIVATIONS, FOR "OFF THE GRID" LITIGANTS  
AND PRO SE LITIGANTS, THOSE NOT TECHNICALLY SAVVY OR NOT  
FINANCIALLY CAPABLE OR THOSE WHO CHOOSE AGAINST (QUESTIONABLE)  
ZOOM HEARINGS; NOR FOR THESE REASONS HAVE THEIR CONSTITUTIONAL**

**RIGHTS VIOLATED, DISREGARDED OR TAKEN AWAY. FURTHERMORE, THESE  
CITIZENS, INCLUDING PETITIONER, SHOULD NOT BE  
SUBJECT TO DISCRIMINATION AND/OR ABUSE OF DISCRETION BY A  
GOVERNMENT, U.S. TRUSTEE OR COURTS.**

Millions of U.S. Citizens live off the grid, millions struggle financially.

Bankruptcy is to protect citizens from losing property and aid in repaying debts.

Bankruptcy is Entitlement. Their Constitutional Rights including Due Process must be protected in times of chaotic events such as epidemics, yesterday, today and tomorrow. Trustees and the Courts must follow all the laws instituted by the Constitution and Bill of Rights, the Amendments, regardless of ones financial, legal, religious or technical abilities. The Trustee and Court cannot abuse their discretion regardless of the circumstances all-federal and state emergency judicial orders must be enforce. The Trustee and Court must not discriminate because one is "off the grid", is unrepresented or has a different faith. The same applies to the appeals court process. All citizens are entitled to the protection at all levels regardless of one's faith or financial status whether off the grid or unrepresented. Petitioner's Entitlement Rights to Bankruptcy Protection, property and Due Process were violated.

The Appeals Court must offer oral argument, a rehearing in a non-binding judgment and not use unrelated facts in determining its outcome. The Appeals Court must protect the citizens from abuse and discrimination. Numerous presidents, senator, congressman, honorable men and women have filed for protection. Millions of off

the grid and financially struggling have filed for protection.

The Court should have given Petitioner the opportunity, time to seek counsel, that was the Chapter 12's instructions, knowing that all law firms were shutdown in January 2021 and record snow hit Pennsylvania and that the case was complicated. Petitioner needed time as the Cares Act gave time. The Trustee forced the case to be heard. United States citizens must be protected from trustees, judges who violate the constitution.

#### X. Conclusion

There are numerous acts that violate Petitioner's Fifth and Fourteenth Amendment Rights; additionally, fraud, perjuries and abuses of discretion and discriminatory acts that also violate Petitioner's rights. Petitioner thanks God that with His help this Writ can be filed. The Petitioner's Writ speaks for himself as well as for the millions of poor, "off the grid", and Pro se filers who have not been able to withstand abuse or discrimination of their Constitutional Rights due to financial hardship, time restrictions, or other adversities, as the Petitioner experienced through the pandemic. The Petitioners Writ speaks for us all and future Pro se litigants to have a fighting chance to survive such abuse and violations of their Constitutional Rights.

#### XI. APPENDIX

RESPECTFULLY SUBMITTED:  
DENNIS ATIYEH  
5828 PARK VALLEY ROAD  
SCHNECKSVILLE, PA 18078  
610-799-5037

MAY 5, 2023

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CERTIFICATE OF COMPLIANCE

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Dennis Atiyeh,

*Petitioner,*

vs.

U.S. Trustee Andrew R. Vara,

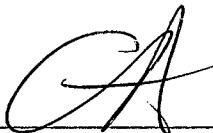
*Respondent,*

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As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 4526 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

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

Executed on May 5, 2023



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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 22-1848

In re: DENNIS J. ATIYEH,

Petitioner

On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(E.D. Pa. Civ. No. 5:21-cv-02381)  
District Judge: Honorable Cynthia M. Rufe

Submitted Pursuant to Third Circuit LAR 34.1(a)  
November 16, 2022

Before: AMBRO, KRAUSE, and SCIRICA, Circuit Judges

**JUDGMENT**

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on November 16, 2022. On consideration whereof, it is now hereby ORDERED and ADJUDGED by this Court that the judgment of the District Court entered March 31, 2022, be and the same is hereby affirmed. Costs taxed against the Appellant. All of the above in accordance with the opinion of this Court.

Dated: November 30, 2022

ATTEST:  
  
s/ Patricia S. Dickey, Clerk

Certified as a true copy and issued in lieu  
of a formal mandate on February 9, 2023

Teste:   
Clerk, U.S. Court of Appeals for the Third Circuit

**NOT PRECEDENTIAL**

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

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No. 22-1848

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In re: DENNIS J. ATIYEH,

Petitioner

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
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District Judge: Honorable Cynthia M. Rufe

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Submitted Pursuant to Third Circuit LAR 34.1(a)  
November 16, 2022

Before: AMBRO, KRAUSE, and SCIRICA, Circuit Judges

(Opinion filed November 30, 2022)

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**OPINION\***

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PER CURIAM

Dennis J. Atiyeh was delinquent on the tax obligations of his farm. Foreclosure loomed, so Atiyeh filed a petition for relief in the United States Bankruptcy Court for the Eastern District of Pennsylvania. Atiyeh initially proceeded pro se under Chapter 12 of

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\* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

the Bankruptcy Code. With the aid of newly retained counsel, however, Atiyeh was able to convert his petition and proceed under the Small Business provisions of Chapter 11.

Atiyeh was unable to produce a confirmable reorganization plan, despite multiple opportunities and an extension of the deadline in which to do so. In rejecting his latest plan—which was filed pro se after Atiyeh discharged his attorney and which, indisputably, suffered from critical omissions—the Bankruptcy Court observed that Atiyeh had not requested further extension of the statutory deadline for plan confirmation, see 11 U.S.C. § 1121(e). Atiyeh’s motion for reconsideration of the plan-rejection ruling was denied.

Next, after an evidentiary hearing conducted via Zoom on May 4, 2021, the Bankruptcy Court entered an order (1) granting the United States Trustee’s motion to dismiss the case for cause, under 11 U.S.C. § 1112(b), and (2) enjoining Atiyeh from filing for bankruptcy protection—absent leave of court—for three years, under 11 U.S.C. § 349(a).<sup>1</sup> Atiyeh appealed; the District Court affirmed; and this appeal followed.<sup>2</sup>

The District Court had subject matter jurisdiction under 28 U.S.C. § 158(a)(1). We have jurisdiction under 28 U.S.C. §§ 158(d)(1) and 1291. Both an order dismissing a bankruptcy case under § 1112(b), and an order restricting future bankruptcy filings under

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<sup>1</sup> This was neither Atiyeh’s first bankruptcy case, nor the Bankruptcy Court’s first time imposing a filing bar. See Supp. App’x Vol. I at 10.

<sup>2</sup> Atiyeh appealed as well to the United States Court of Appeals for the Federal Circuit. Concluding that it lacked jurisdiction and that transfer was unnecessary (given the appeal in this Court), the Federal Circuit entered an order of dismissal. See Atiyeh v. Vara, No. 2022-1781, 2022 WL 4231213, at \*1 (Fed. Cir. Sept. 14, 2022) (per curiam order).

§ 349(a), are reviewed for abuse of discretion. See In re SGL Carbon Corp., 200 F.3d 154, 159 (3d Cir. 1999); In re Casse, 198 F.3d 327, 341 (2d Cir. 1999). Insofar as we are reviewing the underlying determinations of the Bankruptcy Court, “we stand in the shoes of the district court, applying a clearly erroneous standard to the bankruptcy court’s findings of fact and a plenary standard to that court’s legal conclusions.” In re IT Group, Inc., 448 F.3d 661, 667 (3d Cir. 2006) (citation omitted).

We have carefully considered Atiyeh’s arguments on appeal. In short, those arguments reveal no clearly erroneous factfinding or reversible legal error or abuse of discretion by the Bankruptcy Court. On the contrary, the record readily reflects that the Bankruptcy Court properly rejected Atiyeh’s most-recent, pro se amended plan as the latest in a series of plans which were not confirmable. Additionally, the Bankruptcy Court did not clearly err in finding that Atiyeh had failed to timely request an extension of the statutory deadline for plan confirmation, and that, regardless, more time would not have resulted in Atiyeh’s producing a confirmable plan. Under the circumstances, dismissal under § 1112(b) was appropriate. Cf. In re Am. Cap. Equip., LLC, 688 F.3d 145, 162 (3d Cir. 2012) (“We find that the Bankruptcy Court did not abuse its discretion in determining that there was cause to convert on the basis that Appellants have been unable to propose a confirmable plan, and will be unable to do so in the future.”).

Furthermore, we reject Atiyeh’s apparent assertion that his due process right to be heard on his claims and objections, cf. In re Trib. Media Co., 902 F.3d 384, 397 (3d Cir. 2018), was violated as a result of the Bankruptcy Court’s decision to conduct the May 4, 2021 hearing via Zoom. In light of the COVID-19 pandemic and attendant restrictions on

courthouse access, it was permissible and reasonable for the Bankruptcy Court to conduct the hearing using a videoconferencing platform. Cf. Fed. R. Civ. P. 43(a) (“For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.”); Fed. R. Bankr. P. 9017 (making Rule 43(a) applicable to contested bankruptcy matters). Atiyeh argues that the Bankruptcy Court’s reliance on modern technology impaired his ability to present his case, see, e.g., Br. 4 (“Appellant has never emailed or texted in his life. \* \* \* Millions of men and women do not go online or text.”), but the Bankruptcy Court did not clearly err in finding that such argument is belied by, among other things, Atiyeh’s prior participation in a hearing conducted using Zoom, and his participation in the May 4, 2021 hearing up to the point of his voluntary exit.<sup>3</sup>

Turning to the three-year filing bar, it is a close call whether Atiyeh raised in the District Court, and thus preserved for appeal here, any substantive challenge to that ruling of the Bankruptcy Court. Cf. Lloyd v. HOVENSA, LLC, 369 F.3d 263, 272–73 (3d Cir. 2004) (“Our Circuit adheres to a ‘well established principle that it is inappropriate for an appellate court to consider a contention raised on appeal that was not initially presented to the district court.’”) (citation omitted). Liberally construing Atiyeh’s brief and supplemental response in the District Court, Atiyeh at most raised an argument that the Bankruptcy Court failed to make a finding of “bad faith” to support the filing bar. It is

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<sup>3</sup> Atiyeh’s attempts to cast himself as a farmer unaccustomed to the digital age do not rest easy alongside his apparent averment two decades ago that he “own[ed] and operate[d] a web site for users to place off-shore sports bets on line.” Eng. Sports Betting, Inc. v. Tostigan, DC Civ. No. 01-cv-02202, 2002 WL 461653, at \*1 (E.D. Pa. Mar. 15, 2002).

enough for present purposes to reject that argument as counterfactual. See Supp. App'x Vol. II at 212-13 (Bankruptcy Court: "And I do agree that there has been bad faith in the pattern and practice of filing several petitions over the last several years. So given that, I will grant the order dismissing the case. I will put in place a bar for three years.").

Finally, we take note of Atiyeh's arguments that the United States Trustee "hates Christians" and is "part of an organized crime syndicate," Br. 2, that "Appellant wasn't permitted to hire competent legal counsel," Br. 4, and that "Appellant was illegally charged for wrongdoings that were past all statute of limitations." Br. 5. Because these arguments distort, or otherwise find no support in, the record on appeal, they are rejected.

Accordingly, we will affirm the judgment of the District Court.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

No. 22-1848

IN RE: DENNIS J. ATIYEH,  
Appellant

(District Court No.: 5-21-cv-02381)

**SUR PETITION FOR REHEARING**

Present: CHAGARES, Chief Judge, AMBRO, JORDAN, HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN and SCIRICA\*, Circuit Judges

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Thomas L. Ambro  
Circuit Judge

Dated: February 1, 2023  
PDB/cc: Dennis J. Atiyeh  
All Counsel of Record

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\* Judge Scirica's vote is limited to panel rehearing only.

## CERTIFICATE OF SERVICE

I Certify that on May 5, 2023, a true and correct copy of the foregoing WRIT OF CERTIORARI was served to the following individuals at the following location  
VIA US MAIL/FAX:

Andrew R. Vara, United States Trustee  
c/o Wendy L. Cox, Trial Attorney  
441 G Street, NW, Suite 6150  
Washington, DC 20530  
Tel: (202) 305-3016  
Fax: (202) 307-2397

May 5, 2023



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