

No. 23-7414

In the Supreme Court of the United States

Mark VandenBoom, Petitioner

v.

Robert Strohmeyer, Respondent

PETITION FOR REHEARING

Mark VandenBoom, Pro Se
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Petition for Rehearing

In accordance with this Court's Rule 44.2, petitioner respectfully seeks rehearing of the Court's order denying certiorari based on disproportionate scrutiny of federal circuit court decisions in spite of blatant disregard for civil rights related to due process, as well as lack of rebuttal from the Respondent's counsel.

Reasons for Granting Rehearing

1. This court has not given sufficient scrutiny to Seventh Circuit decisions during this term or in terms dating back to at least 2020 in spite of evidence that decisions are not in accordance with civil rights, the U.S. Constitution or Supreme Court precedence. Opportunity exists for this bias to be corrected in the upcoming term.

This 2023-2024 term the Supreme Court has addressed overstepping by district courts in several cases where constitutional rights have been withheld from American citizens. Most notably, several cases in the Fifth and Ninth Circuits in particular were in conflict with this court's rulings and the constitution. One such example is USA v. Rahimi, No. 21-11001 (5th Cir. 2023) in which the court reversed and remanded the judgment of the U.S. Court of Appeals for the Fifth Circuit, holding that if a person is found by a court to pose a credible threat to the physical safety of another, they may be temporarily disarmed consistent with the Second Amendment. Other examples are NetChoice v. Paxton, No. 21-51178 (5th Cir. 2022) and Moody v. NetChoice, LLC, 603 U.S. ____ (2024) which were both unanimously vacated and remanded, because neither the Fifth Circuit nor the Eleventh Circuit conducted a proper analysis of the facial First Amendment challenges to Florida and Texas laws that regulate large internet platforms. In O'Connor-Ratcliff v. Garnier, 601 U.S. ____ (2024) the court remanded the case for further proceedings "Because the approach that the Ninth Circuit applied is different from the one we have elaborated in Lindke, we vacate the judgment below and remand the case to the Ninth Circuit for further proceedings consistent with our opinion in that case."

The Seventh Circuit, however, has not seen an equal amount of scrutiny yet is operating in a manner just as in conflict with this court's rulings and the constitution.

In the Petitioner's case alone, the Seventh District Court has ruled in conflict with U.S. Supreme Court precedent regarding treatment of a pro se plaintiff and continues to allow Indiana state courts to systematically deny citizens of their constitutional right to due process. State and Federal judges in Indiana are interpreting the law in such a way that citizens are not being afforded their due process rights. They are not being given an opportunity to fully utilize the court system. Data from the Indiana Department of Insurance shows that only an average 25% of claimants have received access to the courts in the past 24 years. This is at odds with the Indiana Bill of Rights, which declares an inviolate right to a jury for a civil matter. Further, considering the recent case United States and the State of Indiana ex rel. Thomas Fischer v. Community Health Network, Inc., et al. No. 1:14-cv-1215 (RLY-DKL) (S.D. Ind.), which settled on a \$745m payment for Stark Law violations. In this case Community Health Network denied their scheme violated Stark Law; thus, admitting in court to a failure to obtain informed consent for all related procedures. By not granting this request, do you not deny those harmed by this scheme and Indiana courts?

By not granting certiorari for this case and others in the Seventh Circuit, this court is continuing to allow the court to act outside the Constitution's intent.

During the 2023-2024 term, 10 cases were granted certiorari from the Fifth Circuit and 11 from the Ninth Circuit, but only two cases from the Seventh Circuit were granted. Those two cases were both overturned and from Indiana-based districts like this present case.

In the prior 2022-2023 term, 14 cases were granted certiorari from the Ninth Circuit, eight from the Fifth Circuit and seven from the Second Circuit, but again only two from the Seventh Circuit.

In the 2021-2020 term, 13 cases were granted certiorari from the Ninth Circuit, 10 from the Fifth Circuit and only four from the Seventh Circuit.

In fact, since 2020, of the 251 cases granted certiorari by the U.S. Supreme Court, only 3.5% have come from the Seventh Circuit – half of what would be expected if the court’s attention were equally allocated.

For the upcoming 2024-2025 term, only one Seventh Circuit case has been granted certiorari thus far, whereas the Fourth and Ninth Circuits have three each.

This Court’s Rule 44.2 authorizes a petition for rehearing based on “intervening circumstances of a substantial or controlling effect.” This disproportionate allocation of certiorari suggests a favorable bias toward the seventh circuit and a lack of scrutiny in comparison with other districts. When cases such as this one where there is clear evidence that constitutional rights have been withheld and a clear disregard for Supreme Court decisions exist, there is reason for rehearing to correct this bias in the upcoming session and give proportionate judicial oversight for the seventh circuit.

2. The Respondent gave no opposition to certiorari.

On May 21, 2024, opposing counsel filed a waiver on behalf of all respondents that no response to the Petitioner’s writ of certiorari would be filed, thus indicating that the Respondent had nothing to contest in the request for certiorari. This support for certiorari from both Petitioner and Respondent indicates the need for review of the District Court’s dismissal of the case without call for evidence after the District Court judge initially assigned to the case, and who did not throw out the case, was removed for reasons unknown to the petitioner and replaced by a judge whose initial act was to provide final judgment, closing the case with prejudice while citing his discretion as a new judge, over riding legal precedence, judicial guidelines and multiple U.S. Supreme Court rulings.

The "right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." *Joint Anti-Fascist Comm. v. McGrath*, 341 U. S. 123, 341 U. S. 168 (1951) (Frankfurter, J., concurring). The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and

in a meaningful manner." Armstrong v. Manzo, 380 U. S. 545, 380 U. S. 552 (1965). See Grannis v. Ordean, 234 U. S. 385, 234 U. S. 394 (1914).

The District Court Judge and subsequently the Appeals Court Judges failed to recognize the ongoing harm that has resulted from violation of the petitioner's civil right to due process. Had the judges called for and truly considered any of the evidence available, they would have fully understood the result of this harm and the perpetuation of this harm by continuing to deny the Petitioner's right to access the court. As a result, they have afforded absolute immunity for the defendants and those they protected, which include those individuals involved in United States and the State of Indiana *ex rel.* Thomas Fischer v. Community Health Network, Inc., et al. No. 1:14-cv-1215 (RLY-DKL) (S.D. Ind.). This resulted in the largest settlement in U.S. history for Stark Law violations.

State and Federal judges in Indiana are interpreting the law in such a way that citizens are not being afforded their due process rights. Citizens are not being given an opportunity to fully utilize the court system. Only the select few who have significant funds to obtain legal representation, pay for expert testimony and wade through complex processes or have a case that falls into a narrow set of issues are allowed this constitutional right. Granting this petition will put appropriate scrutiny onto these practices, particularly in the largely ignored Seventh Circuit, and determine whether they are respecting the intent of this court and the constitution.

Conclusion

The Court should grant the petition for rehearing and grant the petition for a writ of certiorari.



Date: 7-6-2024

Mark VandenBoom, Pro Se
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Certificate

I hereby certify that this petition for rehearing is restricted to the grounds specified in Rule 44.2 and presented in good faith and not for delay.

Mark VandenBoom

Date: 7-6-2024

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PROOF OF SERVICE

I, Mark VandenBoom, do swear or declare that on this date, July 8, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR REHEARING on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Office of the Indiana Attorney General, Indiana Government Center South
302 W. Washington St., 5th Floor, Indianapolis, IN 46204

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

Executed on July 8, 2024.



Mark VandenBoom

