No. 23-1211

In the Supreme Court of the United States

SCARBOROUGH,

Petitioner,

v.

C.C.P. NORTHAMPTON, ET AL.,

Respondents.

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

PETITION FOR REHEARING

E. Thomas Scarborough III
Petitioner Pro Se
3876 Applebutter Road
Perkasie, PA 18944
(267) 221-7236
etscar@aol.com

October 30, 2024
SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

TABLE OF CONTENTS

---

* Docketed below at #28 on November 28, 2022 and at ECF #1 on February 14, 2023.

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

Page

TABLE OF AUTHORITIES – Continued

Page

TABLE OF AUTHORITIES – Continued

Page

TABLE OF AUTHORITIES – Continued

Page

STATUTES

JUDICIAL RULES

INTRODUCTION

Pursuant to Rule 44, E. Thomas Scarborough III respectfully petitions for rehearing of the Court's decision issued on October 7, 2024.

Rehearing should be granted, because this Honorable Court's conclusions determine the acceptable boundaries between government and citizen and the issues presented, have exceptional importance and broader ramifications to every fathers' protected rights.

Respondent failed to protect the constitutionally protected relationship of a parent and child and there is no statute of limitations for fraud on the court.

Courts have never considered nor reviewed the essential discovery motions, nor required disclosure.

Pleas are dismissed without finding facts or reaching the merits. "Until the disputed facts are resolved, an intelligent and fair judgment is impossible."[1]

Whereas, indelibly dismissing Petitioner's credible allegations, without the necessary fact finding, would be a dishonorable miscarriage of justice.

If the Court does not require disclosure, Respondent will not read Petitioner's Pleas, nor investigate the misconduct and corruption inflicted upon the court.

As the state court will never permit discovery, nor consider Petitioner's vindicable claims, he humbly begs the Court to reconsider.

---

[1] *Nesbitt v. Erie Coach*, 416 Pa. 89, 97 (1964).

GROUNDS FOR REHEARING

I. The First Duty of Government is to Afford the Laws Protection[2]

This Honorable Court has a long history of reversing decisions, to accept jurisdiction over transgressing state actor courts, that unjustifiably interfere with protected rights. For example:

1.) To protect a father's fundamental parental rights against the interference of a state court; *Stanley v. Illinois*, 405 U.S. 645 (1972).

2.) To quash an unconstitutional custody award; *Palmore v. Sidoti*, 466 U.S. 429 (1984).

3.) To reverse the deprivation of a father's rights; *Armstrong v. Manzo*, 380 U.S. 545 (1965).

4.) To rectify a state actor court's intentional gender discrimination against a father; *J.E.B. v. Alabama*, 511 U.S. 127 (1994).

5.) To assert Supremacy over an imperious state Supreme Court; *Supreme Court of Virginia v. Consumers Union*, 446 U.S. 719 (1980).

Moreover, the Court assumes jurisdiction over state courts, vindicating the protected rights of the violated:

6.) To vindicate conspiracy victims, when custody is illegally awarded; *Brokaw v. Weaver, Mercer*

---

[2] *Marbury v. Madison*, 5 U.S. 137, 163 (1803).

County, State of Illinois, 305 F.3d 660 (7th Cir. 2000).

7.) To remedy the miscalculation of child support payments; *Malhan v. Sec'y U.S. Dept. of State*, 938 F.3d 453 (3rd Cir. 2019).

II. Petitioner has the Constitutional Right to Limited Disclosure and/or Narrowly Tailored Discovery

Petitioner's well-plead undisputed facts substantially demonstrate the ongoing discovery abuse and this Honorable Court has long held that limits on discovery and other procedural inadequacies may be problematic. Respondent has the duty to disclose:

1.) When the state "suppresses evidence;" *Brady v. Maryland*, 373 U.S. 83, 87 (1963).

2.) "Where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings;" *Greene v. McElroy*, 360 U.S. 474, 496 (1959).

Moreover, some circumstances may require discovery:

3.) When the Court has not had "the opportunity to determine whether the applicable rules of law and procedure were observed;" *Joseph Stock Yards Co. v. U.S.*, 298 U.S. 38, 73 (1936).

4.) When immunity determinations "must await the development of facts during discovery;" *Filler v. Kellett*, 859 F.3d 148, 154 (1st Cir 2017).

5.) When "public interests" are involved; *Hazel Atlas v. Hartford*, 322 U.S. 238, 246 (1944).

Constitutional claims are dismissed without finding the facts. But instead, questions of law and issues of fact, "must be decided after, and not before, the court has assumed jurisdiction over the controversy."[3]

III. Case Preparation is Prejudiced by the Decision to not Review his Motion for Discovery nor Require a Response

Despite Respondent's failure to investigate, defend, nor disclose, Petitioner's key motion for discovery was not reviewed, nor was any response required.

Discovery continues to be overlooked or withheld, but remains essential, as the fraudulently concealed facts could never become stale. Fraud on the court claims:

1.) Are intended "to protect the integrity of the judicial process." *Bowie v. Maddox*, 677 F. Supp. 2d 276, 278 (D.D.C. 2010).

2.) "A decision produced by fraud on the court is not in essence a decision at all and never becomes final." *Kenner v. C.I.R.*, 387 F.3d 689, 691 (7th Cir. 1968).

3.) "The law favors discovery and correction of corruption of the judicial process even more than it requires an end to lawsuits." *Lockwood v. Bowles*, 46 FRD 625, 634 (D.D.C. 1969).

---

[3] *Bell v. Hood*, 327 U.S. 678, 682.

If "the law favors discovery," Petitioner's essential motion for discovery should be reviewed and granted.

If "the law favors correction of corruption of the judicial process," disclosure should be required.

"The Court should freely give leave when justice so requires," but instead affirms that "undue delay" precludes him from obtaining the discovery necessary for bringing his fraud on the court claim or for amending his petition, or the party-defendants.[4]

Without the needed facts, how could the issues or the party-defendants possibly be concurred as required by the legal standard for res judicata?[5]

Without the needed facts, how could it be determined whether Respondent obtained personal jurisdiction?

Comity and Immunity are illegitimate defenses at threshold inquiry, as these conclusions both fail to address the important issue in question.

Who is deemed liable, is a question secondary to whether the Court should set aside the facially void illegal, fraudulent order.

Petitioner continues to assert that he is a vulnerable victim.[6] He also insists that he is a crime victim.[7]

---

[4] *See* Rule 15(a)(2).

[5] *Harris v. Pernsley*, 755 F.2d 338, 342 (3rd Cir. 1984).

[6] *Cf. Maples v. Thomas*, 565 U.S. 266 (2012).

[7] *See* 18 U.S.C. § 3771.

Nevertheless, this judgment unjustifiably affirms that he is not and dismisses these meaningful claims without disclosure, investigation, nor discovery.

Because there is no statute of limitations for bringing a fraud on the court claim, the Court should grant Petitioner's essential motion for discovery and require these defaulted tortfeasors to disclose why they ever became involved with his action.

Therefore, this Honorable Court should recognize the prejudice suffered and grant rehearing.

IV. Case Preparation is Prejudiced by the Decision to not Review his Motion for Default Judgement

Petitioner is prejudiced by Respondent's failure to plead or otherwise defend the malicious corruption, or their illegal involvement with his underlying action.

There has been a long history throughout this case of delay and the conduct in this regard has been willful and in bad faith. The discovery abuses amounted to a pattern of abuse and severely prejudiced Petitioner.

The Court has reached similar results with respect to the prejudice suffered with case preparation and recognizes prejudice as the relevant factor when:

1.) Case preparation is prejudiced by the failure to cooperate with discovery. *Hoxworth v. Blinder Robinson*, 980 F.2d 912, 925 (3rd Cir. 1992).

2.) Responses to discovery requests were never adequately made. *NHL v. Met. Hockey Club*, 427 U.S. 639, 643 (1976).

3.) Plaintiff is deprived important information. *Bedwell v. International Fidelity*, 843 F.2d 683, 694 (3rd Cir. 1988).

Inherent power is exercised, "when a party has acted in bad faith,[8] as when the party practices a fraud upon the court,[9] or delays or disrupts the litigation or hampers a court order's enforcement.[10]"[11]

Despite Petitioner's unwavering diligence, the wrong-doings remain fraudulently concealed, as Respondent will not cooperate with discovery.

The many requests for the investigation of the concealed facts and of the federal crimes alleged are continually ignored. By refusing to read his pleas, the judicial process has been irreparably abused. But no one "is so high that he is above the law."[12]

Respondent has not yet responded to the pending, unopposed motion for default judgement. Accordingly, this motion is ripe for disposition.

Petitioner will be prejudiced if the Court declines to review his motion for default judgment, as he will be unable to proceed with his action due to Respondent's

---

[8] *Alyeska Pipeline v. Wilderness Society*, 421 U.S. 258-60.

[9] *Universal Oil v. Root Refining*, 328 U.S. 575, 580.

[10] *Hutto v. Finney*, 437 U.S. 678, 689.

[11] *Chambers v. Nasco*, 501 U.S. 32, 46 (1991). *See also Poulis v. State Farm*, 747 F.2d 863, 868 (3rd Cir. 1984).

[12] *United States v. Lee*, 106 U.S. 196, 220 (1882).

failure to respond and he has no other means for compelling discovery of the concealed facts.[13]

Respondent has not asserted a meritorious defense through the filing of an answer or other response. Accordingly, the Court is unable to conclude from their silence that there is a viable, litigable defense.

The Court cannot discern from the record any excuse or justification for Respondent's default apart from their own culpability. In the absence of an excuse or justification for Respondent's failure to participate in this litigation, the Court must conclude that the delay is the result of Respondent's culpable conduct.[14]

Respondent has failed to file a timely answer to Petitioner's Rule 55 motion and has offered no reason for its failure to do so. It is clearly established that a "defendants default, or it's decision not to defend against allegations in a complaint, may be grounds for concluding that the defendants actions are willful."[15]

Petitioner's unchallenged allegations set forth in his Rule 60(d)(3) motion, taken as true, state a legitimate cause of action and "are to be treated as though they were established by proof."[16]

---

[13] *See Broadcast Music v. Long*, No. 14-CV-449 (M.D. Pa.2014).

[14] *See Laborers Local 158 v. Shaffer Concrete*, No. 10-1524, 2011 WL 1397107 at *2 (M.D.Pa. 2011).

[15] *Innovative v. Amazon*, No. 10-CV-4487, 2012 WL 1466512 at *3 (E.D.Pa. 2012).

[16] *Eastern Electric of N.J. v. Shoemaker Construction*, 652 F.Supp. 2d 599, 605 (E.D. Pa. 2009).

Respondent has never rebutted any allegation. "By its very language, the "or otherwise defend" clause is broader than the mere failure to plead."[17]

The Court should require disclosure, as "a party in default does not admit mere conclusions of law."[18]

As the three Chamberlain factors weigh in favor of entering default judgment against Respondent, this Honorable Court should grant rehearing.[19]

V. Clear Errors of Fact are Affirmed

1.)This decision affirms that an officer of the court did not deceive the court, but instead "his ex-wife." Petitioner renews his request to read his pleas, as this new holding is a clear error of fact.

Scarborough continues to assert that the court has been defiled and zealously seeks to correct the record, alleging "(1) an intentional fraud; (2) by an officer of the court; (3) which is directed at the court itself; and (4) that in fact deceives the court."[20]

2.) This dismissal mistakenly affirms that Petitioner had ample opportunity to discover new evidence and to amend the party-defendants. Instead, discovery is withheld and case preparation is prejudiced by:

---

17 *Hoxworth, supra* at 917.

18 *Broadcast Music v. Spring Mount Resort*, 555 F.Supp 2d 537, 541 (E.D. Pa. 2008).

19 *Chamberlain v. Giampapa*, 210 F.3d 154, 164 (3rd Cir. 2000).

20 *Herring v. United States*, 424 F.3d 384, 390 (3rd Cir. 2005).

a.) Respondent's neglect to investigate, nor grant discovery of the fraudulently concealed facts.

b.) Respondent's ongoing failure to plead or otherwise defend and their refusal to disclose.

c.) The Court's decision to not review Petitioner's discovery motion, nor require a response.

d.) The Court's decision to not review Petitioner's Rule 55 motion for default judgment.

3.) Parental rights are constitutionally protected against governmental interference, but instead this dismissal affirms that Scarborough's Rule 60(d)(3) motion is not intended to vacate an order illegally obtained by fraud on the court, but is instead unusually purposed to "relitigate" a "lone Due Process claim," for "dismissing his appeals."

By way of background, 18-2436 clearly raises fraud on the court, but this claim wasn't previously reviewed, as it was decided that "new claims cannot be raised on appeal."

4.) This dismissal affirms that Petitioner's claims are frivolous, but Respondent has never investigated the misconduct alleged, which is offensive to the concept of fundamental fairness.

Petitioner alleges egregious misconduct by conspiring officers of a trespassing court. These judicial acts are in excess of their jurisdiction and are alleged to have been done maliciously or corruptly.

Petitioner did not agree to the harm suffered and one would expect a different response, when officers of the court conspire to commit felonies upon the court.

Even though the genuine issues of material fact are validated by indisputable evidence, no authority has ever cared to know why it took eleven years to have an unprepared hearing, or why custody evaluation, family vacation, equitable time and right of first refusal were unlawfully deprived for five years.[21]

The standard punishment under § 241 is ten years in prison and the penalty for kidnapping can be death. Like murder, there is no statute of limitations for bringing a fraud on the court claim. Time could not toll for the participants involved in this conspiracy.[22]

VI. Clear Errors of Law are Affirmed

This judgment affirms the appellate court's erroneous conclusions, that federal court is deprived jurisdiction when a state action does not reach the merits and does not have authority over fraud on the state court.

1.) Dismissal affirms that federal court only has jurisdiction over fraud on the district court and not over fraud on the state court. This holding isn't true.[23]

Parallel to the instant matter, jurisdiction should be assumed over the fraud on the state court:

a.) When "fraud prevents a losing party from fully presenting his case." *U.S. v. Throckmorton*, 98 U.S. 61, 65 (1878).

---

[21] *See* App.137a-150a and Reh.App.1a-3a.

[22] *Zenith Radio v. Hazeltine Research*, 401 U.S. 321, 338 (1971).

[23] *Barrow v. Hunton*, 99 U.S. 80, 83 (1878).

b.) For "securing and establishing rights deprived by fraud and collusion." *Marshall v. Holmes*, 141 U.S. 589, 599 (1891).

c.) When "the matters involved are procedural." *Griffith v. Bank of New York*, 147 F.2d 899, 904 (2nd Cir. 1945).

d.) To remedy "the absence of any adequate remedy at law." *National Surety v. State Bank*, 120 Fed. 593, 599 (8th Cir. 1903).

The fraudulent conduct has deprived Scarborough's federal rights and has prevented him from fairly and fully presenting his claims.

Petitioner remains unable to introduce relevant material evidence, because Respondent simply does not care and will not investigate the concealed facts.

Rehearing should be granted, as there is no other remedy for discovering the fraudulently concealed facts or for bringing his fraud on the court claim.

2.)This Rule 60(d)(3) motion seeks to quash an illegal order and to finally obtain the discovery necessary, for determining the issues and the party-defendants.

Hearing must be granted when the state court:

a.) Does not find the facts. *Townsend v. Sain*, 372 U.S. 293 (1963).

b.) Does not reach the merits. *Whiteford v. Reed*, 155 F.3d 671 (3rd Cir. 1998).

3.) Immunity is not afforded to a court that illegally trespasses on the rights of nonresidents, without having personal jurisdiction.[24]

"for if he has acted without jurisdiction he has ceased to be a judge."[25]

The Court must satisfy itself not only of its own jurisdiction, but also:

a.) "of the lower courts in a cause under review." *Mitchell v. Maurer*, 293 U.S. 237, 244 (1934).

b.) "of the court from which the record comes." *Mansfield v. Swan*, 111 U.S. 379, 382 (1884).

Because a court must always satisfy itself that it has jurisdiction, C.C.P. Northampton County has knowingly excluded evidence that was actually substantial proof of a fact material to this proceeding.

This Honorable Court reverses when "the suit was brought in the wrong county."[26]

4.) This dismissal maintains the Court's sovereignty, in lieu of protecting Petitioner.

The personal jurisdiction requirement "represents a restriction on judicial power not as a matter of sovereignty, but as a matter of individual liberty."[27]

---

[24] *See Elliott v. Piersol*, 26 U.S. 328-29 (1828) and *Kulko v. Superior Court*, 436 U.S. 84, 91 (1978).

[25] *Randall v. Brigham*, 74 U.S. 523, 532 (1868).

[26] *Davis v. Wechsler*, 263 U.S. 22, 24 (1923).

[27] *Insurance Corp. of Ireland v. Compagnie des Bauxites*, 456 U.S. 694, 702 (1982).

State judicial power is directly limited by an individual's guaranteed liberties and authority is circumscribed solely by the due process clause.

C.C.P. Northampton County will not disclose how or why they became involved with the underlying action, nor why an "agreement" was fraudulently entered.

These material facts remain fraudulently concealed, as Respondent will not find the facts.

Even though a state court's authority is restricted by the procedural justice embodied by the Constitution, prior decisions prejudicially favor shielding several officials, over protecting Scarborough. Rehearing should be granted, to ensure liberty and justice for all.

VII. Justice is to be Administered Impartially, Without Respect to Persons[28]

Justice is to be administered impartially, but despite this solemn pledge and obligation, the Court affirms that Respondent is not required to defend or disclose.

Petitioner might be protected from the egregious constitutional torts and felonies, if he were viewed important. Instead, his pro se claims are disregarded and are easily dismissed without explanation.

"State courts have the solemn responsibility, equally with the federal courts to guard, enforce and protect every right granted or secured by the Constitution of the United States."[29]

---

[28] *See* 28 U.S.C. 453.

[29] *Steffel v. Thompson*, 415 U.S. 452, 460-61 (1974).

Respondent does not care to know the facts, where impartiality might reasonably be questioned, as any discovery of prior neglect has never been allowed.

This Honorable Court should only dismiss without requiring disclosure, if a similar conflict exists.

Dismissing claims without disclosure, repudiates the sworn oath to administer justice fairly and tacitly affirms that Petitioner's fundamental parental rights are not protected against governmental interference.

Wherefore, the Court should grant rehearing, as justice is to be administered impartially without respect to persons. *Cf.* Luke 18:1.

CONCLUSION

Rehearing should be granted, as Courts have yet to review discovery motions, require disclosure, or permit discovery of the fraudulently concealed facts.

Respectfully submitted,

E. Thomas Scarborough III
Petitioner Pro Se
3876 Applebutter Road
Perkasie, PA 18944
(267) 221-7236
etscar@aol.com

October 30, 2024

RULE 44.2 CERTIFICATE

I, E. THOMAS SCARBOROUGH III, petitioner pro se, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the following is true and correct:

1. This petition for rehearing is presented in good faith and not for delay.

2. The grounds of this petition are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

E. Thomas Scarborough III pro se

Executed on October 30, 2024

APPENDIX TABLE OF CONTENTS

LETTER FROM THE PARTIES AGREED CUSTODY EVALUATOR TO THE CONFERENCE OFFICER, CONFIRMING HIS ROLE AND PETITIONER'S PARTICIPATION (APRIL 4, 2007)

RONALD J. ESTEVE, PH.D.

Clinical and Forensic Psychological Services
National Register of Health Service
Providers in Psychology

Phone/Fax: (610) 866-6350

Samuel Murray, Esq
Custody Hearing Officer
Northampton County Court House
Easton, PA 18042

Dear Master Murray:

Recently I received a copy of the Court Order in the matter of Scarborough v Scarborough No C0048-CV-2005-02186 issued back in September 22, 2006 which referenced me. Until last week I did not know of the existence and content of this Court Order. Because certain statements reflecting my involvement in this matter are inaccurate, I am contacting you because it is important to clarify the facts concerning my role.

I was contacted separately by both parties. Each told me they were contacting me to arrange a time to meet in accordance with an agreement between the parties, coordinated by their respective Attorneys, to participate in a Psychological Evaluation. At no time

was it ever suggested or inferred by me or either of them that this contact was to be anything other than an evaluation. At the time of my phone contact with each party, given the role I was to play, I explained to them the following:

(a) That no information provided by them would be considered confidential or off the record and that all information could be included in my final report.

(b) They were also told why this assessment would be conducted; that my report could be entered into evidence in Court; and that all information provided by them would be available to the Court as well as both legal counsel.

(c) They were advised that my role did not include legal counsel, and that each should speak with their respective Attorney regarding any legal questions they might have.

They both indicated their understanding and agreement with the above. This information was repeated to Mr. Scarborough at the time of my first meeting with him. In addition, he signed an Informed Consent. Mrs. Scarborough canceled and did not reschedule her appointment; hence I did not have the opportunity to again discuss this information with her in person.

At no time did I meet with the parties separately or together to discuss possible reconciliation. At no time was I a treatment provider to either of these parties. This is completely inconsistent with my contact with both of the parties and is simply false. I do not know how such misinformation was communicated,

and I regret that the Court did not contact me to verify. Further, I am sorry I did not know the content of this report until now. If I had, I would have promptly clarified it with the Court.

In summary, rest assured that I was asked by the parties to conduct an evaluation. That evaluation was not completed as Mrs. Scarborough canceled her appointment and did not reschedule. At no point did I ever provide treatment to either of the parties. I was quite clear in communicating my role to both of these parties and believe that each understood my limited role.

Sincerely,

Ronald J. Esteve, Ph.D.
Clinical Psychologist

cc:

Anthony Muir, Esq.
Donald Spry, Esq.

BLANK PAGE

BLANK PAGE


SUPREME COURT
PRESS

CERTIFICATE OF WORD COUNT

No. 23-1211

Scarborough,

Petitioner,

v.

C.C.P. Northampton, et al.,

Respondents.

STATE OF MASSACHUSETTS)
COUNTY OF NORFOLK) SS.:

Being duly sworn, I depose and say:

1. That I am over the age of 18 years and am not a party to this action. I am an employee of the Supreme Court Press, the preparer of the document, with mailing address at 1089 Commonwealth Avenue, Suite 283, Boston, MA 02215.

2. That, as required by Supreme Court Rule 33.1(h), I certify that the SCARBOROUGH PETITION FOR REHEARING contains 2946 words, including the parts of the brief that are required or exempted by Supreme Court Rule 33.1(d).

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

G. Chandra Sekhar

October 30, 2024

CERTIFICATE OF SERVICE

No. 23-1211

Scarborough,

Petitioner,

v.

C.C.P. Northampton, et al.,

Respondents.

STATE OF MASSACHUSETTS)
COUNTY OF NORFOLK) SS.:

Being duly sworn, I depose and say under penalty of perjury:

1. That I am over the age of 18 years and am not a party to this action. I am an employee of the Supreme Court Press, the preparer of the document, with mailing address at 1089 Commonwealth Avenue, Suite 283, Boston, MA 02215.

2. On the undersigned date, I served the parties in the above captioned matter with the SCARBOROUGH PETITION FOR REHEARING, by both email and by mailing three (3) true and correct copies of the same by USPS Priority mail, prepaid for delivery to the following address which the filing party avers covers all parties required to be served.

Megan L. Mallek, Esq.
Administrative Office of PA Courts
1515 Market Street
Suite 1414
Philadelphia, PA 19102
(215) 560-5486
megan.davis@pacourts.us
Counsel for Respondents

As a courtesy, we have e-mailed a PDF of the petition to the following email addresses:

nicole.feigenbaum@pacourts.us; legaldepartment@pacourts.us;

C. Chandra Sekhar

October 30, 2024