No. 23-539

In the

Supreme Court of the United States

RAYMOND DE BOTTON,

Petitioner,

v.

QUALITY LOAN SERVICE CORPORATION OF WASHINGTON, et al.,

Respondents.

On Petition for a Writ of *Certiorari* from
United States Court of Appeals for the Ninth Circuit
Case No. 23-35337

PETITION FOR REHEARING

Scott E. Stafne, *Counsel of Record*
STAFNE LAW *Advocacy & Consulting*
239 N. Olympic Avenue
Arlington, WA 98223
360.403.8700
scott@stafnelaw.com

Church of the Gardens Press
www.churchofthegardens.org

CORPORATE DISCLOSURE

Petitioner's corporate disclosure remains the same as was filed in his petition for a writ of certiorari, which stated:

> Petitioner DeBotton is a natural person. DeBotton is a citizen of the United States who asserts that he has enforceable rights under Article III to have his case adjudicated by a judicial officer holding the office of judge during good behavior.

TABLE OF CONTENTS

CORPORATE DISCLOSURE i
TABLE OF AUTHORITIES iii
PETITION FOR REHEARING 1
REASONS FOR GRANTING REHEARING 1
I. International Law 1
II. Historical Norms 3
III. The Senior Judge has become DeBotton's adversary and adjudicator 8
IV. This Court should order DeBotton's judicial adversaries to respond to his Petition for writ of certiorari 11
CONCLUSION 13
CERTIFICATION OF COUNSEL 14
CERTIFICATE OF COMPLIANCE WITH WORD COUNT 15

TABLE OF AUTHORITIES

Federal Cases

In re Murchison,
349 U.S. 133, 136 (1955) 10

Hatfield v. King,
184 U.S. 162 (1902) 11

Hatfield v. King,
186 U.S. 178 (1902) 12

Hirabayashi v. United States,
828 F.2d 591 (9th Cir. 1987) 6

Korematsu v. United States,
584 F. Supp. 1406 (ND Cal. 1984) 6, 7

Marbury v. Madison,
5 U.S. (1 Cranch) 137 (1803) 4

Marshall v. Jerrico, Inc.,
446 U.S. 238, 242 (1980) 8

Offutt v. United States,
348 U.S. 11, 14, 99 L. Ed. 11, 75 S. Ct. 11
(1954) 7

Prentis v. Atlantic Coast Line Co.,
211 U.S. 210 (1908) 6

Rosales-Mireles v. United States,
138 S. Ct. 1897 (2018) 7

Todd v. United States,
158 U.S. 278, 284 (1895) 9

Trump v. Hawaii,
138 S. Ct. 2392 (2018) 6, 7

Tumey v. Ohio,
273 U.S. 510, 522-32, (1927) 8, 10

Williams-Yulee v. Fla. Bar,
575 U.S. 433 (2015) 7

United States Constitution

U.S. Const. Art. III 6, 8, 9, 11

Rules

Sup. Ct. R. 44.2 1

Other

Christian, Hans Anderson
The Emperor's New Clothes (1837) 13

Fishman, Clifford S.,
Old Testament Justice, 51 Cath. U. L. Rev. 405
(2002) 10

Gelinas, Fabien,
The Dual Rationale of Judicial Independence
(March 23, 2011) 9

Gerber, Scott Douglas,
A Distinct Judicial Power: The Origins of an
Independent Judiciary, 1606–1787 (Oxford
Univ. Press 2011) 9

International Covenant on Civil and Political Rights, Art. 14 2

11 Luke 37-54,
King James Version 12

Madison, James,
Federalist Paper No. 10 3

Madison, James,
Federalist Paper No. 51 ..... 3, 4

Marciano, Alain,
CONSTITUTIONAL MYTHOLOGIES: NEW PERSPECTIVES ON CONTROLLING THE STATE, New York: Springer, 2011 9

Marshal, John,
Proceedings and Debates of the Virginia State Convention of 1829-30, at 615-19 (1830) 5

Universal Declaration of Human Rights Art. 10 2

PETITION FOR REHEARING

Raymond De Botton ("DeBotton" or "petitioner") respectfully petitions for rehearing of this Court's January 22, 2024 Order denying his Petition for a Writ of Certiorari.

REASONS FOR GRANTING REHEARING

This Court's Rule 44.2 authorizes a petition for rehearing based on "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented." DeBotton petitions for rehearing based on other substantial sources of law, including international law and longstanding religious norms, which were not previously argued to this Court.

I. International Law

According to the United States Courts' website, "rule of law is a principle under which all persons, institutions, and entities are accountable to laws that are: Publicly promulgated; Equally enforced; Independently adjudicated; and Consistent with international human rights principles."[1]

[1] Last retrieved on February 15, 2024 at: https://www.uscourts.gov/educational-resources/educational-activities/overview-rule-law

Article 10 of the Universal Declaration of Human Rights[2] provides:

> Everyone is entitled in full equality to a fair and public hearing by an ***independent and impartial*** tribunal, in the determination of his rights and obligations and of any criminal charge against him.

(Emphasis Supplied)

Article 14(1) of the *International Covenant on Civil and Political Rights* provides in pertinent part:

> 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, ***everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law***. …[3]

(Emphasis Supplied)

It is DeBotton's position that these treaties, like this Nation's Constitution, affords him the right to have his case against those who he claims stole his home adjudicated by an ***independent*** and ***impartial***

---

[2] Last retrieved on February 15, 2024 at: https://www.un.org/en/about-us/universal-declaration-of-human-rights

[3] Last retrieved on February 15, 2024 at https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

tribunal and not those corrupt senior judges who no longer hold the office of judge during good behavior. And by "corrupt" he means the senior judges of the U.S. District Court for Western Washington do not hold the office of judge during good behavior as is required by this Nation's organic law and thus were not intended by the Framers and Founders to be imposed upon litigants against their will.

II. Historical Norms.

On November 23, 1787 James Madison published Federalist Paper No. 10 relating to "The Union as a Safeguard Against Domestic Faction and Insurrection."[4] Madison postulated that access to justice would be a primary way by which the insurrection of factions, including creditors and debtors, against the proposed new government could be avoided.

With regard to such access Madison stated: "[n]o man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and not improbably, ***corrupt*** his integrity." (Emphasis Supplied)

Madison observed a few months later in an essay titled "*The Structure of the Government Must Furnish the Proper Checks and Balances Between*

---

[4] Federalist Papers, No. 10 (November 23, 1987) last retrieved on February 15, 2024 at:
https://avalon.law.yale.edu/18th_century/fed10.asp

Different Departments," *i.e.* Federalist Papers No. 51, that:

> Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit.[5]

John Marshall, this Nation's fourth Chief Justice and the author of *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), observed in debate in 1829:

> The Judicial Department comes home in its effects to every man's fireside: it passes on his property, his reputation, his life, his all. …

And then Marshall asked his audience:

> Is it not, to the last degree important, that he [the judge] should be rendered perfectly and completely independent, ***with nothing to influence or control him but God and his conscience? You do not allow a man to perform the duties of a juryman or a Judge, if he has one dollar of interest in the matter to be decided: and will you allow a Judge to give a decision when his office may depend upon it?*** when his decision may offend a powerful and influential man? . . . If they

[5] Federalist Papers No. 51 (February 8, 1788), last retrieved on February 14, 2024 at: https://avalon.law.yale.edu/18th_century/fed51.asp

> may be removed at pleasure, will any lawyer of distinction come upon your bench? No, sir. I have always thought, from my earliest youth till now, that ***the greatest scourge an angry Heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent Judiciary***."

Proceedings and Debates of the Virginia State Convention of 1829-30, at 615-19 (1830). (Emphasis Supplied). *See also* Marshall's defense of the "judiciary clause of the Federal Constitution," summarized in Marshall's Answers to Freeholder's Questions in Beveridge, The Life of John Marshall, note 9 at 450-61. (1916).

It is DeBotton's position here that when the Framers of this Nation's Constitution hammered out its language, and this Country's male Founders through their States, voted to ratify that Constitution's language, they did so with the expectation that the exercise of judicial power by national courts would be consistent with those existing norms that past civilizations had imposed on judicial officers to protect the People against the possibility of judicial tyranny. Such norms included, among others, those related to the justiciability of "cases and controversies" and the neutrality of judicial officers, which during the Revolution also came to include judicial officers' independence from a sovereign at odds with the People.

As DeBotton argued to this Court in his petition for a writ of certiorari, the Constitution of the United States -- through Article III and this Nation's structures of government, *i.e.* separation of powers and federalism -- establishes that level of impartiality and independence required for the legitimate exercise of judicial power by federal courts pursuant to the Supremacy Clause.

Article III mandates: "The judges, both of the supreme and inferior courts, ***shall hold their offices during good behaviour***, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office." And there can be no doubt that the purpose of this mandate was to protect litigants, like DeBotton, from having to appear before judicial officials who do not hold the office of judge during good behavior.

This Court has not often deviated from the position that fact finding is an essential part of any legitimate exercise of judicial power. *See e.g. Prentis v. Atlantic Coast Line Co.*, 211 U.S. 210, 226 (1908) (defining the nature of a "judicial inquiry"); *See also Hirabayashi v. United States*, 828 F.2d 591 (9th Cir. 1987); *See also Korematsu v. United States*, 584 F. Supp. 1406 (ND Cal. 1984) (vacating a conviction based on government misrepresenting facts to a district court which arguably supported detention of persons of Japanese origin, *see Korematsu v. United States*, 323 U.S. 214 (1944)). In *Trump v. Hawaii*, 138

S. Ct. 2392 (2018) this Court concedes: "Korematsu was gravely wrong the day it was decided, has been overruled in the court of history, and -- to be clear -- has no place in law under the Constitution." *Id* at 2423.

Why doesn't this Court care about fact finding when considering a writ that claims a particular district court either (1) refuses to engage in fact finding regarding its judicial officer's constitutional competence to exercise the judicial power; or (2) assigns only biased judicial officers to adjudicate their own constitutional competence and scope of their job duties?

This Court has frequently observed that the public legitimacy of our justice system relies on fact finding procedures that are "neutral, accurate, consistent, trustworthy, and fair," and that "provide opportunities for error correction." *See e.g. Rosales-Mireles v. United States*, 138 S. Ct. 1897 (2018). And that the appearance of justice being done by this Nation's courts is as important to the public's acceptance of the legitimacy of judicial power as is the fact that justice is actually done. *See Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 445-446 (2015)("The judiciary's authority depends in large measure on the public's willingness to respect and follow its decisions." *See also Offutt* v. *United States*, 348 U.S. 11, 14, 99 L. Ed. 11, 75 S. Ct. 11 (1954) ("Justice must satisfy the appearance of justice"); *Ex parte McCarthy*, [1924] 1 K. B. 256, 259 (1923) ("Justice should not only be done, but

should manifestly and undoubtedly be seen to be done"); *Marshall* v. *Jerrico, Inc.*, 446 U.S. 238, 242 (1980) (noting the importance of "preserving both the appearance and reality of fairness," which "'generat[es] the feeling, so important to a popular government, that justice has been done'"); *Cf. Tumey v. Ohio*, 273 U.S. 510, 532 (1927) ("Every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required …, or which might lead him not to hold the balance nice, clear and true between the State and the accused, denies the latter due process of law.")

III. Senior Judge Lasnik is both DeBotton's adversary and adjudicator.

As was made clear by DeBotton's petition for a writ of certiorari and accompanying appendix, the senior adjudicators of the United States District Court for the Western District of Washington have taken upon themselves the contradictory roles of adversarial party and being neutral judicial officer for an inferior court in homeowner cases like this one.

For example, in the case below, Senior Adjudicator Lasnik ruled that ***he was the United States District Court*** and thus avoided deciding the judicial inquiry DeBotton raised; which was whether DeBotton had a right to timely reject Lasnik as an Article III judge because he no longer served in the office of judge during good behavior. And by claiming ***he is***

"**THE COURT**" judicial officer Lasnik put himself in a personally adverse position to that judicial inquiry DeBotton was advocating against Lasnik being the adjudicator. *See Todd v. United States*, 158 U.S. 278, 284 (1895). ("A court is not a judge, nor a judge a court. A judge is a public officer, who by virtue of his office, is clothed with judicial authorities.")

History demonstrates that well before the founding of this Nation, civilized societies had determined that judges must be neutral decision-makers in order for litigants to have any possibility of obtaining justice. *See e.g.*, Scott Douglas Gerber, *A Distinct Judicial Power: The Origins of an Independent Judiciary*, 1606–1787 (Oxford Univ. Press 2011) (Part One of Gerber's Book, at pp. 3-41, demonstrates the ancient origins of that judicial neutrality which is incorporated in Article III. Part Two of Gerbers' book, at pages 42–321, chronicles the history relating to each of the thirteen states during this time period.); *See also* Gelinas, Fabien, The Dual Rationale of Judicial Independence at 9-10 (March 23, 2011). CONSTITUTIONAL MYTHOLOGIES: NEW PERSPECTIVES ON CONTROLLING THE STATE, Alain Marciano, ed., New York: Springer, 2011[6] (discussing ancient roots of the concept of adjudicatory justice, which trace back to Egypt's First Intermediate Period and also appear in Babylonian inscriptions

[6]Available at SSRN: https://ssrn.com/abstract=1761436

about this same period of time.) *See also* Clifford S. Fishman, *Old Testament Justice*, 51 Cath. U. L. Rev. 405 (2002)[7] (Explaining the ancient basis for modern day law and procedure relating to that judicial neutrality thought to be essential for the legitimate exercise of judicial power.) *See also Tumey v. Ohio*, 273 U.S. 510, 522-32 (1927) (recognizing judicial neutrality as a separation of powers principle incorporated into Due Process protections afforded litigants by the Fifth and Fourteenth Amendments.) *See also In re Murchison,* 349 U.S. 133, 136 (1955) (Recognizing that "***[o]ur system of law has always endeavored to prevent even the probability of unfairness***. To this end, no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome."

But the senior judges of district court for the Western District of Washington don't care about what the Constitution or international law requires, *i.e.* that litigants have the right to have their cases heard by judges who are both independent (hold the office of judge during good behavior) and neutral (don't have an interest in the judicial inquiry presented). Those senior adjudicators aren't going to let anyone but a senior judge (who is interested in the outcome of this judicial inquiry) adjudicate these issues which could affect their interests notwithstanding that this

---

[7] Last retrieved on February 15, 2024 at: https://scholarship.law.edu/lawreview/vol51/iss2/2/

appears to be and is precisely what the Constitution of this Nation and International Law setting forth human rights so clearly require.

IV. This Court should order DeBotton's judicial adversaries to respond to his Petition for a Writ of Certiorari.

In his petition for a writ of certiorari, DeBotton requested this Court order his actual adversaries-- and by that he means the other parties to this case-- to respond to his arguments that senior adjudicator Lasnik was not a competent Article III judge to adjudicate this removed case over DeBotton's objection. But for some reason, this Court chose not to do so; apparently preferring to resolve this case on a record where the only dispute before this Court is between that of DeBotton and a judicial officer without life tenure who claims that he and the court are the same thing so his tenure doesn't matter.

In *Hatfield v. King*, 184 U.S. 162 (1902) this Court held that the due administration of justice required that the issues before the Court in that case be noticed and adjudicated. "It is not enough that the doors of the temple of justice are open; it is essential that the ways of approach be kept clean." *Id* at 168. The same is true here.

After taking notice this Court held that the officers of the court in *Hatfield*, *i.e.* attorneys purporting to represent a party with standing, had violated

those requirements necessary for the legitimate exercise of judicial power. *Hatfield v. King*, 186 U.S. 178 (1902).

This Court should reach the same result here where an officer of the court, in this case a judicial officer without life tenure, has committed a similar transgression against the temple of justice.

Judicial power is sacred and this Court should not allow the senior judges of the United States District Court of Western Washington to abuse it.

For, as James Madison observed in the quote which begins the Historical Norms section of this Petition, the purpose of both government and human civilization has always been to achieve justice. This is not a possible task for those who will not allow judicial inquiries (like those raised by DeBotton) to be decided by those judicial officers who are not directly interested in the outcome of such an adjudication.

In the Old Testament, justice is described as a core attribute of God. In the New Testament, Jesus rebukes the lawyers of his day for harming the people of God through their hypocrisy and love of luxury. *See* Luke 11:37-54. Doesn't this Court understand that senior judges without life tenure are no more than other adjudicators, trained as lawyers, who appear to be promoting their own best interests at the expense of litigants like DeBotton and his counsel, who seeks to enforce their personal constitutional rights.

DeBotton asserts that justice, as it has existed throughout the centuries, mandates this Court request a response from his adversaries regarding those judicial inquiries which are presently here for review. And that this Court should enter an Order requiring the adverse parties to this case to respond to his petition for a writ of certiorari.

And in support of this result, DeBotton relies upon the precedent and authorities cited herein as well as the literary folk tale by Hans Christian Anderson known as "The Emperor's New Clothes."[8] Anderson's story is on point here because even children who read the Constitution and explore a modicum of this Nation's history can discern the constitutional inappropriateness of the senior judges' behavior.

Conclusion

This Court should grant rehearing and order a response to DeBotton's petition for a writ of certiorari.

DATED this 15th day of February, 2024.

Respectfully submitted by,

s/ Scott E. Stafne WSBA No. 6964

SCOTT E. STAFNE, Counsel of Record

[8] See Wikipedia, The Emperor's New Clothes. Last retrieved February 16, 2024 at: https://en.wikipedia.org/wiki/The_Emperor%27s_New_Clothes

STAFNE LAW *Advocacy & Consulting*
239 North Olympic Avenue
Arlington, WA 98223
Scott@Stafnelaw.com
360.403.8700

CERTIFICATION OF COUNSEL

I hereby certify that this petition for rehearing is restricted to the grounds as specified in Sup. Ct. R. 44.2 and has been presented in good faith and not for delay.

DATED this 15th day of February, 2024.

By *s/ Scott E. Stafne*

SCOTT E. STAFNE, WSBA No. 6964
STAFNE LAW *Advocacy & Consulting*
239 North Olympic Avenue
Arlington, WA 98223
scott@stafnelaw.com
360.403.8700

CERTIFICATE OF COMPLIANCE WITH WORD COUNT

I hereby certify that this petition for rehearing contains 2,746 words, excluding the parts that are exempted by the Rules.

DATED this 15th day of February, 2024.

s/ Scott E. Stafne

SCOTT E. STAFNE, WSBA No. 6964