

CASE NO. 23-6508

IN THE

SUPREME COURT OF THE UNITED STATES

JONATHAN EUGENE BRUNSON,

PETITIONER,

v

NORTH CAROLINA,

RESPONDENT.

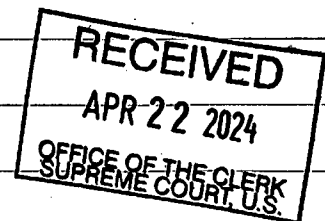
MOTION FOR RECONSIDERATION

JONATHAN E. BRUNSON 0493187

BERTIE CORRECTIONAL INSTITUTION

P.O. BOX 129

WINDSOR, NORTH CAROLINA 27983



PETITIONER, JONATHAN E. BRUNSON, PRO SE, HEREBY RESPECTFULLY MOVES THIS HONORABLE SUPREME COURT PURSUANT TO RULE 21 TO RECONSIDER THE 25 MARCH 2024 ORDER DENYING LEAVE TO PROCEED IN FORMA PAUPERIS AND DISMISSING THE PETITION FOR WRIT OF CERTIORARI UNDER RULE 39.8. IN SUPPORT OF THIS MOTION, PETITIONER SHOWS THE FOLLOWING:

FACTS: THE FACE OF THE RECORD SHOWS:

1. THAT PETITIONER DOES NOT HAVE A HISTORY OF FRIVOLOUS FILINGS IN THIS COURT;
2. THAT PETITIONER'S PAST FILINGS WERE NOT DISMISSED AS FRIVOLOUS;
3. THAT PETITIONER'S PAST FILINGS WERE NOT CONSIDERED ON THE MERITS;
4. THAT THIS COURT HAS NEVER PREVIOUSLY INVOKED RULE 39.8 AGAINST PETITIONER;
5. THAT PETITIONER HAS NEVER RECEIVED ANY SERVICE FROM THIS COURT;
6. THAT THE QUESTION(S) PRESENTED IN THIS PETITION HAS NEVER BEEN PRESENTED TO OR CONSIDERED BY THIS COURT, i.e., WHETHER THE STATE COURTS' FAILURE TO ADDRESS AND DISPOSE OF THE TUMELY V. OHIO, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 744 (1927) BIASED TRIAL JUDGE ISSUE CONSTITUTED AN ERROR OF LAW, AND THUS AN ABUSE OF DISCRETION;
7. THAT THE PETITION PRESENTED ONE OF THE MOST IMPORTANT AND UNPRECEDENTED QUESTIONS IN THIS 21ST CENTURY THAT DETERMINES WHETHER THE RIGHT TO AN IMPARTIAL TRIAL JUDGE EXISTS FOR EVERY PERSON, INCLUDING PETITIONER AND ALL OTHER AFRICAN AMERICANS;
8. THAT THE PETITION IS GROUNDED IN FACT BY SHOWING THAT THE N.C. SUPERIOR COURT, N.C. COURT OF APPEALS, AND N.C. SUPREME COURT

ALL CLOSED RANKS TO PROTECT THE TRIAL JUDGE AND REFUSED AND FAILED TO ADDRESS AND DISPOSE OF THE MOST EGREGIOUS TUMLEY BIASED TRIAL JUDGE ISSUE RECORDED IN MODERN DAY JURISPRUDENCE, WHICH ESTABLISHED THAT EVERY PERSON, INCLUDING PETITIONER AND ALL OTHER AFRICAN AMERICANS, DO NOT HAVE A RIGHT TO AN IMPARTIAL TRIAL JUDGE IN NORTH CAROLINA (SEE APPENDIX A, B, AND C, STATE COURT DECISIONS SHOWING FAILURE TO ADDRESS TUMLEY ISSUE);

9. THAT THE PETITION IS GROUNDED IN LAW BY SHOWING THAT THIS COURT HELD THAT "[PETITIONER] HAD THE RIGHT TO HAVE AN IMPARTIAL JUDGE," TUMLEY V. OHIO, 273 U.S. 510, 535, 47 S.Ct. 437, 445, WHICH ESTABLISHED THAT EVERY PERSON, INCLUDING PETITIONER AND ALL OTHER AFRICAN AMERICANS HAS A RIGHT TO AN IMPARTIAL JUDGE IN THESE UNITED STATES, INCLUDING NORTH CAROLINA;
10. THAT THE N.C. SUPERIOR COURT, N.C. COURT OF APPEALS, AND N.C. SUPREME COURTS FAILURE TO ADDRESS AND DISPOSE OF THIS VERY EGREGIOUS TUMLEY BIASED TRIAL JUDGE ISSUE VIOLATED PETITIONER'S DUE PROCESS RIGHTS AND THE 14th AMENDMENT, WHICH PRESENTS GROUNDS UPON WHICH THIS COURT SHOULD GRANT THE MOTION TO PROCEED IN FORMA PAUPERIS AND THE PETITION FOR WRIT OF CERTIORARI;
11. THAT THIS PETITION IS GROUNDED IN FACT AND LAW AND THUS NOT FRIVOLOUS;
12. THAT PETITIONER DID NOT ABUSE THE WRIT OF CERTIORARI; AND
13. THAT THIS COURTS DENIAL OF THE MOTION TO PROCEED IN FORMA PAUPERIS AND DISMISSING THE PETITION FOR WRIT OF CERTIORARI IN THIS CASE WILL GO DOWN IN HISTORY AS AN ENDORSEMENT OF THE DECISIONS OF THE STATE

COURTS' TO DENY EVERY PERSON, INCLUDING PETITIONER AND ALL OTHER AFRICAN AMERICANS, DUE PROCESS RIGHTS TO AN IMPARTIAL JUDGE NOT ONLY IN NORTH CAROLINA, BUT IN THESE UNITED STATES.

ARGUMENT

RULE 39.8 PROVIDES THAT "IF SATISFIED THAT THE PETITION FOR A WRIT OF CERTIORARI, JURISDICTIONAL STATEMENT, OR PETITION FOR AN EXTRAORDINARY WRIT IS FRIVOLOUS OR MALICIOUS, THE COURT MAY DENY LEAVE TO PROCEED IN FORMA PAUPERIS." IN ORDERING THIS AMENDMENT, THIS COURT SOUGHT TO DISCOURAGE FRIVOLOUS AND MALICIOUS IN PAUPERIS FILINGS, "PARTICULARLY [FROM] THOSE FEW PERSONS WHOSE FILINGS ARE REPETITIVE WITH THE OBVIOUS EFFECT OF BURDENING THE OFFICE OF THE CLERK AND OTHER MEMBERS OF THE COURT STAFF." IN RE AMENDMENT TO RULE 39, 500 U.S. 13, 111 S. CT. 1572, 114 L. ED. 2D 15 (1991). THIS COURT INVOKED RULE 39.8 FOR THE FIRST TIME TO DENY IN FORMA PAUPERIS STATUS IN ZATKO V. CALIFORNIA, 502 U.S. 16, 112 S. CT. 355, 116 L. ED. 2D 293 (1991) AND JAMES L. MARTIN V. DISTRICT OF COLUMBIA COURT OF APPEALS, 506 U.S. 1, 113 S. CT. 397, 121 L. ED. 2D 305 (1992) FOR REPEATED ABUSE OF THE INTEGRITY OF PROCESS THROUGH FREQUENT FRIVOLOUS FILINGS. OVER THE COURSE OF 10 YEARS, ZATKO FILED 73 PETITIONS; 34 OF THOSE FILINGS WITHIN TWO YEARS, MARTIN, OVER THE SAME 10 YEAR PERIOD, FILED 45 PETITIONS; 15 OF THOSE FILINGS WITHIN TWO YEARS.

THIS COURT CONCLUDED THAT THE PATTERN OF REPETITIOUS FILINGS ON THE PART OF ZATKO AND MARTIN HAS RESULTED IN AN EXTREME ABUSE OF THE SYSTEM, IN HOPE OF DENYING FUTURE SIMILAR FRIVOLOUS PRACTICES, THIS COURT DENIED ZATKO AND MARTIN LEAVE TO PROCEED IN FORMA PAUPERIS IN THESE CASES. ACCORDINGLY, THE COURT ALLOWED ZATKO AND MARTIN 20 DAYS WITHIN WHICH TO PAY THE DOCKETING FEE REQUIRED BY RULE 38 AND TO SUBMIT PETITIONS IN COMPLIANCE WITH RULE 33 OF THE RULES OF THIS COURT. SEE ALSO IN RE MICHAEL SINDRAM, 498 U.S. 177, 111 S.Ct. 596, 112 L.Ed.2d 599 (1991) AND IN RE GRANT ANDERSON, 511 U.S. 364, 114 S.Ct. 1606, 128 L.Ed.2d 332 (1994).

I. RULE 39.8 DOES NOT APPLY TO NON-FRIVOLOUS PETITIONS

FRIVOLOUS ; LACKING IN ANY ARGUABLE BASIS OR MERIT IN EITHER LAW OR FACT. SEE MERRIAM WEBSTER'S DICTIONARY OF LAW 206 (1996). HERE, THE PETITION IS NOT FRIVOLOUS SINCE IT'S GROUNDED IN BOTH FACT AND LAW. THE FACT IS THAT THE STATE COURTS' FAILED TO ADDRESS AND DISPOSE OF THE TUMLEY BIASED TRIAL JUDGE ISSUE. THE LAW IS THAT THIS SUPREME COURT HELD "[PETITIONER] HAD THE RIGHT TO HAVE AN IMPARTIAL JUDGE," TUMLEY, SUPRA, AND THUS THE STATE COURTS' FAILURE TO ADDRESS THE RIGHT BY FAILURE TO ADDRESS AND DISPOSE OF THE TUMLEY BIASED TRIAL JUDGE ISSUE CONSTITUTED A VIOLATION TO THE 14TH AMENDMENT AND PLAINTIFFS RIGHT TO DUE PROCESS.

ACCORDINGLY, THE PETITION IS GROUNDED IN BOTH FACT AND LAW, WHICH CONTRADICTS THE DEFINITION OF THE TERM "FRIVOLOUS". CONSEQUENTLY, RULE 39.8 SHOULD NOT BE INVOKED FOR THE FIRST TIME TO DENY THIS MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND TO DISMISS THIS PETITION FOR WRIT OF CERTIORARI. CONSEQUENTLY STILL, BECAUSE THE PETITION IS GROUNDED IN FACT AND LAW, IT IS IMPOSSIBLE FOR THIS COURT TO BE "SATISFIED THAT [THE] PETITION... IS FRIVOLOUS." HOWEVER, ASSUMING ARGUENDO THAT THE PETITION WAS FRIVOLOUS UNDER RULE 39.8 THEN NOT ONLY SHOULD THE PETITION NOT BE DISMISSED UNDER RULE 39.8, BUT PETITIONER SHOULD ~~BE~~ THEN BE ALLOWED TO PAY THE DOCKETING FEE AS REQUIRED BY RULE 38 — IDENTICAL TO ZATKO, MARTIN, SINDRAM, ANDERSON, AND A LINE OF OTHER CASES. OTHERWISE, DENYING THE MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND DISMISSING THE PETITION FOR WRIT OF CERTIORARI OVERTIGHT WOULD APPEAR EXTREMELY PREJUDICIAL IN VIOLATION OF DUE PROCESS.

II. RULE 39.8 DOES NOT APPLY TO NON-REPETITIVE FILINGS

REPETITIVE: HAPPENING AGAIN AND AGAIN; REPEATED MANY TIMES. SEE MERRIAM-WEBSTER'S ADVANCED LEARNER'S ENGLISH DICTIONARY 1378 (2008). HERE, THE STATE COURT DECISIONS IN APPENDIX A, B, AND C ARE THE ONLY MEANS TO SHOW THE STATE COURTS' FAILURE TO ADJUDICATE THE TUMLEY BIASED TRIAL JUDGE ISSUE. THERE EXIST NO OTHER DECISIONS ON THE PLANET TO SHOW THIS FAILURE OR SHOW THIS FACT. THESE STATE COURT

DECISIONS WERE PRESENTED TO THIS COURT FOR THE FIRST TIME WITHIN 90 DAYS AFTER THE N.C. SUPREME COURT RENDERED ITS DECISION AS REQUIRED BY RULE 13. THEREFORE, THERE EXIST NO OTHER PETITIONS SUPPORTED BY THE STATE COURT DECISIONS IN APPENDIX A, B, AND C. THERE EXIST NO OTHER FILINGS REPEATING THE SAME FACTS OF THE STATE COURTS' FAILURE TO ADJUDICATE THE TUMLEY BIASED TRIAL JUDGE ISSUE, THERE EXIST NO OTHER FILING REPEATING THE SAME QUESTION OF WHETHER THE COURTS FAILURE TO ADDRESS AND DISPOSE OF THE TUMLEY BIASED TRIAL JUDGE ISSUE CONSTITUTED AN ERROR IN LAW AND THUS AN ABUSE OF DISCRETION. CONSEQUENTLY, THERE IS NO REPETITIVENESS IN THIS PETITION, WHICH CONTRADICTS WEASTERS DEFINITION OF THE TERM "REPETITIVE".

RELIEF REQUESTED

PETITIONER RESPECTFULLY PRAYS THAT THIS COURT:

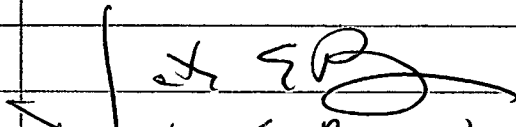
1. GRANT THE MOTION TO PROCEED IN FORMA PAUPERIS AND PETITION FOR WRIT OF HABEAS CORPUS ON THE GROUNDS THAT THE STATE COURTS FAILURE TO ADDRESS PETITIONER'S RIGHT TO AN IMPARTIAL JUDGE BY FAILURE TO ADJUDICATE THE TUMLEY BIASED TRIAL JUDGE ISSUE CONSTITUTED A VIOLATION TO THE FOURTEENTH AMENDMENT AND PETITIONER'S RIGHT TO DUE PROCESS;

2. REMAND CASE BACK TO STATE COURT TO ADDRESS PETITIONER'S RIGHT TO AN IMPARTIAL JUDGE BY ADJUDICATING THE TUMEN BIASED TRIAL JUDGE ISSUE;

3. DECINE THE QUESTION TO THE COURT, AND

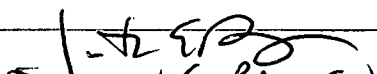
4. ANY OTHER RELIEF THIS COURT DEEMS JUST, FAIR, AND PROPER TO THE ADMINISTRATION OF JUSTICE,

RESPECTFULLY SUBMITTED THIS THE 11TH DAY OF APRIL 2024


JONATHAN E. BRUNSON

VERIFICATION / DECLARATION

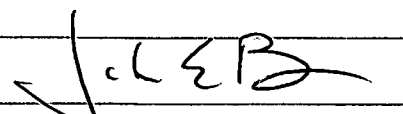
I, JONATHAN E. BRUNSON, HEREBY DECLARE THAT I AM THE PETITIONER IN THE ABOVE MATTER, THAT I HAVE READ THE FOREGOING MOTION FOR RECONSIDERATION AND THE CONTENTS THEREOF ARE TRUE TO MY OWN KNOWLEDGE. THIS THE 11TH DAY OF APRIL 2024.


JONATHAN E. BRUNSON

PROOF OF SERVICE

I, JONATHAN E. BRUNSON, DO DECLARE THAT ON 11 APRIL 2024, AS REQUIRED BY RULE 29 THAT I HAVE SERVED THE FOREGOING MOTION FOR RECONSIDERATION UPON RESPONDENT BY PLACING A COPY OF SAME IN THE U.S. MAIL, POSTAGE PREPAID, AND ADDRESSED AS FOLLOWS:
N.C. DEPT. OF JUSTICE, P.O. BOX 629, RALEIGH, N.C. 27602. I DECLARE SERVICE WAS MADE IN COMPLIANCE WITH 28 U.S.C. § 1746.

THIS THE 11TH DAY OF APRIL 2024,


JONATHAN E. BRUNSON

BEATRICE CORRECTIONAL INSTITUTION