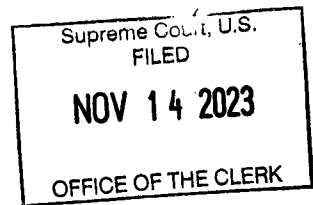


No. **23-576**



**In The
Supreme Court of the United States**

Sohail M. Abdulla,

Petitioner

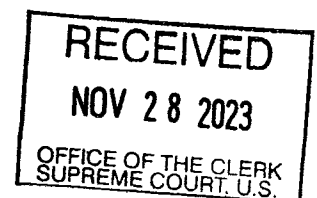
v.

Southern Bank,

Respondent.

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

**Sohail M. Abdulla, Pro Se
647 Vincent Avenue, NE
Aiken, SC 29801**



QUESTIONS PRESENTED

May it please this Honorable Court to consider the establishment of a new guideline aimed at preventing the dismissal of pro se civil parties with meritorious cases and solely not be dismissed because of the pro se's lack of legal acumen?

Is the right to due process being violated for pro se litigants because of the procedural rules set by a lower court.

Is the pursuit of justice compromised in the United States due to the inherent disadvantage faced by pro se litigants, who lack legal training and financial means for legal representation, and are expected to navigate the complexities of filing a case and perform at the same level as trained attorneys? As a result, are their cases frequently dismissed, despite overwhelming merits and evidence in their favor, thereby denying them their fundamental right to due process? Such a situation contradicts the principles of justice upheld by our esteemed country.

PARTIES TO THE PROCEEDINGS

Sohail M. Abdulla is the sole petitioner.

Southern Bank is the sole respondent.

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Inform Inc. v. Google LLC, No. 21-13289 (11th Cir.
Aug. 26, 2022)

Turner, 564 US at 435

PETITION FOR A WRIT OF CERTIORARI

Petitioner Sohail M. Abdulla respectfully petitions
for a writ of Certiorari

to review the ruling of the U.S. Court of Appeals for
the Eleventh Circuit in

No. 22-12037

OPINIONS BELOW

The ruling of the Eleventh Circuit is included in
Petitioner's Appendix G. The relevant order of the
District Court is included in Petitioner's Appendix D.

JURISDICTION

The Eleventh Circuit issued its ruling denying the
Petitioner on July 19, 2023.

This Court has jurisdiction under 28 U.S.C. Section
1254(1)

**RELEVANT CONSTITUTIONAL AND
STATUTORY PROVISIONS**

The Due Process clause of the Fourteenth
Amendment to the U.S. Constitution.

STATEMENT OF THE CASE

This case presents a significant procedural issue concerning the due process rights and treatment of pro se civil litigants in the United States courts.

On June 28, 2021, the Petitioner initiated a lawsuit for breach of contract in the Southern District of Georgia. The District Court determined that the Petitioner had filed a "shotgun complaint" and instructed the Petitioner to remove certain counts within the complaint, hereafter referred to as the "Complaint." In a timely manner, the Petitioner submitted an amended complaint, hereafter referred to as the "Amended Complaint" (See Appendix A). Throughout the proceedings, both the Petitioner and the Sole Respondent presented additional briefs and arguments. The Sole Respondent's counsel, acting as a witness for their client, submitted an affidavit, hereafter referred to as the "Affidavit," addressing

the allegations made by the Petitioner (See Appendix B). In response, the Petitioner filed a rebuttal, hereafter referred to as the "Rebuttal," along with documented evidence of misleading and false statements made by the Sole Respondent and their counsel (See Appendix C). This alone should have prompted the District Court to initiate a hearing sua sponte to thoroughly investigate the matter and delve into the case. If the Petitioner had submitted a false Affidavit, it is very likely that such a hearing would have taken place. The Petitioner's case clearly had merit, and this situation exemplifies a case with disputed facts that should be heard by a jury.

On May 10, 2022, the District Court dismissed the case against the Sole Petitioner on the basis that the Petitioner's Amended Complaint was a "shotgun" complaint, without ruling on the merits of the case (See Appendix D). Consequently, the Petitioner

appealed the case to the Eleventh Circuit Court of Appeals.

In his appeal brief to the Eleventh Circuit, the Petitioner made a clear case that his Amended Complaint did not violate the purpose or intent of the Eleventh Circuit's rulings regarding what constitutes a "shotgun complaint", especially in light of the sworn filings of the Sole Respondent prior to the Petitioner drafting his Amended Complaint. (See Appendix E). In its initial ruling, the Eleventh Circuit upheld the District Court's decision, acknowledging that the Petitioner's "errors" were not significant or egregious, and were based on technicalities. Moreover, the Eleventh Circuit provided three examples from the Petitioner's Amended Complaint to support its ruling. However, it is important to note that all these examples were not significant and were easily refuted. Notably, the

Eleventh Circuit misquoted the Petitioner's Amended Complaint in a material manner in one of its examples, using it as justification for its ruling. The Eleventh Circuit, in its initial order denying the appeal, stated that "Abdulla's amended complaint contains numerous conclusory, vague, and immaterial facts. For instance, Abdulla discusses bids he made on foreclosed properties and the sale of those properties, including financing and down-payment information." However, this statement is factually incorrect. The Petitioner, in this case, Abdulla, did not make any bids whatsoever. Instead, the bids were made by the Sole Respondent, which goes to the heart of the Petitioner's case for breach of contract. (See Appendix F). It is crucial for the integrity of the legal process that all statements made are accurate and verified.

The Petitioner used the term "verbatim" and faced severe and undue punishment for it. The reason the Petitioner used the term "verbatim" in his Counts in the Amended Complaint is because the Sole Respondent, in its Affidavit, amalgamated all loans and accounting into a single, large-scale loan, thereby connecting and intertwining all the contracts, loans and accounting upon which the Petitioner's separate Counts were based. So not only was the pro se Petitioner punished for using the legal term "verbatim," he also had a reasonable and rational reason for using it. The Amended Complaint and subsequent appeal to the Eleventh Circuit Court of Appeals were predicated entirely on the sworn Affidavit provided by the Sole Respondent and their attorney. The court should consider the fact that the Sole Respondent's counsel acted as a witness for their client while submitting the Affidavit, and the

Petitioner was responding accordingly. If you, Honorable Court, were acting as an attorney representing the Petitioner, would you not have done the same thing in your Amended Complaint?

The purpose of the Rules for drafting a complaint was not violated by the Petitioner. The Sole Respondent was neither prejudiced nor disadvantaged and clearly understood the charges laid against it as is irrefutably evidenced by its Affidavit. Not only that, the Affidavit was also perjured and was intended as a tool to deceive the court and to get the pro se Petitioner thrown out. Before the Eleventh Circuit issued its final ruling, the Petitioner filed for a rehearing, pointing out the court's factual errors and its departure from its own previous case law. In *Inform Inc. v. Google LLC*, No. 21-13289 (11th Cir. Aug. 26, 2022), the Eleventh Circuit made a ruling regarding the plaintiff Inform,

Inc., who was represented by legal counsel, and their amended complaint.

Despite its length and potential lack of clarity, the Court determined that the complaint adequately informed the defendants of their alleged antitrust violations in the online advertising markets. The Court clarified that dismissal on the grounds of shotgun pleading is appropriate when “it is virtually impossible to know which allegations of fact are intended to support which claim(s) for relief” The Court noted that while the complaint “is certainly long and may not be a paragon of clarity,” that did not prevent defendants from understanding the basis of plaintiffs core antitrust claims for monopolization offenses. To emphasize, it did not hinder the defendants from comprehending the fundamental basis of the plaintiff’s antitrust claims for monopolization offenses. In the Petitioner’s case,

considering the testimony provided by the counsel of the Sole Respondent, who acted as a witness for their client and submitted an affidavit addressing the allegations made by the Petitioner, it is evident that the Sole Respondent and its attorney attempted to manipulate the loan records and misrepresent the funds received on the behalf of the Petitioner to create the illusion of legality and truthfulness.

However, the Petitioner's Rebuttal and the accompanying documented evidence expose the misleading and false statements made by the Sole Respondent and their counsel in their Affidavit. This unequivocally demonstrates that the Sole Respondent and their attorney were fully aware of the allegations made by the Petitioner, and this evidences an even greater understanding of the Counts than in the Inform, Inc. case. Importantly, the extraordinary tactic of having your own counsel

file an Affidavit, and that same Affidavit falsely
deceiving the Courts, clearly demonstrates that the
Petitioner had a meritorious case.

The Petitioner also submitted the aforementioned
Affidavit and Rebuttal to demonstrate that the Sole
Petitioner was not prejudiced by the Amended
Complaint, had a clear understanding of the charges
against them, and had presented a strong case on the
merits of the matter (See Appendix G). On July 19,
2023, after reviewing the entire case, the Eleventh
Circuit issued its final ruling, denying the
Petitioner's Motion for Panel Rehearing. (See
Appendix H)

The Petitioner's Amended Complaint does not
qualify as a shotgun complaint. Had the same
Amended Complaint been filed by an attorney, it
would not have been deemed as such. It is evident
that if the Petitioner had legal representation, a trial

would have already taken place, and there would be no need for the current plea before this esteemed Court.

Another pertinent issue that strengthens the Petitioner's claims is the unfair disadvantage he faced due to the Eleventh Circuit's regulations. The Eleventh Circuit mandates that Motions for Rehearing must be submitted to the Court by the specified deadline. However, as a pro se Petitioner, he does not have access to Pacer and is reliant on traditional mail services. Unfortunately, the mail truck experienced a breakdown, as confirmed by the United States Postal Service (USPS), resulting in the delivery of the Petitioner's submission after the deadline. It is important to note that the Petitioner had taken the precaution of purchasing next day delivery to ensure timely arrival before the deadline. Despite these circumstances, the Eleventh Circuit

dismissed the Petitioner's submission as late, disregarding the USPS's failure to deliver, and it was less than twelve hours late according to the Court and USPS. Furthermore, the Petitioner has repeatedly encountered delays in receiving mailings from the Court, with instances ranging from days to weeks. In one instance, when the Petitioner contacted the Eleventh Circuit Court to inquire about his case, he was informed that the reason for the delayed delivery was his alleged lack of a mailbox, a claim that is clearly baseless. The Petitioner has meticulously documented all these occurrences, which have not only deprived him of sufficient time to respond to the Eleventh Circuit's rulings but have also hindered his ability to receive and address them in a timely manner. The Eleventh Circuit Court of Appeals erroneously mishandled the Petitioner's subsequent submission for a rehearing,

subsequently altering the date on the official record to create the appearance that it was filed prior to the issuance of the Mandate. This occurrence serves as additional substantiation of the inherent disadvantages faced by individuals representing themselves in legal proceedings.

In September 2017, Judge Richard Posner resigned from the Seventh Circuit, a distinguished legal scholar who holds the highest number of citations on record. He has been commonly referred to as the "10th justice" of the U.S. Supreme Court. In subsequent interviews, Judge Posner revealed that his decision to resign was partly motivated by his divergence of opinion with his judicial colleagues regarding the treatment of pro se litigants within the Seventh Circuit. Specifically, Judge Posner believed that the court was not "treating the pro se appellants fairly," didn't "like the pro se's," and

generally didn't "want to do anything with them."

David Lat, *The Backstory behind Judge Richard Posner's Retirement* (Above the Law, Sept 7, 2017), archived at <http://perma.cc/AW74-5TQ6>.

administering equitable treatment to pro se appellants, harbored a negative disposition towards them, and generally exhibited a reluctance to engage with their cases. This matter is most likely not exclusive to the Seventh Circuit alone, and it is imperative that this esteemed Court proffer a viable solution.

The Petitioner respectfully submits that court-appointed counsel for civil pro se litigants is not what he is advocating for. It is acknowledged that many pro se civil litigants bring frivolous cases. However, the Petitioner respectfully requests that this honorable Court address the issue of pro se civil litigants being at a distinct procedural disadvantage.

This disadvantage results in cases with merit being dismissed due to the plaintiff's lack of legal training. The Petitioner humbly suggests that the Court consider granting further leeway to pro se civil litigants without prejudicing the case or providing an unfair advantage to the opposing party. This request goes beyond mere "misunderstandings of legal terms".

The Petitioner acknowledges that he is not a legal scholar and does not possess the ability or resources to conduct extensive legal research or cite cases like a law firm with numerous legal experts and resources at their disposal. Instead, the Petitioner respectfully presents this Writ of Certiorari in simple and logical terms to the highest Court of our nation, which is comprised of the Nine most esteemed legal minds of our time and has access to the best resources to deliver a fair and just verdict. The

Petitioner has refrained from using legal jargon or distorting the law in his favor, as he trusts that this honorable Court possesses superior knowledge of the law compared to any attorney who appears before it. The Petitioner is confident that this honorable Court will render a just judgment, as it serves as the embodiment of Lady Justice's vision, perception, voice, and power.

In the case of *Turner*, 564 US at 435, the Supreme Court rendered a decision stating that a defendant representing themselves (*pro se*) does not possess the entitlement to a State-appointed attorney. However, the Court also emphasized the necessity of implementing proper procedures to safeguard the “fundamental fairness of the proceeding even where the State does not pay for counsel for an indigent defendant”.

The current approach employed by the courts in reviewing cases involving pro se civil litigants necessitates modification and the implementation of a framework that upholds the principle of "fundamental fairness" as articulated by the Court. It is evident that the courts often dismiss cases brought by pro se litigants due to their lack of legal procedural expertise, irrespective of the merits of the case. Motions for dismissal under Rule 12 b(6) and Rules 8(a)2 and 10(b), among others, are disproportionately granted to litigants who possess the means to secure legal representation, particularly large corporations and institutions. This practice constitutes a violation of due process and the right to a fair hearing.

Defendants who are represented by legal counsel have a success rate of over 90% against pro se plaintiffs. The disparity of outcomes for pro se civil

litigants in the federal courts cannot be dismissed as a mere lack of financial incentive for lawyers who would only take a "good case". While some disparity may exist, it is statistically implausible for such divergent outcomes not to result from either a pro-attorney bias or an anti-pro se bias on the part of the courts. It is noteworthy that a quarter of all federal cases involve pro se litigants. In any other public debate, such an obvious disparity would be a cause for concern, as it should in this case. The issue of discrimination has been a subject of concern for this esteemed Court in the past, as it recognized the necessity for reforms within our nation's justice system. The current situation involving pro se litigants reveals a clear and undeniable instance of discrimination. Therefore, it is imperative for this Court to address this form of discrimination, just as it has done with other types in the past. The use of

formal titles such as “Doctor”, “Esquire”, and “Honorable” can often contribute positively to the perception of an individual’s professional standing. The status of “Pro Se” litigants, representing themselves in a court of law, often raises concerns due to the potential for bias and prejudice. This is particularly true for the Pro Se litigant who, out of necessity, are compelled to advocate for their own rights in pursuit of justice without the assistance of legal counsel. It is crucial that the legal system acknowledges and addresses these concerns to ensure fair and equitable treatment for all parties involved. It is a sad fact that the constitutional rights of a litigant may not be fully recognized or respected by the courts when they are representing themselves as a “Pro Se” litigant. This is a matter that warrants attention to ensure fair and equitable treatment for all within the judicial system. The

current situation involving pro se litigants is a clear and blatant example of discrimination, and it is imperative that this Court once again confronts this form of discrimination, just as it has done with other types in the past.

The purpose of the courts is to serve the people, not solely the interests of attorneys. The pursuit of justice should be the paramount objective of all court proceedings. However, it is evident that a significant number if not most of "Pro Se" litigants with valid cases are being denied access to justice. The right to due process is a fundamental entitlement of all citizens and should be an intrinsic part of our judicial system and its procedures.

Therefore, it is crucial that our courts ensure that this right is not only protected but also actively promoted, regardless of whether a litigant is

represented by counsel or is self-represented. This will help to maintain the integrity of our judicial system and uphold the principles of fairness and justice upon which it was founded. It should be an integral part of the DNA of our court system and its procedures. In accordance with legal protocol, it is imperative that the pro se litigant be granted the utmost leeway on procedural matters, provided that a fair hearing has been conducted and a demonstration of the case's merit has been presented.

This matter gives rise to the concern that the opposing party may be subjected to unfair treatment. To address this issue, the Petitioner proposes a solution whereby, when a pro se litigant appears before the court, the same procedural flexibility granted to them should also be extended to the opposing party. In essence, if a pro se litigant is

entitled to additional leeway in terms of procedural matters, the opposing party should likewise benefit from such leniency. By implementing this approach, any apprehensions regarding unfair advantage will be alleviated, and due process will be ensured for both parties involved.

To ensure a just and equitable litigation process, it is imperative that neither party involved in any legal dispute is unjustly dismissed without a thorough examination of the merits and evidence presented. An alternative approach, akin to the procedures employed by most small claims courts in the United States, could be implemented to cater to pro se litigants. This approach would involve a hearing where both parties are given the opportunity to present their respective cases, while the presiding judge employs sound judgment and poses pertinent inquiries pertaining to the merits of the case. Such a

system would effectively prevent the dismissal of a case with legitimate grounds solely on the basis of procedural errors or technicalities. In the quest for justice, it is of paramount importance that every litigant, including those representing themselves under the "Pro Se" designation, is afforded their due process rights and given a fair opportunity to present the merits of their case. The label of "Pro Se" should not be a determinant for dismissal or prejudicial treatment in court proceedings. The integrity of our legal system relies on the equitable treatment of all parties involved, irrespective of their representation status, especially as indicated by the title "Pro Se".

REASONS FOR GRANTING THE WRIT

The Petitioner's case serves as a prime example of a meritorious case being dismissed on so-called procedural grounds. As a self-represented plaintiff, the Petitioner was deprived of their right to due process, and the principles of justice were not upheld. The current structure of the legal system allows for numerous methods by which the courts can dismiss pro se cases, all while taking refuge in technicalities. The Petitioner acknowledges the necessity of technicalities, but firmly believes that they should not be employed as a means to obstruct the pursuit of justice. Unfortunately, this is precisely what occurred in the Petitioner's case, and it is a trend that is prevalent throughout the nation, as affirmed by Judge Posner's statement, and this case proves this sad fact.

In many cases, individuals resort to representing themselves as plaintiffs in court due to the

defendant's actions, which have caused significant financial ruin and the destruction of families. The consequences of such harm can exceed those of a criminal conviction, as experienced by the Petitioner in this case. Unlike in a criminal matter, where the burden is lifted once the sentence is served, this Petitioner has been confined by this case for a period of almost fifteen years. Therefore, it is crucial to recognize that certain self-represented litigants face similar high stakes in civil cases as they would in criminal proceedings if not more.

Another ground for the issuance of the Writ lies in the disparate treatment of pro se litigants across various districts and circuits, lacking a consistent ruling from this esteemed Court that would guarantee equitable treatment and adherence to due process across the nation.

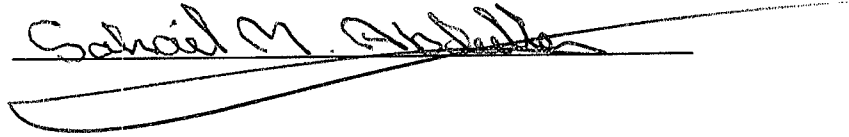
The manner in which pro se civil cases are currently handled and managed within the District Courts exhibits significant disparities, necessitating the implementation of a standardized procedure that ensures equity and impartiality for pro se litigants. The petitioner's case presents an exceptional opportunity to introduce a procedural system in the district courts that aligns with the principles of justice, fair play, and due process.

The Petitioner humbly and respectfully implores this esteemed Court to grant his Petition and reverse the decision of the Eleventh Circuit. The Petitioner is also seeking relief on behalf of other pro se litigants throughout this great country who find themselves in similar circumstances.

CONCLUSION

For the foregoing reasons, the Petition For a Writ of Certiorari should be granted.

Respectfully submitted, this 14 day of November 2023.

A handwritten signature in black ink, reading "Sohail M. Abdulla", is written over a horizontal line. Below the line, there is a long, sweeping horizontal stroke that extends across the width of the signature.

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