

No. 23-7534

IN THE
SUPREME COURT OF THE UNITED STATES

CHARLES FEICK,

PETITIONER,

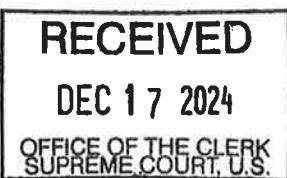
v.

BRUTSCHE FAMILY REVOCABLE TRUST ET AL
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE WASHINGTON STATE SUPREME COURT

PETITION FOR REHEARING

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RULE 44.2 CERTIFICATE

Pursuant to Rule 44.2, the undersigned hereby certifies that the attached petition for rehearing of an order denying writ of certiorari is restricted to the grounds specified in Rule 44.2: It is limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. Petitioner further certifies that the attached petition is presented in good faith and not for a delay.

December 3, 2024

Date

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I. PETITION FOR REHEARING

Pursuant to Rule 44.2 of the Rules of the United States Supreme Court, Petitioner respectfully files a petition for rehearing of this Court's October 7, 2024 order denying the petition for a writ of certiorari.

II. JURISDICTION

Petitioner invokes jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for rehearing on November 1, 2024, within 25 days of the U.S. Supreme Court ruling that petition for writ of certiorari is denied on October 7, 2024.

III. REASON FOR GRANTING THE PETITION FOR REHEARING

Rule 44.2 of the Rules of the United States Supreme Court allows petitioners to file petitions for rehearing of the denial of a petition for writ of certiorari and permits rehearing on the basis of "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented."

Here, a substantial ground not previously presented warrants a rehearing. Briefly and distinctly, the instant case presents this question: "How do Courts knowingly grant Defendant attorney fees and costs against an

indigent litigant on court record without a review of his ability to pay these sanctions, thereby dismissing his case for nonpayment.”

IV. STATEMENT OF FACTS

This case concerns whether a financially poor indigent Plaintiff, pro se, should be compelled to pay all attorney fees and costs to Defendant’s counsel in order to continue litigation in his civil case. Whether the Washington State Supreme Court has violated the Petitioner’s equal access to justice by granting defendant’s counsel attorney fees and costs as court sanctions thereby preventing the Petitioner from litigating in his case.

1. The Court Case history of the Petitioner’s litigation history (which spans 6.5 years) is cited on page 3 to page 8 of the Petition for Writ of Certiorari on Petition for a Writ of Certiorari to the Washington State Supreme Court.

2. On March 5, 2024, the Washington State Supreme Court Case No. 102251-4, filed the Clerk’s Ruling setting the amount of attorney fees and expenses at \$11,745.00 for Feick to pay.

3. In this instance, the Court never performed a review of Feick’s ability to pay sanctions. The Washington State Constitution imposes a duty on the court to inquire into the

ability of the defendant to pay. *Smith v. Whatcom County Dist. Court*, 147 Wn.2d 98, 112, 52 P.3d 485 (2002). Inquiry into the person's ability to pay comes at the "point of collection when sanctions are sought for nonpayment." *State v. Blank*, 131 Wn.2d 230, 242, 930 P.2d 1213 (1997). More recently, in *State v. Nason*, 168 Wn.2d 936, 945-46, 233 P.3d 848 (2010), citing *Smith, Blank, and Bearden*, this Court held that "inquiry [into ability to pay] must come at the time of the collection action or sanction." (emphasis added)

4. On April 29, 2024, the Washington Court of Appeals Division II Case No. 57499-3 , filed a notice of dismissal for non-payment of sanctions by order of the WA Supreme Court.

5. On May 22, 2024, the United States Supreme Court assigned Docket No. 23-7524 to Feick's Petition for Writ of Certiorari on Petition for a Writ of Certiorari to the Washington State Supreme Court. Feick filed the writ in response to the Washington State Supreme Court ruling.

6. On July 3, 2024, the United States Supreme Court assigned Docket No. 23-7524, selected for Distribution for Conference on September 30, 2024.

7. On July 23, 2024, Feick filed a Civil RICO Complaint at the U.S. District Court Western Washington Case No. 3:24-cv-05887-TMC as Charles Feick, Individually, v. The Brutsche Family Revocable Trust, Steve Krohn as Trustee, Individually, Resource Transition Consultants, Kevin Hanchett, as Receiver for the Green Harvest Corporation.

8. On July 25, 2024, Feick filed a Civil Rights Complaint at the U.S. District Court Western Washington Case No. 3:24-cv-05603-TMC as Charles Feick, Individually, v. The State of Washington, The Washington Liquor and Cannabis Board Licensing Regulation Division, WSLCB Director Rick Garza, Director William Lukela.

9. On July 31, 2024, the Defendants reopened GHC Superior Court Case No. 18-2-00991-14.¹ Here, the defendants sought to add a 12% interest rate to the existing sanctions totals of \$33,420.00

10. On July 31, 2024, Judge Svoboda granted the Defendant's Motion for Entry of Final Judgement and Money Judgement granting \$33,420.00 at 12% in Defendant's attorney fees and costs.

¹ GHC Superior Court Case No. 18-2-00991-14, Order Dismissing Plaintiff's Motions, Granting Defendant's Motion to Dismiss, Imposing Sanctions dated September 12, 2022.

11. Plaintiff Feick's oral argument was an objection to reopening the case to add 12% percent interest to the existing court sanctions on record. Feick reiterated the case history showing his indigency on the court record how the various courts did not perform a review of Feick's ability to pay these sanctions. Feick also went on record to state that his Washington State and U.S. Constitutional Rights now are being violated again because he is poor. Once again the Court did not perform a review of Feick's ability to pay.

12. On August 30, 2024, Petitioner filed a Notice of Appeals at Washington State Court of Appeals Division II as Case No. 59995-3, of the July 31, 2024, trial court order awarding \$33,420.00 at 12% Interest to the Defendants without a review of his ability to pay the sanction.

13. On September 11, 2024, the Washington Court of Appeals Division II Clerk notified all parties that filed a Notice of Appeals and that it is stayed until Feick pays all court sanctions on file. Feick is prohibited from filing any documents until the sanctions are paid in full.

14. On September 25, 2024, Washington Court of Appeals Division II Clerk notified all parties that Feick has until

October 11, 2024, to pay sanctions in full or his appeal is dismissed.

15. On October 7, 2024, the U.S. Supreme Court notified Feick that the Petition is denied.

16. On November 1, 2024, Feick filed a Petition for Rehearing Pursuant to Rule 44.2.

17. On November 18, 2024, the US Supreme Court Clerk's Office notified Feick that the Petition for Rehearing is overlength per Rule 33.2(b).

18. On December 3. 2024, Feick filed an amended petition for rehearing pursuant to Rule 33.2(b).

V. ARGUEMENT

A. Requiring Feick to Pay All Court Costs Prior to Appeal Violates the Due Process Clause of the Fourteenth Amendment.

The United States Supreme Court must accept the petition for rehearing review of this case to protect an American citizen from being denied due process to appeal simply because he is poor. A rich man would still be in court disputing their rights in this case and that is supposed to be repugnant under the Fourteenth Amendment.

Due process requires that Constitutional steps must be taken before someone is deprived of an interest involving life, liberty, or property. These Constitutional

steps depend on the circumstances but typically include notice and an opportunity to be heard. If an indigent person is required to pay all defendant attorney fees and costs, prior to an appeal in the same case, they will not get the Constitutional required due process rights to appeal.

B. Court Precedent Regarding Due Process Under The Fourteenth Amendment.

The Washington State Supreme Court's decision interfered with Feick's indigent rights. A state cannot arbitrarily cut off appeal rights for indigents while leaving open avenues of appeal for more affluent persons. U.S.C.A. Const. Amend. 14. See *Ross v. Moffitt*, 417 U.S. 600, 94 S. Ct. 2437, 41 L. Ed. 2d 341 (1974).

Here, Feick was arbitrarily cut off from his appeal rights while the more affluent person could have appealed because they had more money than Feick. These decisions smack of due process violations on the basis of Feick being too poor for access to justice.

The Washington State Court rulings requiring the indigent Feick to make full payments prior to appeal should be overturned by this court, because these rulings violate the Fourteenth Amendment.

C. The Washington Opinions Conflicted With U.S. Supreme Court Precedent Regarding Excessive Fines Under the Eighth Amendment.

The Eighth Amendment protects against excessive civil fines. See Generally *Hudson v. United States*, 522 U.S. 93 (1997). (determining that “the Eighth Amendment protects against excessive civil fines, including forfeitures”) (collecting cases). Civil penalties, including court sanctions implicate the right to be free from excessive fines.

When calculating fines, courts must consider the defendant’s financial resources and the burden of the fine to the defendant, as discussed in *United States v. United Mine Workers*, 330 U.S. 258 (1947).

Here, Feick was sanctioned five times by Washington Courts without the Courts’s consideration of his financial resources and his ability to pay.

D. Reason for Granting the Petition for Rehearing.

On October 16, 2024, a Ruling in WA COA II Case No. 59995-3 by Commissioner Triebel stated, “Appellant seeks review of a final order from the superior court. Such an order is appealable under RAP 2.2. But Appellant is subject to a WA Supreme Court order barring him from filing any further pleadings in any appellate court cases arising from this underlying superior court case until all

outstanding sanctions re paid. The Clerk of the Court notified Appellant of this requirement, but no proof of payment has been provided. Accordingly, this Appeal is stayed for 60 days. If after 60 days Appellant has not shown proof of payment of all outstanding sanctions this matter will be dismissed.”

On December 3, 2024, Petitioner filed Petition for Rehearing Pursuant to Rule 44.2 because of “the intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented” resulting from the July 31, 2024 Grays Harbor Superior Court Hearing reopening Case No. 18-2-00991-14 which has evolved into WA COA II Case No. 59995-3. This is a direct result of the continuing violations of the Petitioner’s U.S. Constitutional Rights as a pro se litigant. The Washington State Supreme Court bears responsibility for failure to perform their duties to conduct a financial review of a litigant’s ability to pay sanctions on that scale.

VI. CONCLUSION

This Petitioner, pro se, who is deeply humble of the High Court, is respectfully aware in requesting that this Great Court grant this petition for rehearing in the Court’s

review process to determine that the Petition for Writ of Certiorari be granted. The Petitioner asks the High Court to vacate the orders of the Washington State Supreme Court, the Washington Court of Appeals Division II, and Grays Harbor County Superior Court.^{2,3,4} which dismissed the case for non-payment of defendant's attorney fees. In addition, to vacating the Court orders granting attorney fees and costs.^{5,6,7} The Petitioner requests that this Court remand this case back to the Washington State Supreme Court for review and reconsideration.

² Washington State Supreme Court, Case No 102251-4, Clerk's Ruling Setting Amount of Attorney Fees and Expenses. Chief Justice Gonzales Order preventing Petitioner for filing any documents until sanctions paid in full.

³ Washington State Court of Appeals Division II, Case No. 57499-3, Case Dismissed for Non-payment of Court Sanctions on April 29, 2024.

⁴ Grays Harbor Superior Court Case No. 18-2-009910-14, Case Dismissed for nonpayment of attorney fees September 12, 2022.

⁵ Grays Harbor Superior Court Case No. 18-2-009910-14, \$7,500.00 awarded on July 19, 2021. To date, \$6,675.00 remains unpaid because the Petitioner is indigent.

⁶ Grays Harbor Superior Court Case No. 18-2-009910-14, \$15,000 awarded on September 12, 2022. This amount remains unpaid because the Petitioner is poor.

⁷ WA State Supreme Court Case No. 102251-4, \$11,745.00 awarded on March 5, 2023. This amount remains unpaid because the Petitioner is indigent.

Humbly and Respectfully submitted, December 3rd
2024.

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