
IN THE
Supreme Court of the United States

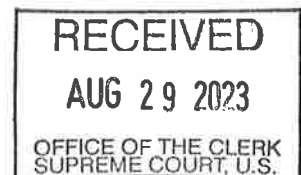
IN RE ANTHONY KINNEY

Applicant,

**APPLICATION FOR AN EXTENSION OF TIME TO FILE EITHER A
PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS
OR A PETITION FOR WRIT OF CERTIORARI**

TO THE HONORABLE KETANJI BROWN JACKSON, ASSOCIATE
JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND
CIRCUIT JUSTICE FOR THE FIRST CIRCUIT:

Pursuant to this Court's Rules 13.5, 20, 22, 23, and 30, Applicant Anthony Kinney, who was respondent and then appellant in the proceedings below, respectfully requests a 60 day extension of time, to and including January 15, 2024 to file either a petition for an extraordinary writ of mandamus or a petition for a writ of certiorari concerning review of an August 18, 2023 decision of the New Hampshire Supreme Court, Case No. 2023-0382.



As grounds, it is stated:

The proceeding below concerns an award of \$3,937.50 in attorney's fees against Applicant by New Hampshire trial court Judge Charles Greenhalgh that Applicant alleges was a violation of Applicant's procedural and substantive "due process" rights; and, moreover, further likely rises to the level of outright judicial misconduct.

On March 20, 2023, Judge Greenhalgh ordered, *sua sponte*, and not at the request of any party, that a trial court hearing be held on May 12, 2023 in Applicant's family law case, wherein there was no justiciable controversy properly before the trial court.

At the May 12, 2023 trial court hearing, Judge Greenhalgh then suggested, *sua sponte*, that opposing counsel Leslie Leonard ought to be awarded attorneys' fees for attending that unnecessary hearing.

Attorney Leslie Leonard is a partner/director at Judge Greenhalgh's former law firm, Cooper Cargill Chant, P.A., located in Conway, New Hampshire.

Judge Charles Greenhalgh and Attorney Paul Chant (vice-president of the New Hampshire Bar Association) are both currently owners/managers of Cooper, Chant, and Greenhalgh Enterprises, LLC, a related real estate holding company.

The nature of Cooper, Chant, and Greenhalgh Enterprises, LLC is described in more detail in a letter written on July 25, 2023 by Judge Greenhalgh to the New

Hampshire Judicial Conduct Committee, in response to the Committee's Complaint, No. JC-23-053-C, and accompanies this application.

Despite this apparent conflict of interest, Judge Greenhalgh did not recuse himself in the trial court proceedings below. Cf. *Caperton v. AT Massey Coal Co., Inc.*, 556 U.S. 868 (2009).

Unlike the vast majority of states, in New Hampshire, there is no mandatory right of appeal from many trial court proceedings. Nevertheless, the question of whether an appeal in the state system is one of right or of discretion is also a federal question. *State v. Cooper*, 127 N.H. 119, 129 (1985), citing *Evitts v. Lucey*, 469 U.S. 387 (1985).

Despite the docketed complaint by the New Hampshire Judicial Conduct Committee, on subsequent appeal of the award of \$3,937.50 in attorney's fees to Judge Greenhalgh's former law partner, for a completely unnecessary trial court hearing ordered *sua sponte*, and not at the request of either party, the New Hampshire Supreme Court declined *certiorari* for review in this case.¹

Pursuant to Part II, Articles 17 and 38 of the New Hampshire Constitution, the New Hampshire legislature has the power to impeach judges, but this power

¹ A denial for a *writ of certiorari* is sometimes misunderstood as implying that an appellate court approves the decision of the lower court. However, such a denial "imports no expression of opinion upon the merits of the case." *Missouri v. Jenkins*, 515 U.S. 70, 85 (1995). The reasons for why a denial of *certiorari* cannot be treated as implicit approval of a lower court's opinion were set forth in *Maryland v. Baltimore Radio Show*, 338 U.S. 912 (1950), in which this Honorable Court explained the many rationales which could underlie the denial of a *writ* which have nothing to do with the merits of the case. See also *State v. Cooper*, 127 N.H. 119, 125 (1985) wherein "a declination of acceptance order [by the New Hampshire Supreme Court] expresses no opinion on the quality or correctness of either the decision below or the arguments to be advanced by counsel on appeal."

has been exercised only twice in New Hampshire history, originally in 1790 against Justice Woodbury Langdon, and more recently in 2000 against Chief Justice David A. Brock.

Former New Hampshire Supreme Court Chief Justice Bob Lynn presently serves as an elected member of the New Hampshire legislature, and chair of the New Hampshire House Judiciary Committee, but has only recently been made aware of the relevant judicial misconduct complaint, and only after the New Hampshire Supreme Court declined to review the case.

Consequently, it is now possible, albeit rather unlikely, that the state legislature might choose to intervene.

Therefore, on the one hand, this is precisely the sort of case (arising out of a mere award of \$3,937.50 in attorney's fees in a small town family law case) that should never come before this Honorable Court in the first place.

Indeed, it *ought* to be representative of the kinds of *minor* trial court errors, that *should* be *easily* resolved upon appellate review within the state system.

But it is not.

Rather, like Hugh Caperton's experience in the West Virginia Supreme Court, subsequently overturned by this Honorable Court in Caperton, it potentially strikes to the very heart of public confidence in the judiciary.

The proper remedy in this case ought to have been that New Hampshire simply dealt with the merits of the underlying issue(s), on the grounds that this is

precisely the sort of *superficially* “mundane” issue, that *ought* not ever to come before this Honorable Court.

However, because the New Hampshire Supreme Court declined *any* review of the trial court’s decision, and *without* forming any opinion, Applicant is now forced to seek extraordinary remedies.

At the present time, there still exists the *possibility* of various rarely used remedies within the state system, including actions that various state level entities *might* take, such as the judicial conduct committee, the state attorney discipline system, or the state legislature.

However, if New Hampshire should continue to fail *even substantively to decide* any of the underlying issue(s) on the merits, *Mandamus* by this Honorable Court for the narrow purpose of simply compelling the New Hampshire Supreme Court to grant *certiorari* at the state level for review of the state trial court’s decision, might be an appropriate remedy.

Moreover, such writ would be in aid of *this* Honorable Court’s appellate jurisdiction, precisely because lower courts *should actually decide cases*, thereby hopefully making this both the first and the last time a request of this nature would come before this Honorable Court.

In the alternative, a request for *certiorari* for this Honorable Court directly to review the order(s) below might also be an appropriate remedy.

Reasons for granting an extension of time

In either case, Applicant respectfully requests a 60-day extension of time in which to request any further relief from this Honorable Court on the grounds that:

(A) Despite the New Hampshire Supreme Court's denial of *certiorari*, it is still *possible* that the issue(s) raised might be resolved through other less commonly used remedies within the state system, as previously set forth, thereby obviating any need for any further relief by this Honorable Court.

(B) However, there is a substantial likelihood that it might take more than 90 days, but less than 150 days, for Applicant either to obtain relief from any such remedies, or for them to be exhausted.

(C) Applicant is a *pro se* litigant, with no formal training in the law, who requires more time than a professional attorney to perform research and to prepare pleadings.

These reasons afford good cause for a sixty-day extension to and including January 15, 2024.

Respectfully submitted,

/s/ Anthony Kinney

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