No. 24-207

IN THE

Supreme Court of the United States

CARLOS A. ALONSO CANO, *et al.*,

Petitioners,

v.

245 C & C, LLC, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

LESLIE WEINER LANGBEIN
LANGBEIN & LANGBEIN, P.A.
8004 NW 154th Street
Miami Lakes, FL 33016

G. WARE CORNELL, JR.
Counsel of Record
CORNELL & ASSOCIATES, P.A.
2645 Executive Park Drive
Weston, FL 33331
(954) 641-3441
ware@warecornell.com

Counsel for Respondents

332666

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

QUESTION PRESENTED

Have the Petitioners presented any substantial federal claims?

CORPORATE DISCLOSURE STATEMENT

Pursuant to this Court's Rule 29.6, Respondents respectfully state:

1. 245 C&C, LLC is a Florida limited liability company.

2. C.F.H. Group, LLC is a Florida limited liability company.

Neither company has any parent or subsidiaries.

TABLE OF CONTENTS

TABLE OF CITED AUTHORITIES

Page

Cases:

Statutes & Other Authorities:

INTRODUCTION

STATEMENT OF THE CASE

Petitioner, Carlos A Alonso Cano ("Alonso") and his family were evicted from their apartment by Respondent 245 C and C, LLC in Florida state court proceedings. CFH Group LLC managed the property where Alonso and his family resided. This case is part of a series of cases thereafter brought by Alonso and members of his family in federal courts against the Respondents The sheer number of cases and the lack of merits of any of them more than suggests that Alonso, far from being competent to represent himself (much less his family members) is a vexatious litigator. This Petition is no exception. [1]

The current Petition for Writ of Certiorari improbably seeks review by this Court of two non-final orders by the United States Court of Appeals for the Eleventh Circuit. One order [CA11 Doc. 69-2] denied a discovery motion made in the Eleventh Circuit to compel production of video recordings of Zoom depositions that were made by Respondents' counsel as personal notes during discovery proceedings in the District Court for the Southern District of Florida. A court reporter was present and produced official stenographic transcriptions of the depositions. The same order also denied ALONSO's request to add color copies of photographs to the record on appeal, and denied as moot a request to proceed in proper person by Alonso, his wife and adult daughter because they already

1. References to the record in the Eleventh Circuit are designated "CA11 Doc." References to the record in the District Court are "SDFL Doc. "

were representing themselves in that Court and were represented in the District Court by counsel.

More significantly, [CA11 Doc. 69-2] cautioned Petitioners about the potential consequences of filing frivolous motions and papers. That order imposed no sanctions against Petitioners. It also identified what the Eleventh Circuit considered frivolous, including that Alonso had misrepresented facts in motions and repeatedly violated the Court of Appeals Local Rule 25-6(a)(1) prohibition against the use of *ad hominem* or defamatory language in papers filed in that court. Alonso continued to file frivolous motions. A subsequent Eleventh Circuit order [CA11, Doc. 81-2] did grant sanctions. The Eleventh Circuit then set the amount of sanctions as $21,191.00, See [CA 11 Doc 93-2.]

What's the subject of this Petition anyway?

First, Petitioners assert the right of self-representation in federal courts. The Petitioners argue that the Eleventh Circuit erred in not ordering the District Court to allow them to represent themselves in the district court, while claiming a "demonstrated ability" to represent themselves in past proceedings.

In support of the claim in the Petition that Alonso has shown a "demonstrated ability" for self-representation, Petitioners cite to cases such as *Godinez v. Moran*, 509 U.S. 389 (1993) and *Faretta v. California*, 422 U.S. 806 (1975). Those cases affirm the right to self-representation in criminal cases and do not establish an unqualified right to represent oneself, much less other family members, in a federal civil case or appeal. The sheer number of docket

entries in the District Court (currently over 825 entries, nearly all of which were filed when Petitioners were acting *pro se*) establish why that District Court denied a motion by their attorney to withdraw. This issue is now moot because the District Court allowed their attorney to withdraw due to ethical conflicts on August 16, 2024. See [SDFL Doc. 816]. Petitioners are free to represent themselves.

The Petition includes accusations that the Respondents, 245 C & C, LLC and CFH Group, LLC, along with their counsel, as well as court reporters, committed fraud by providing forged transcripts and by withholding evidence. Petitioners neglect to inform this Court that the accusations against Respondents' counsel were brought to the District Court's attention and also fully investigated by the Florida Bar and found to have no basis in fact. Petitioners have never produced an iota of evidence to establish that fraud was committed by Respondents or their counsel.

While the Petition was pending, on September 10, 2024, the Clerk of the Eleventh Circuit dismissed the consolidated appeals of Cases 23-12413 AA and 13392 AA for Petitioners' failure to file a brief. The docket entry provided that Petitioners could cure the dismissal for lack of prosecution by filing a brief within fourteen days. Recent emails suggest that Petitioners are planning to file uncounseled motions for relief instead of a brief prepared by a member of the bar.

REASONS TO DENY THE PETITION

Even as the two consolidated appeals were still pending before the Eleventh Circuit, Alonso Cano filed a Petition for Certiorari to this court.

While the right of self-representation on appeal and in civil actions does exist, this point is now moot

The order Alonso is appealing did not deny the ability to represent himself. It denied his motion as moot because he already was representing himself in the Court of Appeals. It did deny his motion to proceed *pro s*e in the District Court. Here, although Alonso and his family invoked the appellate jurisdiction of the Court of Appeals, it was not complete plenary jurisdiction. The District Court retained jurisdiction to determine collateral issues such as the right to exercise control over its own docket and who practiced before it. *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58, 103 S. Ct. 400, 74 L. Ed. 2d 225 (1982)

Alonso's argument that the Eleventh Circuit erred in failing to direct the District Court to allow him to represent himself of civil litigation also fails to note that his attorney's motion for withdrawal in the District Court did not constitute an explicit request to proceed *pro so*. See *Miles v. Aramark*, 321 F. Appx. 188 (3rd Cir. 2009) citing *Faretta v. California,* 422 U.S. 806, 835, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975).

Furthermore, implicit in his argument is that he is not trying to represent just himself, but also his other family members below. If that is his objective, he cannot provide

legal representation of others in any litigation because he is not a licensed attorney. See *Meeker v. Kercher*, 782 F.2d 153, 154 (10th Cir. 1986)

But in any event, this point is now moot as the District Court permitted Petitioners' attorney to withdraw on August 16, 2024. See [SDFL Doc. 816].

In short and for what it may be worth, Alonso's claim that he has successfully demonstrated an ability for self-representation is contrary to the record. Indeed, the order of the Magistrate Judge included in Petitioners' appendix demonstrates why courts have a responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others. See [CA11 Doc. 81-2]. Alonso wasted the District Court's precious judicial time and effort filing a motion that was doomed to fail because of the *Rooker Feldman* doctrine.

The Eleventh Circuit has the Right to Impose Sanctions

Petitioners have also raised the issue of the supposed threat by the Eleventh Circuit to impose sanctions. In raising this issue, Petitioners have not suggested that in warning Petitioners of the existence of sanctions, the Eleventh Circuit was violating substantial federal rights. Indeed, the imposition of appropriate sanctions advances the interests of justice and preserves the rights of parties in litigation. As such, this Court approves of the use of sanctions in appropriate cases.

> "The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of

> his failure to prosecute cannot seriously be doubted. The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts. The power is of ancient origin, having its roots in judgments of nonsuit and non prosequitur entered at common law…, "
>
> *Link v. Wabash R. Co.*, 370 U.S. 626, 629–30 (1962)

See also, *Goodyear Tire & Rubber Co v. Haeger*, 581 U.S. 101, 108 (2017), 137 S. Ct. 1178, 197 L.Ed.2d 585, wherein this Court held:

> "Federal courts possess certain "inherent powers," not conferred by rule or statute, "to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." Link v. Wabash R. Co., 370 U.S. 626, 630–631, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962). That authority includes "the ability to fashion an appropriate sanction for conduct which abuses the judicial process." Chambers v. NASCO, Inc., 501 U.S. 32, 44–45, 111 S.Ct. 2123, 115 L.Ed.2d 27 (1991). And one permissible sanction is an "assessment of attorney's fees"—an order, like the one issued here, instructing a party that has acted in bad faith to reimburse legal fees and costs incurred by the other side. Id., at 45, 111 S.Ct. 2123."

Such rights necessarily inure to the Courts of Appeal and this Court and not just to the District Courts. Thus, contrary to Alonso's claim, nothing advanced in the Petition frames any important federal question in need of resolution.

Furthermore, the provision of the order for which Petitioners seek Certiorari notes that they were previously warned of the potential for sanctions. That admonition appears to have been wholly ignored by Petitioners. Rather than convincing them further that continued abuse will not be tolerated and that the Eleventh Circuit did not agree with Alonso's self-proclaimed competency, the Petitioners seek protection from sanctions no matter how badly they behave. In any event, as previously noted, the Eleventh Circuit has entered sanctions against the Petitioners, jointly and severally.

A cursory review of the various dockets to which this Court has access will show a systematic pattern of abuse of federal and state judicial resources, and parties. In all of these dockets we find a callous disregard for rules and civility. Thus, it appears that the real purpose of the Petition has been to continue the vexatious attacks against Respondents and their counsel. Such objective should find no support from this Court because Petitioners' abusive conduct has disrupted the Eleventh Circuit's efforts (as well as those of the District Court) to administer justice, to control their dockets efficiently, and to preserve order and dignity.

Finally, we note that Petitioners give every indication that they intend to continue harassing the Respondents and their counsel, the court reporters and the judicial

officers and staff of the United States Courts, no matter what the Eleventh Circuit or even this Court orders. See the allegations of Petitioner's former lawyer at [SDFL Doc 794]. Attorneys are the "guardrails" of the judicial system that prevent these kinds of abuse. That is precisely what Petitioners' now withdrawn attorney attempted to do but could not, because Petitioners are uncontrollable.

The Problem of the Incomplete Review Below

Normally most cases reach this Court with a fully developed record. That is not so here. Even as this Petition has progressed upward, the work of the Eleventh Circuit's has continued.

We understand that the completion of review and the rendering of a decision by the Eleventh Circuit is not a jurisdictional prerequisite. Indeed, in certain circumstances, this Court can and does choose to exercise its power to intervene in cases that are still pending before appellate courts. *See*, *Chesapeake & O. Ry. Co. v. Mihas,* 280 U.S. 102 (1929)

Such cases are highly unusual. As best can be determined certiorari has never been granted with an incomplete, unsubstantiated and partially fabricated record like Petitioners have brought up here. If there was a substantial federal question lurking here, the Petitioners are not likely to be skilled enough to properly present those claims. Alonso's entire tactic to date at every level of the federal courts has been to make unsupported and unsupportable accusations and *ad hominem* attacks on Respondent's counsel, court reporters and even judges.

CONCLUSION

The Petition should be denied.

LESLIE WEINER LANGBEIN
LANGBEIN & LANGBEIN, P.A.
8004 NW 154th Street
Miami Lakes, FL 33016

G. WARE CORNELL, JR.
Counsel of Record
CORNELL & ASSOCIATES, P.A.
2645 Executive Park Drive
Weston, FL 33331
(954) 641-3441
ware@warecornell.com

Counsel for Respondents

Dated: September 25, 2024