8/9/24

No. 24-414

In The
Supreme Court of the United States

October Term 2024

Reuben Larson

Petitioner,

vs.

Community Works North Dakota and
Boulevard Avenue Apartments,

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE NORTH DAKOTA STATE
SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Reuben Larson, *in propria persona*
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QUESTIONS PRESENTED FOR REVIEW

Is a rule of court unconstitutional which mandates that an appeal brief cannot exceed a certain number of pages, and which mandates that the appellant/appellee number the paragraphs in the brief, and if either or both is not complied with, one's appeal brief will not be filed and so one's appeal will be dismissed.

Does a judge/justice have to give reasons for their ruling.

Is it valid to cite and use the rule/statute under attack as the reason to deny the attack on the rule, to declare the rule legal.

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Reuben Larson respectfully petitions for a writ of certiorari to review the final order of the North Dakota State Supreme Court dismissing the appeal of Reuben Larson.

OPINIONS BELOW

The N.D. Supreme Court's one-page "Notice", filed in the Docket on May 7, 2024, is reproduced in the Appendix Page 1-2. The N.D.S.Ct.'s one-page final "Order Of Dismissal", dated and filed on the Docket on May 24, 2024, is reproduced at Appendix Page 3-4.

JURISDICTION

The N.D. Supreme Court issued its final Order of Dismissal on May 24, 2024. This Court has jurisdiction under 28 U.S.C. §1257.

THE U.S. CONSTITUTIONAL PROVISIONS INVOLVED

"... nor shall any State deprive any person of life, liberty, or property, without due process of law. Fourteenth Amendment of the U.S. Constitution.

"... nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws." Fourteenth Amendment of the U.S. Constitution.

"The United States shall guarantee to every State in this Union a Republican Form of Government, ...". Article IV, Section 4, of the U.S. Constitution.

"No State shall ... pass any Bill of Attainder, ...". Article I, Section 10, Clause 1, U.S. Constitution.

STATEMENT OF THE CASE

Larson appealed to the North Dakota State Supreme Court. His appeal brief contains nine issues. It is 60 pages long.

This appeal case can be accessed by Googling: "ndcourts.gov", then searching and accessing either by the appeal file number, "20240038", or by name, "Reuben Larson".

The N.D. Rules of Appellate Procedure, Rule 32(a)(8)(A), (a)(7) and (c) limit a brief to 38 pages, and require that the paragraphs be numbered, and if not complied with, the brief will not be filed (and the case dismissed).

Larson's Motion asking to be allowed to file his brief beyond the 38 page limitation and to not have paragraph numbering, his Appeal Brief, and Appendix, was filed on the N.D. Supreme Court's Docket on May 6, 2024. The Chief Justice denied the Motion on May 7 with a one-page denial, titled as a "Notice". This was filed in the Docket on May 7. A copy of this one-page "Notice" is in the Appendix page 1-2.

In response, Larson filed an "Amended Motion To Declare Rules Unconstitutional, And To File Larson's Appeal Brief", filed in the Docket on May 20, 2024. The Chief Justice denied this motion on May 20. No written denial was made.

In response to the unwritten denial, Larson filed a "Motion To Chief Justice To State His Reasons, In

Writing, To File His Ruling, To Declare The Censoring Rules Unconstitutional, And To Let Larson File His Brief". This was filed on the Docket on May 24, 2024. The Chief Justice did not rule on this Motion. Instead, the Chief Justice as well as three of the other Justices denied this motion with a one-page "Order Of Dismissal", dismissing Larson's appeal for failure to proceed under the Rules of Appellate Procedure, filed on the Docket on May 24. A copy of this one-page Dismissal is included in the Appendix page 3-4.

The Court did not address the points of law Larson raised, but instead simply cited Rule 32 and ordered he must comply with the Rule or be dismissed. *"Si iudicas, cognosce; si regnas, iube."*--"If you are acting as judge, investigate the case; if as king, give orders."

Larson now Petitions this U.S. Supreme Court on issues apparently never raised or addressed before by this Court, whether a rule/statute can limit a person's access to a court's exercise of appellate judicial power. And whether a court has to give reasons for its ruling denying an attack on a statute/rule, has to address why a constitutional attack on a rule is either valid or in error.

But first, a preliminary matter:

What makes up the U.S. Supreme Court's appellate subject matter jurisdiction under 28 U.S.C. 1257.

Larson, in his motions to the N.D. Supreme Court, pleaded the Fourteenth Amendment and also the Republican Guarantee clause, stating, for example: "all this contrary to due process of law of the N.D. Constitution, Article I, Sections 9 and 12, and the Fourteenth Amendment of the U.S. Constitution.".

Upon reflection, this type of pleading, trying to raise the Federal question in his State case, is in error as to what is the Federal question. It makes no sense, is actually silly.

This makes no sense because one is asking the State Court to not only exercise its State Judicial Power to determine and declare the rule unconstitutional as being in violation of State due process of law, but to also exercise the Federal judicial power to determine and declare the rule unconstitutional in violation of Federal due process of law, to rule twice on the same issue!

U.S.S.Ct. Rule, Rule 14.1(g)(i), and prior case law such as Bryant v. Zimmerman, 278 U.S. 63, 66-69 (1928); says that 28 U.S.C. 1257 says that a State litigant must have cited/pled a U.S. Constitutional right in the State case, the right identified as a Federal right, in order for this Court to have subject-matter jurisdiction to hear and determine this Petition. But see Illinois v. Gates, 462 US 213, 217-222 (1983), citing exceptions to this rule and uncertainty as to the correct interpretation of 28 U.S.C. 1257.

The People of North Dakota created the State of N.D. The People also created the United States.

The People of North Dakota have natural, inalienable rights endowed upon them by their Creator, the source of their rights.

Government is not and cannot be a source of any rights. This is because in our Republican Form of Government, the Government cannot do anything unless The People gave, delegated or granted to them the right or power.

The People of N.D. also have 'statutory' and N.D. 'Constitutional' rights which The People granted to or dictated to the State that The People are to have, this pursuant to their natural, inalienable right to make or create an association/government.

One of these rights is the right to appeal to the N.D. State Supreme Court as provided by the Peoples' grant stated in the N.D. Constitution. This right is a right, (not a privilege), created by the People according to their natural, inalienable right to make grants to an association the People created, and so is equivalent to and is equal to a natural, inalienable right because these granted rights arose out of the Peoples' natural right to do such, and so they are rights to be recognized the same as a natural right. (A State or Government is an association of the People.)

To better understand this point, a right created by a contract is the same as a natural right because it arose out of one's natural right to make agreements/contracts with others.

The same People also created the United States. The People of the U.S. have the same identical

natural, inalienable rights endowed upon them by their Creator, the source of their rights.

> "In support of his motion, the counsel has, we think, in his argument prescribed too narrow a principle for the action of this Court. He says very truly that the twenty-fifth section of the Judicial Act is limited by the Constitution, and must be construed so as to be confined within those limits, but he adds that a case can arise under the Constitution or a treaty only when the right is created by the Constitution or by a treaty. We think differently. This construction would defeat the obvious purpose of the Constitution, as well as of the act of Congress. The language of both instruments extends the jurisdiction of this Court to rights protected by the Constitution, treaties, or laws of the United States, from whatever source those rights may spring." New Orleans v. De Armas, 34 U.S. 224, 234 (1835).

These same natural (State) rights are protected by the U.S. Constitution.

The People of the U.S. granted to the U.S. that the U.S. should and must protect The Peoples' natural rights from State deprivation, as well as protect the People of the State from their State depriving them of their State 'Constitutional' rights, which are natural rights because they are derived from and arose from their natural right to associate, to create a Government, which the People of that State have said they are to have in addition to their

natural rights, in that the U.S. is to Guarantee to the States a Republican Form of Government.

And later, with the advent of the Fourteenth Amendment, The People said that the U.S. shall also protect The People of the States from their State depriving them of their natural, inalienable rights, as well as their State 'Constitutional' rights which are natural rights because they arose from their natural right to associate, which the People of that State have said they are to have in addition to their natural rights, these are the same as a natural right.

The point here is that Larson raised in his motions in the N.D. State Supreme Court the issues and rights which are also of U.S. cognizance and right, are rights under the U.S. Constitution and are protected by the U.S. Constitution. Larson also raised the rule of court at issue in this case.

Remember, a Federal (and a State) cause of action is made up of facts. It is not the remedial provisions such as the due process clauses of the State and Federal Constitutions. Larson raised in the State Court his U.S. Federal rights which give this U.S. Supreme Court subject matter jurisdiction to hear and determine this Petition for Writ of Certiorari pursuant to 28 U.S.C. 1257.

Definition of a Republican Form of Government

A Republican Form of Government is a government of law, of the common law as well as that law which is in the Constitutions and statutes of the States, which The People of that government said should be law, (as long it arose out of the common

law and their natural, inalienable right to create such).

For example, to explain this, The People have no natural, inalienable right to grant to the Government the power/right take People's money/property and give it to others for their personal use, benefit or profit. This is because The People, each individual, has no right to take other peoples' money/property and give it to others for their personal use, or keep it for their own use.

A Republican Form of Government is a Government which "secures The People's rights, is one which was instituted by The People, and which Government derives its just power from the Consent of the Governed."--Paraphrasing from the Declaration of Independence.

But perhaps some may think that the best way to define a Republican Form of Government is to directly quote the Declaration of Independence, which, after noting the rights with which individuals are endowed, notes that: "That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed." This is the definition of a Republican Form of Government.

The People of N.D. granted to the N.D. Government and to the N.D. Supreme Court no power to enact this type of Rule 32 nor to make this type of order or ruling which deprived Larson of his granted right of access to the complete appellate judicial power of the N.D. Supreme Court.

The N.D. Supreme Court's Rule 32 and its Order have deprived Larson and the State of N.D. of a Republican Form of Government because the Court

has deprived Larson (and The People) of the right that one has a right to the use and benefit of the whole, the entirety of the N.D. Supreme Court's appellate judicial power.

Also, since the N.D. Supreme Court acted as a King, that is, simply commanding, not adjudicating, not acting as a Court, Larson and the State was here also deprived of its Republican Form of Government.

And so Larson Petitions this Court to Guarantee to the State of N.D. a Republican Form of Government.

The United States' Appellate Judicial Power cannot be delegated to the State Courts.

The appellate judicial power of the United States is vested in this Supreme Court, (as well as in other courts created by Congress). It is to be exercised by this Court, not by a State Court, not delegated to nor imposed upon State courts to exercise.

> "The Constitution was ordained and established by the people of the United States for themselves, for their own government, and not for the government of the individual states. Each state established a constitution for itself, and in that constitution provided such limitations and restrictions on the powers of its particular government as its judgment dictated. The people of the United States framed such a government for the United States as they supposed best adapted to their situation and best calculated to promote their interests. The powers they conferred on this

government were to be exercised by itself, ..." Twitchell v. Commonwealth, 74 U.S. 321, 326 (1868).

States have a Judicial Power to decide whether or not a statute, rule or conduct of the State is valid or unconstitutional under the State Constitution. This State power cannot be intruded or trespassed upon by the Federal government, to require that the State also exercise the Federal judicial power. Tenth Amendment, U.S. Constitution. This is not a power given to the U.S. to do.

The Federal government cannot give to or impose upon the States to require them to exercise the Federal Appellate Judicial Power (in addition to the State courts exercising their State appellate judicial power). It is vested in the Supreme Court (and other courts created by Congress). Article III, Section 1.

The point here is, 28 U.S.C. 1257 cannot be interpreted or applied in such a manner as to require the State Court to have heard and determined the Federal question of whether or not the State conduct violated the Fourteenth Amendment or the Republican Guarantee Clause, etc., before this U.S. Supreme Court is able to have subject matter jurisdiction of the issue being 'appealed'.

When a State has deprived its citizen(s) of their State rights, their inalienable, natural rights, and the person has pleaded this in the State Court, it also is a deprivation of their U.S. Constitutional rights under those provisions, such as the Fourteenth Amendment or Republican Guarantee Clause, and other clauses such as no bill of pains and penalties/bill of attainder clause, which mandate or

say that the Federal Government must take cognizance of and protect that State person. And so the subject matter jurisdiction of the U.S. Supreme Court has been pleaded in the State case. This Court can take cognizance of the Petition when the person has pleaded in the State case that the State has taken his (State) rights or not protected his (State) rights.

The Fourteenth Amendment and the Republican Guarantee Clauses, etc., are Federal remedial clauses requiring the exercise of the Federal judicial power to determine. They should not be cited in the State courts. They cannot be imposed upon a State Court to adjudicate.

As long as the facts, the cause of action, was pleaded in the State Court, these facts also provide a cause of action which gives the appellate subject matter jurisdiction to this U.S. Supreme Court to hear and determine because the litigant's State rights are also Federal rights because they each are derived from the same source, our Creator, are all natural, inalienable rights and also our governmental/Constitutional rights which arose from our natural, inalienable rights. The States are to protect their citizens. And the U.S. Government is also to protect the people within the States from the States depriving their citizens or not protecting their citizens.

ARGUMENT

Rule 32(a)(8)(A), NDRAppP, limits a brief to 38 pages. Rule 32(a)(7), says that the paragraphs are to be numbered. Rule 32(c) says that: "Documents not in compliance with this rule will not be filed."

NDRAppP, Rule 32, Subsections (a)(7) and (a)(8)(A) and (c) are unconstitutional

"NORTH DAKOTA CONSTITUTION
"ARTICLE VI JUDICIAL BRANCH

"Section 1. The judicial power of the state is vested in a unified judicial system consisting of a supreme court, a district court, and such other courts as may be provided by law.

"Section 2. The supreme court shall be the highest court of the state. It shall have appellate jurisdiction, and shall also have ...

"Section 3. The supreme court shall have authority to promulgate rules of procedure, including appellate procedure, to be followed by all the courts of this state; ...

"Section 6. Appeals shall be allowed from decisions of lower courts to the supreme court as may be provided by law."--unquote from the N.D. Constitution.

"NORTH DAKOTA STATUTES

"N.D.C.C. 28-27-01. Appeals to supreme court.

"A judgment or order in a civil action or in a special proceeding in any of the district courts

may be removed to the supreme court by appeal as provided in this chapter."--unquote.

"N.D.C.C. 27-02-08. Rules of pleading, practice, and procedure may be made by supreme court.

"The supreme court of this state may make all rules of pleading, practice, and procedure ..."--unquote.

"N.D.C.C. 27-02-10. Limitation on rulemaking powers of supreme court.

"No rule promulgated under sections ... 27-02-08 may abridge, ... or modify in any manner the substantive rights of any litigant."--unquote.

"NORTH DAKOTA RULES OF APPELLATE PROCEDURE

"RULE 1. SCOPE OF RULES

"(a) ...

"(b) Rules Do Not Affect Jurisdiction. These rules do not ... limit the jurisdiction of the supreme court."--unquote.

"RULE 2. SUSPENSION OF RULES

"On its own or a party's motion, the supreme court may—to expedite its decision or for other good cause—suspend any provision of these rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b)."--unquote.

"RULE 32. FORM OF BRIEFS AND OTHER DOCUMENTS

"(a) Form of a Brief.

"(1) ...

"(7) Paragraph Numbers. Paragraphs must be numbered using arabic numerals in briefs.

"(8) Page Limitations.

"(A) Page Limit. A principal brief may not exceed 38 pages, and a reply brief may not exceed 12 pages, excluding any Addendum.

"(c) Non-compliance. Documents not in compliance with this rule will not be filed."--unquote.

"All courts shall be open, ..." N.D. Constitution, Article I, Section 9.

"RULE 45, N.D.R.App.P. DUTIES OF CLERK

(a) General Provisions. ...

(2) When Court is Open; Deadlines. The supreme court is deemed always open for filing any proper document, issuing and returning process, making a motion, and entering an order. ...".

N.D.R.App.P. Rule 32(a)(7) & (a)(8) & (c), limits or restricts an appeal brief to 38 pages, and mandates that one number the paragraphs in his brief. And the N.D. Supreme Court is closed, is not to be open, if these two requirements are not complied with.

This Rule violates Article VI, Section 1 of the N.D. Constitution in that it limits or deprives the N.D. Supreme Court from exercising its complete appellate judicial power.

This Rule violates Article VI, Section 6, because appeals shall be allowed from decisions of lower courts to the supreme court as may be provided by law, not as allowed by a rule of court.

This rule deprives Larson of his complete and total statutory right to appeal pursuant to N.D.C.C. 28-27-01 because no statute limits an appellant's right to appeal to 38 pages and if the paragraphs are numbered. In fact, the statutes forbid this. Even if a statute allowed it, it would still violate the right of the party to have the benefit of the complete, total appellate judicial power of the N.D. Supreme Court.

This Rule violates N.D.C.C. 27-02-10 because no rule promulgated under section 27-02-08 may abridge or modify in any manner the substantive rights of any litigant, the (Constitutional and statutory) right in this case to appeal to the Court and to have the Court hear and determine the whole of his appeal or cause of action.

This Rule contradicts N.D.R.App.P, Rule 1, which says that no rule limits the jurisdiction of the supreme court to hear and determine an appeal.

The N.D. Supreme Court does not claim nor can claim any detriment inflicted upon itself because Larson's issues are many and so he appeals with more than 38 pages. The Court cannot suffer any detriment because it is the Court's job duty to hear and determine an appeal.

As regards not numbering the paragraphs, the Court does not claim or show a detriment or injury due to the paragraphs not being numbered. Or if possibly there is a detriment, it is of such a minor character as to be inconsequential, trivial.

Now certainly having the paragraphs numbered may make it slightly easier or more convenient to find what is being referred to on a certain page of a brief (if such a reference should arise in the appeal). But having this numbering would give only an

insignificant or minor convenience to this Court and to the other party and to any reader in general.

To require that an appellant must state his cause of action within 38 pages and number his paragraphs is being arbitrary, capricious and unreasonable, and thus contrary to due process of law.

This is because an average appellant's appeal brief may be said to be anywhere from probably an 8-page brief up to 38 pages. But the rule makes no provision for those appellants on the other side of the curve who have issues or causes which require more than 38 pages. And numbering the paragraphs provides no real benefit to the reader. In fact, depending on the format for numbering, whether inside the left margin as opposed to if the numbering is outside the margin, it makes the page messy, distracting from the brief. It adds unnecessary characters for the eye to process while reading, especially if inside the margin.

Note that the issue here is simply the length and lack of paragraph numbering of Larson's brief. No claim is made that Larson is abusing his right to state all his causes of action. No claim is made of detriment to anyone.

The other three requirements
in the "Notice".

The "Notice" listed three 'demands' or requirements in addition to the 38 page limitation.

First:

The Court's "Notice"/denial says that Larson must have (computer) page breaks between the cover, table of contents, table of authorities, and the brief.

His brief was submitted via a paper brief, not a digital brief, not e-mailed to the Court. This asks for the impossible, for the ludicrous, for silliness, for the absurd. N.D.C.C. 31-11-05(22) ("The law never requires impossibilities."). This is (going beyond) being arbitrary, capricious and unreasonable.

Second:

This "Notice" says Larson's brief should reference the record and if his brief references the appendix, he will need to file a corrected brief. Larson's brief does reference his appendix, but coextensive with it, it also referenced the record. That is, Larson's brief does reference the record.

To go back and delete the appendix reference, while the reference to the Docket Number or Register of Actions Number or Transcript page and line number is also there, is to require a 'useless' and 'vain' labor which the law forbids. N.D.C.C. 31-11-05(23) ("The law neither does nor requires idle acts."); Trustees of Huntington v. Nicoll, 3 Johns. 566, 598 (N.Y. 1808) ("It is one of the maxims of the common law, and which is a dictate of common sense, that the law "will not attempt to do an act which would be vain, or to enforce an act which would be frivolous. *Lex nil frustra facit. Lex non cogit ad vana seu inutilia.*"). To require this is to be arbitrary, capricious and unreasonable.

Third:

The "Notice" required that Larson number the paragraphs. Not only is that requirement void as discussed above with relationship to Rule 32(a)(7), it is also not needed as discussed below.

The three numbered 'requirements' listed in the "Notice" are minor or nonsensical and ludicrous

requirements. *"De minimis non currat lex."*--"The law does not notice or concern itself with trifling matters." Bouvier's Law Dictionary, 1914 Edition. "The law does not care for, or take notice of, very small or trifling matters." Black's Law Dictionary, Revised Fourth Edition, © 1968. *"Lex non curat de minimis."*--"The law does not regard small matters." Bouvier's. "The law cares not about trifles. The law does not regard small matters." Black's. "The law disregards trifles." N.D.C.C. 31-11-05(24).

Any benefit or convenience to be derived from complying with these rules and "Notice" requirements, is or would be so small that the law will not allow the noncompliance with these requirements to close the doors of this Court.

> Quoting: "The law takes no account of trifles. This is a maxim which relates to the ideal, rather than to the actual law. The tendency to attribute undue importance to mere matters of form-the failure to distinguish adequately between the material and immaterial-is a characteristic defect of legal systems. ... "Another vice of the law is formalism. By this is meant the tendency to attribute undue importance to form as opposed to substance, and to exalt the immaterial to the level of the material. It is incumbent on a perfect legal system to exercise a sound judgment as to the relative importance of the matters which come within its cognisance; and a system is infected with formalism in so far as it fails to meet this requirement, and raises to the rank of the material and essential that which is in truth unessential and accidental.

> Whenever the importance of a thing in law is greater than its importance in fact, we have a legal formality. The formalism of ancient law is too notorious to require illustration, but we are scarcely yet in a position to boast ourselves as above reproach in this matter. Much legal reform is requisite if the maxim *De minimis non curat lex* is to be accounted anything but irony." Max L. Veech & Charles R. Moon, *De Minimis Non Curat Lex*, 45 Mich. L. Rev. 537, 542-543 (1947).
>
> "There is a large group of cases, illustrative of this factor, involving the use of *de minimis* in connection with requests for new trials and with appeals based upon technical errors by a trial court or a jury. Typical of these cases is *Wolff v. Prosser* where a partition decree erroneously provided for distribution of $10 to a person not a party to the proceedings. The court said: "We think this is a proper case for the' application of the maxim, *de minimis* etc., and that the error was without substantial injury." Max L. Veech & Charles R. Moon, *De Minimis Non Curat Lex*, 45 Mich. L. Rev. 537, 552 (1947).

Numbering each paragraph, what little benefit or 'convenience', if any, it provides to this Court or to the Plaintiff/Appellee, or to the reader-at-large, is so little that it means 'nothing'. In fact, it is or can be distracting to the reader.

No detriment/injury is claimed or shown. And if it is possible that there is detriment due to the not

numbering of the paragraphs, it would be insignificant.

Requiring the paragraphs to be numbered and closing the courtroom doors if they are not numbered, is a making of a mere legal formality. It makes this requirement in to an "ideal law" as distinguished from being "actual or real law". This Rule and the Court's denial attributes undue importance to mere matters of form, is focusing on the immaterial and unessential as opposed to what is important.

Noncompliance with the three issues which are of a minor, insignificant or of little importance and which noncompliance does not prejudice anyone or probably would not have prejudiced anyone cannot affect the validity of an appellant's appealing to the N.D. Supreme Court. This is because the law disregards trifles. State ex Rel. State Bank v. Weiler, 67 N.D. 593, 594, 601-602 (N.D. 1937).

"The legal maxim *"de minimis non curat lex"* (sometimes rendered, "the law does not concern itself with trifles") insulates from liability those who cause insignificant violations of the rights of others." Ringgold v. Black Entertainment Television, Inc., 126 F. 3d 70, 74 (2nd Cir. 1997); Local No. 1179 v. Merchants Mutual Bonding Co., 228 Kan. 226, 229, 613 P. 2d 944 (1980) (To require the conduct would give no real benefit to the plaintiffs or to the surety. So the following maxim applies: *"Lex non praecipit inutilia, quia inutilis, labor stultus."*--"The law commands not useless things, because useless labor is foolish.").

Another reason
why the Rule and the Dismissal
are unconstitutional.

"All courts shall be open, ..." N.D. Constitution, Article I, Section 9.

> "RULE 45, N.D.R.App.P. DUTIES OF CLERK
> "(a) General Provisions. ...
> "(2) When Court is Open; Deadlines. The supreme court is deemed always open for filing any proper document, issuing and returning process, making a motion, and entering an order. ...".

As a point of interest, it is not 'necessary' to have an "all courts shall be open" provision or statement in a constitution. The reason for saying this is because the mere creation of the Appellate Court automatically provides for the fact that the Appellate Court must be open for the receipt of or filing of documents or papers which relate to an appeal or writ which invokes and prosecutes the appellate jurisdiction of the Court (or prosecutes the original jurisdiction of the Court).

This is due to the common law rule that the intention of the granter, (The People/Larson), when We created the State, was to make the creation effectual, useful to Larson, to The People.

> *"Quando aliquis aliquid concedit, concedere videtur et id sine quo res uti non potest."*— When a person grants anything, he is supposed to grant that also without which the thing cannot be used." Bouvier's. "When the

use of a thing is granted, everything is granted by which the grantee may have and enjoy such use." Black's.

"It is a maxim of the common law, that any one granting a thing impliedly grants that also without which the thing expressly granted cannot be had; or, as expressed more pertinently to the precise question here, by Twysden, J., in *Pomfret v. Ricroft*, 1 Saund. 321, "when the use of a thing is granted, everything is granted by which the grantee may have and enjoy such use." ... The foundation of it is the presumed intention of the grantor to make the grant effectual." Steam Stone Cutter Co. v. Shortsleeves, 22 F. Cas. 1168, 16 Blatchf. 381, 4 Ban. & A. 364 (Cir. Ct. Dist. Vt. 1879). Also see Fitzpatrick v. Mik, 24 Mo. App. 435, 437-438 (1887).

This maxim imputs or imports or inserts into the Appellate Court's procedure that the Court always be open for filing any proper document relating to an appeal (or writ or original jurisdiction power) so that the appellant or appellee can prosecute his appeal or defense.

"Whoever grants a thing is supposed also tacitly to grant that without which the grant itself would be of no effect. *Cuicunque aliquis quid concedit concederá oidetur et id sine quo res ipsa esse non pokdt. Liford's Case,* 11 Co. Rep. 52. The law enters-as a silent factor into every agreement. Stipulations which the law imports into a contract become as effectually a part of the contract as though they were

expressly written therein." Routh v. Boyd, 51 F. 821, 822 (Cir.Ct. Indiana 1892).

NDRAppP, Rule 32, Subsections (a)(7) and (a)(8)(A) and (c), and the other issues, which limit the Court's appellate judicial power or which forbids an appellant from being able to access the Appellate Court's jurisdiction or judicial power contradicts Rule 45 and the Open Court Clause, quoted above, contradicts the common law that the Court be open, contradicts that the Court is available to be used by the Creator and Owner of the Court for his use and benefit.

Rule 32 is also
a statute of outlawry,
a bill of pains and penalties, and
a denial of the equal protection of the law.

Rule 32 and the above issues can be condensed down to the point that Rule 32 is a statute of outlawry. Hovey v. Elliott, 167 US 409, 444 (1897).

Where those appellants or appellees whose cause of action for appeal requires more than 38 pages and where the other requirements are not necessary to be done, this Rule outlaws from the benefit of or the protection of the law that one has the right to access the complete appellate judicial power of the N.D. Supreme Court.

As regards the Fourteenth Amendment, the outlawry inflicted by Rule 32 as a due process of law issue is the same as the Fourteenth's "nor shall a State deny to any person the equal protection of the law". This is because all those appellants or

appellees who can state their case in 38 pages or less are allowed to invoke the benefit of the appellate judicial power of the N.D. Supreme Court, but those appellants on the other side of the curve who need more than 38 pages to state their case are denied the equal benefit and protection of being allowed to invoke the benefit of the appellate judicial power of the N.D. Supreme Court.

That is, Rule 32 also violates the equal protection of the law clause of the Fourteenth Amendment.

Outlawry is a denial to one or withholding from one of the full and complete benefit and protection of the law.

As such, a statute of outlawry (a statute masquerading as a Rule of Court) is a bill of pains and penalties (bill of attainder). Cummings v. Missouri, 71 U.S. 277, 323 (1867); Ullmann v. United States, 350 US 422, 451 footnote 5 (1956) ("The guarantee of jury trial and the prohibition of Bills of Attainder place beyond the pale the imposition of infamy or outlawry by either the Executive or the Congress. The penalties proscribed as Bills of Attainder extend to disqualification for government employment and outlawry from the professions.").

Here in this case, Rule 32 and the Court's Order arbitrarily, capriciously and unreasonably, *malum prohibitum*, automatically punishes the appellant because Larson raises all the causes of action for his appeal.

Rule 32 is a bill of pains and penalties.

It was an arbitrary, capricious and unreasonable action which the Clerk of Court and the N.D. Supreme Court did to Larson, using Rule 32 and the

other issues to deny Larson's access to their appellate judicial power.

Rule 32 is a prior public declaration by the Chief Justice and by all five of the Justices of the N.D. Supreme Court that they intend to and can and will censor because they made and wrote these rules.

Now certainly most of the rules may have been made and written by other prior justices, but since the supreme court is the one who makes and writes the rules, not the Legislature, then each current Court and Justice is liable for the rules because they can rewrite the rules themselves. Each current Court and Justice by necessary implication adopts the rules as they are appointed or elected and come into and join the court, unless they (each individually) repudiate the rule or rules. This is because they are the ones who have the power to make or revise the rules at any time as they please.

The N.D. Supreme Court was without jurisdiction to proceed forward in the case in the manner in which it proceeded. Or it was without jurisdiction to render the decision rendered. Its Order is void, *ultra vires*. They acted *coram non judice*.

A second issue.

A judge/justice should state his reasons
for his decision, put them in writing,
file his written ruling in the record,
and the clerk of court should
keep, preserve, and protect the document
in the court file, and
make it public and
accessible to the Public.

"When a judgment or order is reversed, modified, or confirmed by the supreme court, the reasons shall be concisely stated in writing, signed by the justices concurring, filed in the office of the clerk of the supreme court, and preserved with a record of the case. Any justice dissenting may give the reason for his dissent in writing over his signature." N.D. Constitution, Article VI, Section 5.

N.D.C.C. 27-02-23. "Decisions must be written - Filing - Requirement. The supreme court, in any case decided by it, shall give its decision in writing, which must be filed with the clerk of said court with the other papers in the case. A decision in a case heard at a general or special term, and all orders affecting the same, may be filed in vacation, and judgment entered thereon in pursuance of the finding and order of the court with the same effect as upon a decision made and filed in that term."

The rule of law declares
that the Chief Justice and the Court
are being arbitrary, capricious and unreasonable
against Larson (and The People).

The Chief Justice and the Court did not give any reason for their denial of Larson's claim of the illegality and unconstitutionality of the censorship rules. All they did was cite Rule 32 in answer to Larson's claim of its illegality.

Since they ignored the issues, they were being arbitrary, capricious and unreasonable, contrary to due process of law. Common sense says this.

But to make the law clear:

> N.D.C.C. 31-11-05(21). "That which does not appear to exist is to be regarded as if it did not exist." This is simply a codification of the common law.
>
> *"De non apparentibus et non existentibus eadem est ratio."*--"The law is the same respecting things which do not appear and things which do not exist." Bouvier's Law Dictionary, 1914 Edition. "As to things not apparent, and those not existing, the rule is the same." Black's Law Dictionary, Revised Fourth Edition, ©1968.
>
> Daniels v. Tearney, 102 US 415, 421 (1880) ("In the case in hand the obligee must be deemed wholly innocent, because the contrary is not alleged, and it does not appear. *Quod non apparet, non est. De non apparentibus et non existentibus, eadem est ratio.").*
>
> THE UNITED STATES v. WILKINSON ET AL., 53 US 246, 253-254 (1851). ("If there was

> any fact which, notwithstanding the authentication of the copy, made it inadmissible, it ought to have been shown by the defendants, and set forth in the exception. And where no such fact appears, it must be presumed not to exist. ... "*De non apparentibus et de non existentibus eadem est ratio*," is an old and well-established maxim in legal proceedings, and is founded on principles of justice as well as of law.").
>
> *"Idem non esse et non apparere."*--"It is the same thing not to exist and not to appear." Bouvier's. *"Idem est non esse, et non apparere."*--It is the same thing not to be as not to appear. Not to appear is the same thing as not to be." Black's; Neslin v. Wells, 104 US 428, 439 (1882).

Since no reason is given why the rules of censorship are legal, constitutional, why Larson's reasoning is in error, all they cite in answer is they cite the Rule as their answer, (the Chief Justice and the Court have and can have no reason to say the censorship is constitutional), the law presumes they have no reason to deny Larson's claim of unconstitutionality, the law presumes the Rule is unconstitutional.

Censorship is a prior deprivation of a right or duty, and so it is automatically unconstitutional, presumed unconstitutional. It may be legal, but only if and after a valid justification is presented to justify the prior taking or depriving. For example, to illustrate: as in the recent news, classifying military

documents or information is a censorship against government employees, because it is contrary to the rule that government, its employees, are to be always open. But this particular censorship may be justified.

> Larson is not here intimating that Trump did a wrong. He did no crime. No crime occurred because the Federal statutes and President Obama's Executive Order Number 13526 do not censor a president nor an ex-president. The criminalized trover and conversion statute which Trump was charged with cannot state a cause of action for trover and conversion because an ex-president owns the 'classified' documents he takes with him, because the statutes say he can do anything he chooses to do with them, and because the statutes intentionally do not give the government jurisdiction over an ex-president and his classified documents in this situation.

The common law
says that a judge/justice
cannot just cite the rule as an answer
to an attack upon the validity of that rule.

The Court cited Rule 32 as an answer to Larson's points of law against the rule to say that the Rule is legal.

The maxims of law say that when a party/Larson attacks a statute/rule, that the opposing party (or the court) cannot cite that statute as an answer to the point or argument made against it.

In reality, their ruling is that Rule 32 is constitutional because the Rule exists, and so proves

itself! They used circular reasoning to say the rule is legal! See the following maxims of law:

"Exceptio ejus rei cujus petitur dissolutio nulla est."--"A plea of that matter the solution of which is the object of the action is of no effect." Bouvier's. "A plea of that matter the dissolution of which is sought [by the action] is null [or of no effect]. Black's.

"Non debet adduci exceptio ejus rei cujus petitur dissolutio."--"A plea of the very matter of which the determination is sought ought not to be made." Bouvier's. "A plea of the same matter the dissolution of which is sought [by the action] ought not to be brought forward." Black's.

"Non potest adduci exceptio ejusdem rei cujus petitur dissolutio."--"A plea of the same matter, the determination of which is sought by the action, cannot be brought forward. (When an action is brought to annul a proceeding, the defendant cannot plead such proceeding in bar.) Bouvier's. "An exception of the same thing whose avoidance is sought cannot be made." Black's. Quinn *v.* Brown, 159 La. 570, 576, 105 So. 624 (La. 1925); Ghidoni *v.* Stone Oak, Inc., 966 S.W.2d 573, 592 (Tex. App. 1998) (Dissenting opinion).

"Non valet exceptio ejusdem rei cujus petitur dissolutio."--"A plea of that of which the determination is sought is not valid." Bouvier's. "A plea of the same matter the dissolution of which is sought, is not valid. Called a "maxim of law and common sense."" Black's.

> The maxims of law really are just plain, good 'ol common sense. Ventress v. Smith, 35 U.S. (10 Pet.) 161, 175, 9 L.Ed. 382 (1836) (A maxim of law is "a plain dictate of common sense.").

The above maxims are based on the rule of *petitio principa*. McManus v. O'Sullivan, 48 Cal. 7, 11 (1874) (Argument of attorney). *Petitio principa* means: a fallacy in which a conclusion is taken for granted in the premises; a begging the question. "It is a logical fallacy in which a premise is assumed to be true without warrant or in which what is to be proved is implicitly taken for granted." Webster's Third New International Dictionary, ©1976. See Jasmine Networks, Inc. v. Superior Court, 180 Cal. App. 4th 980, 1005, 103 Cal. Rptr. 3D 426 (2009); State v. Hughes, 392 P. 3d 4, 11 footnote 3 (Idaho 2014); Burd v. Smith, 4 US 76, 87 (1788).

Since a litigant cannot raise Rule 32 as a defense to the attack on it, then certainly a court cannot cite Rule 32 as the reason to say it is constitutional or to rule against the issues Larson raised. A court cannot make valid that which is invalid for a party to do!

Of course, standing alone, not relying on the above maxims, a court can not use circular reasoning as a reason for its ruling, the rule exists, therefore it is constitutional!

The Court is to address the issue(s) raised by Larson. In this case, because the Court did not address the issues raised by Larson, the law presumes it is because the rule is unconstitutional, Larson's issues are correct.

A third rule of the common law.

There also is a third common law principle which imputes or imposes upon a judge/justice the affirmative duty to (1) to give his reason(s) for his decision, (2) to put it in writing, (3) to file his opinion or order with the Clerk of Court's Office, and (4) for the Clerk of Court to preserve and protect the written decision filed with her Office in that case, to keep it as a record, to not remove or otherwise destroy it, and to make and keep it public or available to the People.

To put the Peoples' grant of judicial power into the intended effect of making it useful and beneficial to the People, the grant of judicial power imputes, mandates, imposes upon, requires and gives a judge/justice and the Clerk of Court the duty to do the above four affirmative duties, for the edification of the Parties and also the People so that they can know what is the law and the reason for the law in that particular situation, and also so that the People can know what their civil servant is doing, how he is doing his job, so that the People can know whether to keep or get rid of their civil servant.

Repeating what was quoted above:

> *"Quando aliquis aliquid concedit, concedere videtur et id sine quo res uti non potest."*— When a person grants anything, he is supposed to grant that also without which the thing cannot be used." Bouvier's. "When the use of a thing is granted, everything is granted by which the grantee may have and enjoy such use." Black's.

> "It is a maxim of the common law, that any one granting a thing impliedly grants that also without which the thing expressly granted cannot be had; or, as expressed more pertinently to the precise question here, by Twysden, J., in *Pomfret v. Ricroft*, 1 Saund. 321, "when the use of a thing is granted, everything is granted by which the grantee may have and enjoy such use." ... The foundation of it is the presumed intention of the grantor to make the grant effectual." Steam Stone Cutter Co. v. Shortsleeves, 22 F. Cas. 1168, 16 Blatchf. 381; 4 Ban. & A. 364 · (Cir. Ct. Dist. Vt. 1879). Also see Fitzpatrick v. Mik, 24 Mo. App. 435, 437-438 (1887).

This maxim imputes, imports or inserts into the grant of judicial power to the government, that it is imposed upon a judge/justice the duty to give his reasons for his ruling, to put them in writing, and to have them filed so that they are memorialized or preserved for all to see, read and know.

> *"Cuicunque aliquis quid concedit concedere videtur et id sine quo res ipsa esse non potuit."*--"Whoever grants a thing is supposed also tacitly to grant that without which the grant itself would be of no effect. Bouvier's. "Whoever grants anything to another is supposed to grant that also without which the thing itself would be of no effect." Black's.
>
> "Whoever grants a thing is supposed also tacitly to grant that without which the grant itself would be of no effect. *Cuicunque aliquis*

quid concedit concedere videtur et id sine quo res ipsa esse non potuit. Liford's Case, 11 Co. Rep. 52. The law enters-as a silent factor into every agreement. Stipulations which the law imports into a contract become as effectually a part of the contract as though they were expressly written therein." Routh v. Boyd, 51 F. 821, 822 (Cir.Ct. Indiana 1892).

Also see People v. Hicks, 15 Barb. 153, 160, 164 (N.Y. 1853) (" ... that when the statute gave power to justices of the peace to require any person or persons to take the oath, the law impliedly gave them power to make a warrant to have the body before them; for *quando lex aliquid alieni concedit, conceditur et id sine que res ipsa esse non potest.*" Id., page 160. "It is also a fundamental rule, in the construction of statutes as well as constitutions, that the grant of an express power carries with it, by necessary implication, every other power necessary and proper to the execution of the power expressly granted." Id., page 164.).

Also see Sterricker v. Dickinson, 9 Barb. 516, 518 (N.Y. 1850); Troup v. Hurlbut, 10 Barb. 354, 359 (N.Y. 1850)

"Quando aliquid conceditur, conceditur id sine quo illud fieri non possit."--"When anything is granted, that also is granted without which it cannot be of effect." Bouvier's.

Note that the N.D. Constitution, Article VI, Section 5, and its corresponding statute, N.D.C.C. 27-

02-23, evinces this intent and purpose as it relates to ruling on the appeal.

But the grant of judicial power also applies as it relates to any ruling made by the Appellate Court with respect to any issue which arises prior to deciding and ruling on an appeal, such as in this case, this due to the above cited common law rule of the effect of a granting.

The common law does not allow it to be presumed that the People made the grant of judicial power to the State to be useful and beneficial for the People only for when ruling on the merits of the appeal, but not useful and beneficial for the parties and the People when ruling on other or preliminary or procedural issues prior to ruling on the merits of the appeal and thereby defeat, denigrate, or otherwise impair or lessen the appeal. This is because not giving a reason for their ruling, ordering, not adjudicating, is being arbitrary, capricious and unreasonable, violates the process of the law due one. And The People put in the N.D. Constitution that the Government must not violate due process of law, therefore must not rule arbitrarily, capriciously and unreasonably.

CONCLUSION

All of the points of State statute and N.D. Constitutional provision, the common law, one's natural, inalienable rights, raised in this Petition, are protected or guaranteed to the People of a State by the U.S. Constitution, by the Fourteenth Amendment due process of law and equal protection

of the law clauses, by the Guarantee to the State of a Republican Form of Government Clause, and that no State shall pass a bill of pains and penalties/bill of attainder clause.

The issues raised in this case about the rules of court and giving reasons appear to be issues which have never been addressed or raised before, but should be addressed and ruled on for the benefit and use of The People, including Larson.

Also, this Petition clarifies what it is which really gives this Court appellate subject matter jurisdiction under 28 U.S.C. 1257.

The Chief Justice and the N.D. Supreme Court were without jurisdiction to render the decision rendered, or were without jurisdiction to proceed forward in the manner they proceeded. Their conduct is void, *ultra vires*. They acted *coram non judice.*

Wherefore, Larson prays that this U.S. Supreme Court grant this petition for a writ of certiorari.

Dated this 1st day of August, 2024.

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