

ORIGINAL

No. _____

23-6455

IN THE

FILED
DEC 21 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

In Re Darrel R Fisher — PETITIONER
(Your Name)

vs.

Brian C Wimes et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals/Eighth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Darrel R Fisher
(Your Name)

P O Box 1600
(Address)

Butner, North Carolina 27509
(City, State, Zip Code)

(919) 575-3900
(Phone Number)

QUESTION(S) PRESENTED

- 1) First: 4:99-012-BCW; When was the Federal Government allowed to "open" a [case] against me in 1999, and when was any indictment first made public to inform me of any criminal charge the same government made in 1999 or since then?
- 2) Where is that indictment today?
- 3) In today's world in the criminal and civil court system, how is it that I was never afforded due process of law by indictment in 1999 and why/how did all of the courts miss that very important fact of law for over 26 years now?
- 4) In 1999, in the WD of MO Federal District Court, how could a [case] number ever be assigned to no [case] ever established by any process of law?
- 5) How could a Magistrate ever be assigned to any non-filed [Case] by a judge who was never assigned to any "OPEN [CASE]" to judge by administrating that trial in never scheduled nor filed in a court in 1999?
- 6) How could a non-assigned judge commission a Magistrate to conduct no trial in a never filed [civil action] in 1999?
- 7) When was I ever notified of any criminal complaint charge ever lodged against me by that Magistrate to physically abuse me in 1999, 2010 and since then, when I was never informed of any charge in 1999 to be so abused by him to be prosecuted per the laws enforcing the Constitution; 18USC§1512(c)(3),(4) as by cops et al denying me my right to inform a judge of the United States of the commission of a federal offense?
- 8) How could anyone be condemned by the courts solely on the words of a known liar to be falsely imprisoned for the past 26 years without notification of any charged criminal act nor arraigned to plead nor tried nor ever convicted so never sentenced to any prison's custody all in the name of justice gone so awry, and causing a proceeding or prosecution to be commenced against another person for the commission of a federal offense as to be protected by the law. 18USC§1512(c)(3),(4) and by the rule of law as in the SCOTUS' opinion in Feb 17, 1941 Smith v O'Grady 312US329,334

61Sct572 85Ld859; [Notice..the first and most universally recognized requirement of due process].

9) Will the SCOTUS honor and uphold/enforce what they/you wrote that [we the people read as caselaw and rely on as citeable and enforceable precedent, in June 4, 1934 Lynch v US 292US571 54SCt840 78Ld1434;hdnt 3; [Valid contracts are property, and as such are protected from taking without just compensation, whether the obligor is a private individual, a municipality, a State or the United States]]?

10) Since I paid the county the property taxes they asked, does that constitute a contract the State cannot pass any law impairing the obligation of that agreement for 1 year at a time that my real property is inviolate from seizure by any State agent by force without just compensation, as under 42USC§1981's [right to make and enforce contracts..and..to the full and equal benefit of all laws and proceedings for the security of persons and property] without regard to race..§1982 [right to purchase, sell, lease, inherit, hold and convey real and personal property] as contracts are property, and to hold by lawful means and procedures, against taking without just compensation as a benefit of all laws and proceedings?

11) When a corrupt cop,armed, is told to leave my real property twice but refuses to go twice as witnessed by 12, and he commanded "Go stand over there" does that constitute taking private property by a trespasser at gunpoint, the property and false imprisonment, and all without just compensation, and did he deny me at gunpoint the full and equal benefit of all laws and proceedings for the security of persons and property, as how to start this the dirty cop trespassed on my private property, taxes paid, on my privately contracted property by motor vehicle without paying users' taxes by that driving did trespass there too, thus by the Supremacy clause in the Constitution he was precluded from being taxed to pay the motor fuel tax to be lawfully able to drive that government vehicle on the roads, as by armed trespass on my privately contracted property as well as my real property-[to hold] I own by purchasing it; §1982, above, as he had no warrant to trespass

QUESTIONS PRESENTED

ss and he illegally was called to the neighbors address by a non-resident there then, as when he trespassed on my real property he saw no unlawful activity in progress to justify trespassing on private property to claim to warrant trespassing then without any warrant?

12) When per 11 above, I petitioned the Federal Government for help prosecuting the cop and for trespassing criminally by the extortionist, did that seeking help from government constitute my right to the [full and equal benefit of all laws and proceedings for the security of persons and property] as well as [enforce contracts], above, 42USC§§1981, 1982?

13) Per Questions 10,11, 12 above, will the SCOTUS actually uphold/enforce the laws of the United States they write of as [all actsof allconspirators in anycrime] until the last one conspirator is captured and brought to trial and adjudicated by law, that theconspiracy goes on until then?

14) Does the Federal Government have the constitutional authority to exceptions from the same requirements of obeying the laws [which shall be made,in pursuance] to claim a "substantial" or "legitimate" governmental interest in actually violating the very CONSTITUTION that restricts governmental actions to due process of law?

15) Will the SCOTUS try to cover-up the cops' trespassing on privately contracted property by claiming it is within established police policies as a reason for cops violating laws of the United States; but the SCOTUS has written in 2 separate opinions; June 21, 1973 *Almeida-Sanchez v US* 413US266 93sCt2535 37Led2d596;#5; June 17, 1983 *Villamonte-Marquez v US* 462US579 103Sct 2573 77Led2d22 #6; [No ACT of Congress can authorize a violation of the Constitution]?

16) Which will the SCOTUS uphold, violations of laws of the Constitution to which the SCOTUS is bound to obey to the letter, or will the SCOTUS do what they have done so many times to claim that [the ends justify the means] as what Brandeis railed against in 1928 *Olmstead v US* 277US438 48Sct524 72Led944: to say [that] would bring terrible retribution?

- 17) Do you people ever wonder how all of this started or do you really care to know that it is the court system that makes exceptions to rule of law for cops [WE the people] have to obey/follow so that just compounds the problem all because of not holding those constant lawbreakers accountable for their criminal acts by the SCOTUS created terms absolute and qualified immunity, so that just compounds the problem of wrongdoing by cops who violate the laws thus rights of persons and citizens too, of the United States?
- 18) In the end, I was wronged in 199-2000-2009-2010 as 4:99-012-BCW was never a [filed] case because it couldn't be prosecuted or because it was based on perjured testimony before the Grand Jury by the Government's witnesses per Question 8, above, as 18USC§1512(c)(3),(4) in 1999 as written then, precluded any criminal prosecution of myself for advocating the arrest of another person for the commission of a federal offense, so none of the [filed] complaints in the 8th Circuit's courts where I sought justice for me, and the Mandamus' are means to that end which is justice finally?
- 19) When did the SCOTUS lose focus as regards due process of law as procedures in law always come first because if there are no rules, there can be no due process so no process and we have anarchy here in America where we cannot convict anyone of anything ever even if one could be guilty of something?
- 20) Where is the accusatorial indictment or information used in the ED of NC to formally accuse me of any criminal act to be made public to commence a prosecution as in 18USC§4241(a)?
- 21) Where is the arrest warrant and when was it served on me in the ED of NC to start the adversarial judicial process against me?
- 22) Where is the record of any trial ever being conducted in the ED of NC?
- 23) Who was the judge who conducted that trial in the ED of NC?
- 24) Where is the record of any conviction after a trial in the ED of NC?
- 25) What was the prison sentence after any conviction at trial in the ED of NC?

QUESTIONS PRESENTED

- 26) Was I ever sentenced to the custody of the BOP in 2011 to serve any sentence after due conviction in the ED of NC?
- 27) Where is the record of me ever being afforded due process of law described above in the ED of NC?
- 28) When a judge acts outside his authority to proceed to any kind of judgment, can he/she claim any type of Supreme Court created immunity, not created with constitutional authority but contrary to the Constitution, and expect the SCOTUS to actually uphold their own unconstitutional, criminal act?
- 29) As regards the question above, can a judge really expect to be able to claim any kind of court-created immunity when he/she acts [In the complete absence of all jurisdiction]; a Court-created exception to their immunity policy?
- 30) As regards the 2 questions above, and the Petitions for Writs of Mandamus' I am seeking against the 3 judges who all acted without jurisdiction at all, does the record of each one's criminal act prove the need for the Mandamus' on each one?
- 31) Since no judge in the United States was ever immunized from civil liability by any Act of Congress per Art 1, cl 1; Art 1, §8 cl 14, 18; Art 3, §2, cl 1; Art 4, §4; where does the SCOTUS get the [authority] for common-law rulemaking that they wrote of in Dec 8, 1987 in *Omni Capital Int'l v Wolff* 484US97 108Sct404 98L^{ed} 2d415; that they did not have any common-law rulemaking authority?
- 32) As regards the questions asked in *Ex Parte Burford* Dec 28, 1805 3Cranch448 2L^{ed}495; I ask the same questions on due process of law to imprison me here?

LIST OF PARTIES

- All parties appear in the caption of the case on the cover page.
- All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Ortrie D Smith

Fernando J Gaitin Jr

RELATED CASES

March 30, 1869 Ex Parte Bradley 74US364 19Led214
Dec 22, 1873 Ex Parte Robinson 86US505 22Led205
1902 CCA8 In Re Nevitt 117F448,452,455

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 5, 2023.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 15, 2023, and a copy of the order denying rehearing appears at Appendix B.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

November 15, 2023

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).
CA8 November 15, 2023

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Art 1, §9 Bill of Attainder

STATEMENT OF THE CASE

This appeal is partially based on the 8th Circuit's refusal to write any statement as to why/how the 3-judge panel rejected all of my Petitions for Writs of Mandamus. In my presentation of the actual statements by the 3 judges who are the subject of the 3 petitions, I noted in my dissertation on those "opinions" I noted there was no mention of any respondents' responses; because there were none to mention, as I wrote the court clerk in all instances here, refused to obey Rule 4 FRCivP, to issue the/any summonses to/for/on the one's named as sued. The clerk was to wait 20 days for the response to the notice of suit to [FILE] a [civil action] properly, but in any of the instances that never happened to make my [FILE] complaints a suit. 28USC§636(c)(2) is controlling here for [civil actions] which because of the clerk's negligence to do her job, none of my [filed] complaints ever became a suit in the Kansas City MO Federal District Court in the WD of MO. All of those [filed] complaints are only the result of my "case" against the judges, employees, of the United States who used their name to claim to represent the same here to commit the criminal acts in 1999, where as I wrote in my complaints to the fact that I was never charged with any Federal offense in 1999-2000-2009-2010 nor since then in the WD of MO Federal District Court to start the adversarial judicial process to defend against no known accusation. I have informed all of the courts of that more than once, but they mock me as I have been falsely imprisoned by the hand of

the Federal Government since Dec 7, 1997 and in actual jail since Jan 11, 1999, because I protested against a dirty cop whom I accused of several federal offenses. The law 18USC§1512(c)(3),(4) in 1999, stated it was a felony for any person to interfere with me arresting or seeking the arrest of another person for committing a federal offense and causing a proceeding or prosecution to be commenced and aiding in that proceeding or prosecution, 3 years for each one. committing that conduct.

Where I wrote that to the judges they ridiculed me for writing of it.

That is the basis for this appeal as the Mandamus' were to get the judges to obey

Since I was never accused of any criminal act in the WD of MO in Kansas City, Missouri 64106. I am an aggrieved private citizen and always have been. Here is the way it was done illegally; In all of the complaints I [filed], in the physical possession of the clerk, but she "gave" my [filed] complaints to a judge improperly, Rule 4 FRCivP. There was never any summonses issued to notify the one sued of the suit. Feb 17, 1941 Smith v O'Grady 312US329,334 61SCt572 85Led859; [Notice..the first and most universally recognized requirement of due process]. There was never any respondent to be any [civil action] ever [filed] by the clerk, so, §636(c)(2). no [civil action] was ever [filed] to randomly select a judge to whom to assign the [civil action] never [filed] here as a "controversy." So, overall no court ever acquired personal jurisdiction over any respondent nor did it acquire subject matter jurisdiction to proceed to judge what could not be judged! After a few weeks, that judge writes an illegal, unconstitutional statement "dismissing" my complaint he/she calls a suit. This is the illegal part here for which I am protesting in my Petitions for Writs of Mandamus. The court, judge, never acquired jurisdiction, Rule 4 FRCivP, to which he/she could judge the parties to the suit, arguments to "dismiss" as only they can do that lawfully not a judge here.

You may wonder how/why I am appealing this 8th Circuit action from North Carolina? In 2010, the Magistrate R E Larsen, "held" a hearing illegally in Kansas City, Mo 64106 without jurisdictional authority to hold such hearing per 18USC§4241(a), §4247(d) as he knew that §4241(a) is a Bill of Attainder as defined by the SCOTUS in Cummings v Missouri Jan 14, 1867 4Wall277 18Led356; [A legislative act that inflicts punishment without judicial trial]. There was never a criminal proceeding in 1999 involving me to cite §4241(a) as no indictment so the court had no excuse to try to arbitrarily claim to declare me mentally questionable. Then per §636(c)(2,(1) never notified per (c)(2) nor gave my consent to/for a

STATEMENT OF THE CASE

Magistrate to conduct anything as he, Larsen, conspired with O D Smith to falsify the dates of that hearing illegally as to cite §636(b)(2)(C): 18USC§1519, false entries in any record or document used in a federal investigation of a federal matter; so, as a result of that falseness then, Smith sent me here to FMC Butner, North Carolina 27509. I arrived April 1, 2010 where this District Court in Raleigh, North Carolina 27611, tried to [civilly commit] me using §4241(a) and §4247(d) without any personal nor subject matter jurisdiction over me here per §51 Federal Judicial Code the SCOTUS cited in an opinion in 1925 and referenced it in 1987 again. [No civil suit shall be brought in any District Court against any person by an original process or proceeding in any other district than that whereof he is an inhabitant]. I do not inhabit North Carolina's Eastern District. and the courts in Kansas City, Missouri's acts of "dismissing" all of my [filed] complaints were done the same way without jurisdiction in the court as here, and the court in the District of Columbia does the same thing and the same way as refusing to obey Rule 4 FRCivP and 28USC§636(c)(2),(1).

The illegal "JUDGMENT" of these 3 judges wrote statements that I was [civilly committed] in North Carolina, but not one ever wrote of §51 Federal Judicial Code that no North Carolina court could bring any civil suit against me here, because this court wrote that I was from Missouri, not North Carolina's Eastern District, so, IT was admitted that I could not be [civilly committed] here; but these 3 judges did not respect the laws of the United States, so, that need of a Mandamus on them is to wake them all up to law and order here; to criminal law that they can be charged with several felonies here and convicted then impeached for 1 Honest Services Fraud and Mail Fraud too, §§1346, 1341, finally, they all referred to the mistake by SMith made by sending me here in 2010 illegally as per the 4th Circuit's court in the WDVA in Sept 30, 1938 Junk v R J Reynolds Tobacco Co 24Fsupp716, 718; [No District Court can issue process outside the boundary line of its own District]. Smith did not have the authority to order me held on North Carolina's ED in 2010.

REASONS FOR GRANTING THE PETITION

- 1) I have been falsely imprisoned for 26+ years now, this is a chance to go free by this petition for Certiorari. I have been denied my freedom by the Federal Government's hand/agents. I was put in harm's way by the CMVSA of 1986's terms of the cops' targeting us, me, why, I do not know now! But us truck drivers are easy to falsely accuse of an offense when the accuser knows there is a very small chance that the accused will ever return to the scene of that criminal act of the accuser to put his side of the story in the courts' records, so, the false accusation goes unchallenged in the court and of course he is convicted of a false "charge" because he drives a certain truck for a living! I was unconstitutionally, illegally seized in 1997 to set up the 1998 act by a gaggle of cousins for which I protested to the federal court for help in properly prosecuting them, but the court clerk, Robert F Connor, relayed my whole complaint to the one judge who had started this episode of illegality in 1998, of whom the complaint was about in the first place; Vernon E Scoville III is the judge who denied me my rights to seek justice in 1998 by trying to circumvent due process of law, to confront, be informed, the assistance of counsel, to a fair adjudication, all by the one judge in 1998; There was no proper "charge" to defend in the court as the trial was a joke/miscarriage of justice/farce by a replacement judge for which I did protest in writing. This resulted.
- 2) This will set precedent in the whole court system to all of the District Court judges to obey the rules on procedure to not even attempt to claim to judge any non-filed "controversy" as it would not be adjudicated as arguments between parties in the suit or [filed] [civil action] that the clerk is responsible for preparing properly promptly upon receipt of the complaint in possession of the clerk, but here that was not done for me as a civil litigant by the design of the clerk, and ?, Who gave the order to not [file] my complaints into a suit nor properly process it at all. The precedent set would be [BREAK THE RULES, GO TO JAIL], be impeached for misfeasance, malfeasance and criminally prosecuted. Let this [filed] petition

get out as a warning to all of the judges that you are not above the laws of the United States. I [file] this petition properly per my right to petition the government for redress of grievances.

3) I am petitioning for Writ of Certiorari after 26+ years of federal government false imprisonment which was without any or due process of law of being informed of the accusation of what criminal act to be able to defend what then or now since 1997.

4) Dec 18, 1944 Ex Parte Endo 323US283 65Sct208 89Ld243; Argued; [Power to imprisonment without charge, trial, or any other process should be based on more than implication from Presidential orders or congressional statutes, the constitutionality of which orders or statutes must be defended by far-fetched implication definite powers given by the Constitution.

5) What all of these judges did as regards my [filed] complaints to "dismiss" all of them is not an adjudication between parties was written of in June 8, 1989 in the CA6 decision Morrison v Lipscomb 877F2d463,466; [Any time an action is taken by a judge not an adjudication between parties, it is less likely that is a judicial one]. This statement goes along with the opinion by the SCOTUS in Oct 21, 1991, Mineles v Waco 502US9 112SCI286 116Ld2d9; Where they wrote that phrase on not a judicial one, as grounds to sue him/her personally for damages successfully in court. These judges in question not only abused their positions of trust but violated the law and I had every right to sue each one of them personally and win. None of the "Dismissals" of my [filed] complaints were ever an adjudication between parties so the Mandamus would expose that flaw. The second consideration is [in the complete absence of all jurisdiction] where there is no proper party to adjudicate between means there is no jurisdiction established by the clerk's issuance of the summons/notice of suit.

REASONS FOR GRANTING THE PETITION

Here, the only judgment the Supreme Court can make is the fact that since the inferior court did not, because it could not, issue any judgment on the merits of a never filed controversy, it did not issue any lawful or proper judgment at all; so, the Supreme Court is bound by Ex Parte Terry Nov 12, 1888; 128US289 at 305 9Sct77 32Led405; [Any action which lies without jurisdiction in the court, even one of superior jurisdiction and general authority, is, by authority and reason, a nullity]. The Court can only write about the inferior courts' lack of jurisdiction, not of any of the merits of what the inferior court could not write of so did not judge. This is based on the non-issuance of any summonses by the clerk of the court which means the District Court had no jurisdiction, so, the CA8 court had no jurisdiction by the SCOTUS' own opinion, which act denied the inferior court any kind of jurisdiction to proceed to judgment at all. The Court must write their opinion that they have no jurisdiction here to do any judging at all. But, the SCOTUS has the obligation to order the inferior court, the CA8 court, to issue the Mandamus' on all of the judges for whom I petitioned for the Writs of Mandamus.

The directions on filing this petition for Certiorari included to notify the Solicitor General of the United States but why? To incorporate a government agent into a civil matter is to automatically make that civil matter a criminal case. You people wrote that binding opinion in April 13, 1925 Cooke v US 267US517 at 538 45Sct390, 69Led767, 774; [The presence of the United States district attorneys also was secured by the court on the ground that it was a criminal case]. So, any time a government agent is in a courtroom it is a criminal case not any civil action as this is supposed to be such civil action. The opinion did not restrict the presence to prosecution but only the physical presence of the agent is enough to make all litigants in the courtroom participants in a criminal proceeding. You people did it as to create a quandry here; Remand this back to the District Court with instructions to issue all of the summonses for all of those named as sued in each [filed] [civil action].

When you write your opinion do not refer to me as a "prisoner" nor an "inmate" as
I AM A Private American citizen illegally, unconstitutionally imprisoned here by
the Federal Government. I am not incarcerated but falsely imprisoned.

CONCLUSION

The petition for a writ of certiorari should be granted.

Darrel R Fisher

December 20, 2023

Respectfully submitted,

Darrel R Fisher

Date: December 20, 2023