

24-210

ORIGINAL

In The
SUPREME COURT OF THE UNITED
STATES

IN RE: PALANI KARUPAIYAN, Petitioner

On Petition for WRIT OF MANDAMUS,
PROHIBITION OR ALTERNATIVE to
United States Court of Appeals
for the Third Cir. (Dkt 24-1608)

PETITION FOR A WRIT OF
MANDAMUS, PROHIBITION OR
ALTERNATIVE

Palani Karupaiyan.
Pro se, Petitioner.
1326 W William St,
Philadelphia, PA 19132
212-470-2048(M)

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I. QUESTIONS PRESENTED

Petitioners' prayed over 5 reliefs which were as Writ of Mandamus or Prohibition or alternative so the questions were part of three test conditions requirement of the Writs.

II. PARTIES TO THE PROCEEDING

Petitioner(s): PALANI KARUPAIYAN;
P. P., Plaintiff Palani Karupaiyan's
minor son;
R. P., Plaintiff Palani Karupaiyan's
Minor daughter

Respondent(s)
KNIPPER HEALTH;
MICHAEL LAFERRERA, individually and in his
official capacity as President, CEO of the Knipper
Health

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V. PETITION FOR WRIT(S) OF MANDAMUS, PROHIBITION OR ALTERNATIVE.

Petitioner respectfully prays that **Writ of Mandamus, Prohibition or Alternative** to the opinion/judgment/ orders of US Dist Court for NJ (22-cv-2557-GC-RLS) and USCA3's Docket 24-1608, below

VI. OPINION(S)/ORDERS/JUDGMENT(S) BELOW (FROM DIST COURT/USCA3)

1. USCA3' Opinion for Petition for Mandamus dated Jun 05, 2024. **App.1.**
2. USCA3's Order denying Petition for Mandamus dated Jun 05, 2024. **App.3**
Hon. HARDIMAN, MONTGOMERY-REEVES, and NYGAARD, Circuit Judges
3. US Dist. Court's MEMORANDUM OPINION date Mar 07 2024 (ECF-9) **App.4**
4. US Dist Court's SUA SPONTE ORDER dismissing the complaint (ecf-10) dated Mar 07 2024. **App.17.**

Hon. Georgette Castner, USDC and Rukhsanah L. Singh USMJ

VII. JURISDICTION

In *Hohn v. United States*, 524 US 236 - Supreme Court 1998@ 258 ("*Rosado v. Wyman*, 397 U. S. 397, 403, n. 3 (1970) (a Court always has jurisdiction to determine its jurisdiction)).

Hohn @264 ("We can issue a common-law writ of Certiorari under the All Writs Act, 28 U. S. C. § 1651).

Hobby Lobby Stores, Inc. v. Sebelius,
568.U.S.1401 – S.Ct 2012@643

The only source of authority for this Court to issue an injunction is the All-Writs Act, 28USC § 1651(a) and Following a final judgment, they [Petitioner] may, if necessary, file a petition for a writ of certiorari in this Court.

Petitioner filed timely Notice of Petition for Writ of Mandamus and Notice of Appeal

On Jun 05, 2024, USCA3 denied the Petition for Writ of Mandamus. App.1, 3

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1), All Writs Act, 28 U. S. C. § 1651.

VIII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

All Writs Act, 28 U.S.C. § 1651(a)
Title VII, The Americans with Disabilities Act;
 The Genetic Information Nondiscrimination Act (GINA); The Age Discrimination in Employment Act 42 U.S.C. § 1981 ,42 US Code § 1988 - Proceedings in vindication of civil rights
 The New Jersey Law Against Discrimination - NJLAD,26 U.S. Code § 7201. Attempt to evade or defeat tax, 26 U.S.C. § 7203 and § 7206(1)
 18 USC § 371 - Conspiracy to commit offense or to defraud United States, 18 U.S.C. § 1956, money laundering law. 8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b Temp work permit visa).
 8 U.S. Code § 1188 ,The Immigration and Nationality Act (INA) Section -101(a)(15)(H)(i)(b).
 20 C.F.R. § 656.17(e) (Labor Certification)
 20 C.F.R. §655.101(b)(1) (Temp employment for foreigner)

IX. STATEMENT OF THE CASE

a) DIST COURT AND USCA PROCEEDING

On Apr 26 2022, Plaintiff filed complaint with US Dist Court of New Jersey and timely served the complaint to all captioned defendants.

On Mar 7 2024, Dist Court entered Sua sponte dismiss the complaint in part without prejudice and few claim with Prejudice **App.4,17**.

Plaintiff filed time notice of appeal and notice of petition for mandamus.

In USCA, appeal was docketed as 24-1505 and Petition for mandamus was docketed as 24-1608.

On Jun 5 2024, USCA3 dismissed the appeal for lack of Jurisdiction in matter of finality of appealable order.

On same date, Jun 5 2024, USCA denied the petition for mandamus **App.1,3**, for the reasons that first impression.

On Jun 7 2024, Hon Judge SUSAN D. WIGENTON, Newark NJ entered order that this appellant should not file any relieve with Dist Court of Dist of New Jersey until Dist Judge from Dist of New Jersey vacate this order.

See. 23-cv-00844-SDW-JBC, ECF-40.

Jun 5 2024, USCA denied the Petition so Petitioners' Petition for writ of Mandamus, Prohibition or alternative is timely with this court

X. KNIPPER BUSINESS MODEL

Knipper has been dedicated to managing direct marketing, order processing, fulfillment, compliance, data management and patient advocacy for the top pharmaceutical, biotechnology, and medical device

industries. They partner with over 100 life science companies including 18 of the top-20 U.S. pharmaceutical companies

XI. PURPOSE OF OUTSOURCE

The purpose of Knipper's outsourcing is to evade the Dept of Labor's Labor certification fee (which is perjury crime), Immigration fee, payroll tax to US and Local Govts, tax liabilities, properties tax to the Local Govts in US, Secretly, untraceably transfer the money out of US in the name of outsource and pay the money/cash in India to the US corporate manager who agreed/helped the outsourcing.

XII. ALL WRITS ACT, 28 USC § 1651(A)

In Pa. Bureau of Corre. v. US Marshals Service, 474 US 34 – S.Ct 1985 @43

"The All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute".

XIII. USSC'S WRIT AGAINST USCA/DIST COURT OR ANY COURT

Bankers Life & Casualty Co. v. Holland, 346 US 379 – S.Ct 1953@383

As was pointed out in Roche v. Evaporated Milk Assn., 319 U. S. 21, 26 (1943), the "traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal Courts has been to confine an inferior Court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so."

.....

a) AGAINST ANY JUDICIAL AUTHORITY

Holland @383 there is clear **abuse of discretion** or "**usurpation of judicial power**" of the sort held to justify the writ in De Beers Consolidated Mines v. United States, 325 US 212, 217(1945)

XIV. USSC'S RULE 20.1 AND RULE 20.3.

In re US, 139 S. Ct. 452 - *Supreme Court 2018* @ 453 **S.Ct. Rule 20.1** (Petitioners seeking extra-ordinary writ must show "that adequate relief cannot be obtained in any other form or from any other Court" (emphasis added));

S.Ct. Rule 20.3 (mandamus petition must "set out with particularity **why the relief sought is not available** in any other Court"); see also Ex parte Peru, 318 U.S. 578, 585, 63 S.Ct. 793, 87 L.Ed. 1014 (1943) (mandamus petition "ordinarily must be made to the intermediate appellate Court").

The requirement is substituted by Moses 460 US 1 - *Supreme Court 1983* @ footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976)

Also the above Substitute the Test-1 of 3 tests requirement of grating the writs in US Supreme Court.

XV. WHY LOWER WAS NOT ABLE TO GRANT THE APPELLANT'S WRITS/INJUNCTION(S) RELIEFS

a) With USCA, parallel an appeal and a petition for mandamus is docketed. As per the Moses footnote[6],

USCA3 could not able to grant the injunctive reliefs along with appeal. In Moses H. Cone Memorial Hospital v. Mercury Constr. Corp., 460 US 1 - Supreme Court 1983 @footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976).

Further, USCA3 ruled that first impression matter when denying the Petition for mandamus.

XVI. PETITIONER SHOULD PRAY THE DECLARATIVE/ INJUNCTIVE RELIEFS IN THE LOWER COURT(S) BY FOLLOWING.

In Bolin v. Story, 225 F. 3d 1234 – USCA-11 2000 @ 1243

*"In order to receive declaratory or injunctive relief, plaintiffs must establish that there was a violation, that there is a serious risk of **continuing irreparable injury if the relief is not granted**, and the absence of an adequate remedy at law". See Newman v. Alabama, 683 F.2d 1312 (11th Cir.1982).*

In Azubuko v. Royal, 443 F. 3d 302 - USCA, 3rd Cir 2006 @ 304

***Injunctive relief shall be granted when a declaratory decree was violated or declaratory relief was unavailable.**" 42 U.S.C. § 1983; Bolin v. Story, 225 F. 3d 1234 – USCA-11 2000(explaining that the amendment applies to both state and federal Judges); see also Mullis v. United States Bankr. Court for the Dist. of Nev., 828 F.2d 1385 (9th Cir.1987); Antoine v. Byers &Anderson, Inc., 508 U.S. 429, 433 n. 5, 113 S.Ct.*

2167, 124 L.Ed.2d 391 (1993) (noting that the rules regarding judicial immunity do not distinguish between lawsuits brought against state officials and those brought against federal officials).

In Bontkowski v. Smith, 305 F. 3d 757 – USCA7, 2002@762 “can be interpreted as a request for the imposition of such a trust, a form of equitable relief and thus a cousin to an injunction. Rule 54(c), which provides that a prevailing party may obtain any relief to which he's entitled even if he “has not demanded such relief in [his] pleadings.” See Holt Civic Club v. City of Tuscaloosa, 439 U.S. 60, 65-66, 99 S.Ct. 383, 58 L.Ed.2d 292 (1978);

In Boyer v. CLEARFIELD COUNTY INDU. DEVEL. AUTHORITY, Dist. Court, WD Penn. 2021

“Thus a prayer for an accounting, like a request for injunctive relief, is not a cause of action or a claim upon which relief can be granted. Rather, it is a request for another form of **equitable relief**, i.e., a “demand for judgment for the relief the pleader seeks” under Rule 8(a)(3) of the Federal Rules of Civil Procedure. D****As such, it too is not the proper subject of a Rule 12(b)(6) motion. D***Global Arena, LLC, 2016 WL 7156396, at *2; see also Bontkowski v. Smith, 305 F.3d 757, 762 (7th Cir. 2002).

Petitioners prays this Court any and all benefit of above ruling.

XVII. THREE TEST CONDITIONS FOR GRANT THE WRITS (OF MANDAMUS, PROHIBITION OR ANY ALTERNATIVE)

Test-1: No other adequate means [exist] to attain the relief [the party] desires (**In re US, 139 S. Ct. 452**)
Or it (injunction) is necessary or appropriate in aid of our jurisdiction (28 USC § 1651(a))

Or "the party seeking issuance of the writ must have no other adequate means to attain the relief [it] desires";

Test-2: the party's `right to [relief] issuance of the writ is clear and indisputable (**In re US, 139 S. Ct. 452**)

Or Bankers Life & Casualty Co. v. Holland, 346 US 379 – S.Ct 1953

*clear abuse of discretion or "usurpation of judicial power" of the sort held to justify the writ in **De Beers Consolidated Mines v. United States, 325 US 212, 217(1945)***

Or Hobby Lobby Stores, Inc. v. Sebelius, 568 US 1401 – Sup.Ct 2012

whatever the ultimate merits of the applicants' claims, their entitlement to relief is not "indisputably clear

Or the Petitioner must demonstrate that the "right to issuance of the writ is clear and indisputable." Cheney, 542 U.S. at 380-81, 124 S.Ct. 2576

Or Cheney v. United States Dist. Court for DC, 542 US 367-Sup.Ct 2004

Defendant owes him a clear nondiscretionary duty

Test-3: a question of first impression is raised.

Or

*"the issuing Court, must be satisfied that the writ is appropriate under the circumstances (**In re US, 139 S. Ct. 452**)*

Or

*that the permanent injunction being sought would not hurt public interest (**eBay Inc v. Mercexchange llc, 547.US.388,S.Ct 2006**)*

i.e when there is need of public interest or nation interest, permanent injunction prayer should be granted.

In the USSC, test-1 is not required to grant the Writs.

XVIII. PRO SE PLEADING STANDARDS

Erickson v. Pardus, 551 US 89 - Supreme Court 2007 @ 2200

A document filed pro se is "to be liberally construed," Estelle, 429 U.S., at 106, 97 S.Ct. 285, and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.

XIX. REASONS FOR GRATING THE WRITS

1) Writ against Knipper and it's Parental/Sister entity or affiliates that they should not discriminate the US citizenship AND favor of foreign nationals against US citizen in employment or in application for employment

Test-2: Because of US Citizen should not help Knipper to outsource the It's IT and back office jobs, and foreign national employees should help Knipper to outsource, Knipper frame the business model to refuse employment/discriminate the US citizen in employment.

Foreigner employees, for their Job security, every effort to help Knipper to outsource its corporate IT/BPO Jobs so Knipper preferred to employ the foreigner over US citizens.

Test-3: Favoring foreigner against US Citizen in employment is discrimination.

In *Novak v. World Bank, No. 79-0641, 1979 U.S. Dist. LEXIS 11742 (D.D.C. June 13, 1979)*, the plaintiff argued that defendant had a policy of discriminating against United States citizens in violation of Title VII's prohibition against national origin discrimination. The Court held that such a claim — i.e., discrimination against U.S. citizens — alleges discrimination based only on citizenship and thus was barred by the holding

in *Espinoza*¹. Id. at *3. (Cited in *English v. MISYS INTERNATIONAL BANKING SYSTEMS, INC.*, Dist. Court, D.NJ 2005)

In *Novak v. World Bank*, 20 Fair Empl.Prac.Cas. (BNA) 1166, 1167 (D.D.C.1979), *Discrimination against a United States citizen in favor of an alien has been labeled reverse Espinoza*

By-product of discriminating the US Citizen, Outsourcing cause the tax evasion, money laundering against the United States and local Govts, knowledge drain to Nation's STEM knowledge sector.

2) Order that (i) Knipper should not outsource Its IT/BPO Corporate Jobs (ii) Knipper should insource all the IT/BPO project back to United States within 6 months of this Court order

Test-2: By outsourcing US Corporate IT/BPO jobs, Knipper does/did tax evasion (including payroll tax), Money laundering

Test-3: The foreigner employee(s) to do the US Corporate Jobs, the [potential] employer need to get approved Labor Certification from Dept of Labor that **No US Citizen** is available to take the jobs. So the potential employer can hire foreign employee without discrimination US citizen. The outsourcing, put the foreigner at front, automatically discriminate the US citizen in employment. See 8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa).

When the IT/BPO corporate Jobs are outsourced, Knipper involves Tax evasion including Payroll tax against United States and its Local govts. 26 U.S. Code § 7201. Attempt to evade or default tax, 26 U.S.C. § 7203 and § 7206(1)

¹ *Espinoza v. Farah Mfg. Co.*, 414 U.S. 86, 88 (1973).

For the above reasons, petitioner pray this court for his prayer to be granted.

3) Order that Knipper should not access to H1, L1, B1 work permit visa from Dept of Labor/ United States Citizenship and Immigration Services ("USCIS") and Invalidate all the H1, L1, B1 visa previously obtained.

Test-2: Knipper get H1, L1, B1 work visa for the purpose of employ few foreign employees in US Corporate office as temp contract employee and these foreign employees help the US Corporation and Knipper to outsource the IT Jobs to India or outside of US. These foreign employees play every tricks against US citizen employees including abuse of at-will termination to outsourcing purpose.

Test-3:

This order should compel the Knipper to hire US citizens, Knipper will not discriminate the US Citizen, favor the foreigner against US Citizen in employment.

4) Order that Knipper should deposit to US treasury the 3 times of Money Knipper took out of United States by Outsourcing and lock/jail the Knipper's CxO/Class-a officers until all the money recovered and deposit to US treasury

Test-2: Knipper outsourced the US corporate jobs without US Dept of Labor certification² that when US citizens were available and able to take the Jobs and

² Foreigner to do the US based Job, [Potential employer to foreign employee(s), need to get Labor Certification from Dept of Labor that no US citizen is available to take the job so the potential employer needs to hire foreigner. In outsourcing, Knipper did not get Labor certification, simply outsourced and evaded the tax including payroll tax.

Knipper to evade the USCIS fees, Payroll tax against US and local govts i.e Knipper illegally, secretly, untraceably outsourced and money laundered.

Test-3: Any wrongdoing with Dept of Labor certification is perjury crime. 8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa)

By Illegal outsourcing, without Dept of Labor's Certification, Knipper did outsourcing to Tax evasion including payroll tax, money laundering, corrupt corporate business practices.

Knipper CxOs and class-a officers should be lock until these 3 times outsourced money recovered (within 2 months of this court order) and deposited to US Treasury. These Top officials were personally economically benefitted/gained by outsourcing.

So petitioner prays this Court to order that Knipper should deposit 3 times of money to US treasury, the money Knipper took out of US thru outsourcing and lock these Knipper CxOs until all money recovered and deposited to US Treasury. These wrong doings were did by these Top officials were done knowingly, intentionally.

5) Order the Dist Court to Vacate the sua sponte dismissal of complaint.

Test-2

Dist Court dismissed the complaint in part without prejudice and in-part with prejudice. **App.4,17.** (before the defendants appear in the dist. Court.)

Test-3:

In Salahuddin v. Cuomo, 861 F. 2d 40 – USCA2 1988 @43, when the Dist Court dismissed the complaint by sua sponte, USCA2 vacated the dismissal “this Court [USCA 2nd Cir] has repeatedly cautioned against Sua Sponte dismissals of pro se civil rights complaints prior to requiring the defendants to answer.

See, e.g., *Bayron v. Trudeau*, 702 F.2d 43, 45 (2d Cir.1983); *Fries v. Barnes*, 618 F.2d 988, 989 (2d Cir.1980) (citing cases)."

Now the status of the docket, plaintiff is not able to amend the complaint or proceed further with two claims.

Order that vacates the order of (Sua Sponte) dismissal of complaint **App.17** and allows the plaintiff to make amend complaint and proceed further in the dist. Court.

6) Order that Knipper should pay the petitioner \$2 million dollars for [r]easonable money for time and effort of the [P]laintiff, pain and suffering and all expenses and costs of this action.

Test-2: When Petitioner tried to get attorney to representation to file the case, the attorney told that employment cases were complicated and requested the petitioner for down payment which was not affordable to the petitioner when the petitioner is unemployed, disabled status, and pauperis.

Test-3: Without help of attorney, and attorney is unavailable to the petitioner, with petitioner spine injury, back pain, diabetic disability which eyes were blurring, petitioner drafted the complaint and this petition. For Petitioners multiple request, Lower Courts multiple time failed/denied to appoint attorney to the petitioners.

Petitioners with spine injury, diabetic disability-eye blurring, proceeded in Dist Court, USCA3 and this petition for certiorari.

Boyadjian v. Cigna Companies, 973 F. Supp. 500 - Dist. Court, D. New Jersey 1997@504

Although plaintiff may not recover attorneys' fees, he may recover litigation costs reasonably incurred. See Cunningham, 664 F.2d at 387 n.

4; *Carter*, 780 F.2d at 1482; *DeBold*, 735 at 1043 (citing *Crooker v. United States- DoJ*, 632 F.2d 916, 921 (1st Cir.1980)) ("[A] pro se litigant who substantially prevailed certainly is entitled to 'litigation costs reasonably incurred' A pro se litigant is made whole thereby, serving as a small incentive to pursue litigation if no attorney may be found to represent the litigant.")

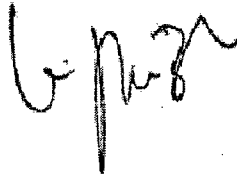
The First Circuit has reached the opposite conclusion in ***Crooker v. Department of Justice***, supra, holding that "in actions where the complainant represents himself, sometimes as a hindrance instead of an aid to the judicial process, an award of fees does nothing more than subsidize the litigant for his own time and personal effort.

So petitioner prays this Court's order that the Knipper to pay \$2 million the petitioner for the petitioner time, effort, pain and suffering for the petitioner(s) went thru in this proceeding.

XX. CONCLUSION

Plaintiffs/Petitioner(s) Palani Karupaiyan pray(s) the US Supreme Court for the Petition for Writ(s) of Mandamus, Prohibition or alternative should be granted.

Respectfully submitted.



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