No: 24-432

SUPREME COURT OF THE UNITED STATES

WILLIAM F. KAETZ, Petitioner

vs.

EDUCATIONAL CREDIT MANAGEMENT CORPORATION, EXPERIAN, TRANSUNION, EQUIFAX

Respondents

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

Date: 10 12 2024 By: [signature]

William F. Kaetz, Petitioner
437 Abbott Rd.
Paramus N.J. 07652
201-753-1063
kaetzbill@gmail.com

Question to Consider

Can this Court, consistently with its obligations to uphold and to enforce the Constitution, trade the constitutionally guaranteed rights of millions of people to the protections of the Constitution's enumerated separation of powers and its bill of rights, for the possibility of avoiding some difficulties that may arise from the finding of a separation of powers offense in student loan bankruptcy matters?

Parties to the Proceeding

Petitioner is William F. Kaetz, a 60-year-old carpenter, a citizen of the United States of America, citizen of the State of New Jersey, residing and domiciled at 437 Abbott Road, Paramus New Jersey, 07652.

Respondents are: Educational Credit Management Corporation, (ECMC), 2, 1 Imation Pl, Washington County, Oakdale, MN, 55128 (A student loan collection company); Experian, P.O. Box 4500, Collin County, Allen, TX, 75013 (A credit reporting company); Transunion, P.O. Box 2000, Delaware County, Chester, PA, 19022-2000 (A credit reporting company); Equifax, P.O. Box 740256, Fulton County, Atlanta, GA, 30374 (A credit reporting company).

Related Proceedings

United States District Court of the District of New Jersey, Newark Vicinage:

Kaetz v. Educational Credit Management Corporation et. al., Case 2:16-cv-09225-EP-LDW

United States Court of Appeals for the Third Circuit:

Kaetz v. Educational Credit Management Corporation et. al. Case 20-2592

United States Court of Appeals for the Third Circuit:

Kaetz v. Educational Credit Management Corporation et. al. Case 23-2897

United States Supreme Court:

Kaetz v. Educational Credit Management Corporation et. al. No. 21-8026

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Introduction

William F. Kaetz, a 60 year-old carpenter, self-represented in these matters, respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit, and the judgements of the District Court of New Jersey, Newark vicinage, concerning William Kaetz's Fed. R. Civ. P. Rule 60 motion to vacate the orders dismissing the case on fraud on the court grounds.

The lower courts conflict with a holding of this Court in *Egbert v. Boule*, 142 S. Ct. 1793, 1809 (2022); "Our Constitution's separation of powers prohibits federal courts from assuming legislative authority."

Jurisdiction

William Kaetz, on September 11, 2024, originally sent by FedEx this Petition for Writ of Certiorari within the 90-day time limit of the Appeal Court's denial of the rehearing, it was received by this Court on September 17, 2024. The jurisdiction of this Court was invoked under 28 U. S. C. § 1254(1). The court clerk ordered the petition to be in booklet format and ordered the filing to be re-done within sixty days of the clerk's letter of September 17, 2024. This new filing is in booklet format with deficiencies corrected and is within the sixty-day time limit. The jurisdiction of this Court is under 28 U. S. C. § 1254(1).

Procedural History

On 12/13/2016, William Kaetz filed his original complaint against the Respondents for illegal debt collection practices and illegal credit reporting practices and contempt of a general bankruptcy order discharging all debts. On 9/30/2019 the case was dismissed. The case was appealed all the way to this Court. It was denied.

After new self-authenticating evidence on 3/1/2023, Mr. Kaetz filed a Rule 60 motion to vacate the lower court's orders and reopen the case under the claim of 'fraud on the court'. On 10/5/2023 the motion was dismissed. On 10/11/2023 Mr. Kaetz filed a motion for reconsideration, on 10/12/2023 it was denied. After exhaustion of remedies in the District Court, on 10/16/2023 Mr. Kaetz filed a notice of appeal. On 6/18/2024, the appeal was denied. On 6/29/2024 a Petition for Rehearing was filed; on 7/23/2024 it was denied. After exhaustion of remedies in the Appeals Court, Mr. Kaetz files this petition to the United States Supreme Court for a writ of certiorari.

Statement of Facts

1. William Kaetz petitions for a writ of certiorari for this Court to reexamine his findings, requests this Court to grant this petition for writ of certiorari because there are conflicts between this Court's holdings and directives, enforce the Constitution, correct the conflicts, and reverse the lower courts' judgements.

2. Explained with authorities, in 1978, The Justice Department started to process and administer a textbook and legislative history as the constitutional law in student loan bankruptcy proceedings biasing student loan debtors and depriving liberty; the act is offensive to the separation of powers enumerated in the Constitution and conflicts with this Court's holding; "Our Constitution's separation of powers prohibits federal courts from assuming legislative authority." *Egbert v. Boule*, 142 S. Ct. 1793, 1809 (2022).

3. In 2016 William Kaetz brought this civil complaint against the Respondents because they were involved in the collection of student loans after his bankruptcy discharge in the District Court of New Jersey, Newark vicinage. The lower courts and the Respondents continued the separation

of powers offense that has been going on since 1978[1] that is an intentional fraud by officers of the court which is directed at the court itself that in fact deceives the court.

Findings That Prove the Justice Department's Separation of Powers Offense in Student Loan Bankruptcy Matters

4. In 1978, in student loan bankruptcy matters, the Judicial Department started the processing and administering a textbook and legislative history as constitutional law evidenced in the obiter dicta of *Tennessee Student Assistance Corporation v. Hood*, 541 U.S. 440, 450 (2004) (1978). The obiter dicta suggested a textbook, Norton § 47:52, at 47-137 to 47-138, and a legislative history note of 11 U.S.C. 523 (a)(8) that quotes a summary of a Senate. Report no. 95-989, p. 79 (1978), as a means to interpret, process, and administer 11 U.S.C. 523 (a)(8), it says:

> "Section 523(a)(8) is "self-executing." Norton § 47:52, at 47-137 to 47-138; see also S. Rep. No. 95-989, p. 79 (1978). Unless the debtor affirmatively secures a hardship determination, the discharge order will not include a student loan debt. Norton § 47:52, at 47-137 to 47-138."

5. The Justice Department processes and administers the obiter dicta above as constitutional law. The obiter dicta above had nothing to do with the *Hood* Court's holding, it

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[1] The lower courts' determinations processing and administering obiter dicta, a textbook, and legislative history of 11 U.S.C. § 523(a)(8) as constitutional law (the *Hood* interpretation) is throughout the case of *William Kaetz v. Educational Credit Management et. al.*, 2:16-cv-09225 and its appeal that deprived William Kaetz of constitutional protections of life, liberty, the pursuit of happiness,; the enumerated separation of powers; the bill of rights; deprived protections of the the Fair Debt Collection Practices Act and the Fair Credit Reporting Act; and deprived protections of bankruptcy. See a13 to a15 and a21 to a23.

does not have the weight as clearly established law from a holding from this Court.

6. This Court explained twenty two years after the *Hood* case; "Clearly established federal law ... refers to the holdings, as opposed to the dicta..." *Williams v. Taylor*, 529 U.S. 362, 412 (2000).

7. The obiter dicta also conflict with this Court's other holdings that happened before and after the *Hood* case that carry more weight.

8. The legislative history note being processed and administered as the law is a mere summary and opinion from someone, and it is for a repealed older version of 11 U.S.C. § 523(a)(8). The history note is not the same as the one found in the Library of Congress as PUBLIC LAW 96-56—AUG. 14, 1979.

9. Whatever congress intended in 11 U.S.C. § 523(a)(8) is written in the language of the current bankruptcy statute itself, and it is a compromise that does not burden debtors or creditors, it does not take sides, it is ambiguous. 11 U.S.C. § 523(a)(8) only says: "unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents". The statute does not explain who, what, where, when, and how? The statute is ambiguous, it is void for vagueness.

10. The lower courts explained[2] that student loan debt is presumptively nondischargeable under § 523(a)(8), and that Kaetz had not filed an adversary proceeding to determine

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[2] See *William Kaetz v. Educational Credit Management et. al.*, 2:16-cv-09225, Document 99 Filed 09/30/19, a21 to a23, See Appeal 20-2592 Document 52 Filed: 04/04/2022 a13 to a15; the lower Courts relied on obiter dicta from *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260 (2010) that relies heavily in the *Hood* interpretation.

whether his debt could be discharged. But there is no requirement under § 523(a)(8) for Kaetz to file an adversary hearing, there is no instructions at all. The lower courts' determinations originate from the *Hood* case interpretation.

11. 11 U.S.C. § 523(a)(8) does not say much, so the Justice Department went into the legislative history, and processed legislative history as the law.

12. This Court explained forty-two years after the *Hood* case; "With so little in statutory text to work with, the government and the plurality "can't resist" highlighting certain statements from the Act's legislative history. But "legislative history is not the law."" (*Gundy v. United States*, 139 S. Ct. 2116, 2147 (2019) (Justice Gorsuch, with whom The Chief Justice and Justice Thomas join, dissenting)). The *Gundy* case held: "The nondelegation doctrine bars Congress from transferring its legislative power to another branch of Government." *Gundy at* 2121. The *Gundy* case tells us legislative history is not the law, bars Congress from giving legislative power to the Justice Department, bars the Justice Department from processing and administering legislative history as the law and from assuming legislative power. "The Constitution promises that only the people's elected representatives may adopt new federal laws restricting liberty." *Gundy* at 2131.

13. Applying this Court's decrees to this case, the Justice Department lacks constitutional authority and jurisdiction to process and administer obiter dicta, a textbook, and legislative history as the constitutional law to restrict liberty in student loan bankruptcy matters.

14. Fifteen years after the *Hood* case this Court has instructed us in *Conroy v. Aniskoff*, 507 U.S. 511 (1993), at 519, (Justice Scalia, concurring in the judgment) that:

> "The greatest defect of legislative history is its illegitimacy. We are governed by laws, not by the intentions of legislators. As the Court said in 1844: "The law as it passed is the will of the majority of both houses, *and the only mode in which that will is spoken is in the act itself*. . . ." *Aldridge v. Williams*, 3 How. 9, 24 (emphasis added). But not the least of the defects of legislative history is its indeterminacy. If one were to search for an interpretive technique that, *on the whole*, was more likely to confuse than to clarify, one could hardly find a more promising candidate than legislative history".

Applying this Court's directives, the Justice Department using legislative history to interpret laws is illegitimate.

15. Eighteen years after the *Hood* case, this Court makes clear in *Bank One Chicago, N. A. v. Midwest Bank Trust Co.*, 516 U.S. 264, 279 (1996) (Justice Scalia, concurring in part and concurring in the judgment) that "a law means what its text most appropriately conveys, whatever the Congress that enacted it might have "intended." The law *is* what the law *says*, and we should content ourselves with reading it rather than psychoanalyzing those who enacted it." Referencing *United States v. Public Util. Comm'n of Cal.*, 345 U.S. 295, at 319 (1953) (Jackson, J., concurring). Twenty-five years before the *Hood* case Mr. Justice Jackson, in his concurrence said;

> "I should concur in this result more readily if the Court could reach it by analysis of the statute instead of by psychoanalysis of Congress. When we decide from legislative history, including statements of witnesses at hearings, what Congress probably had in mind, we must put ourselves in the place of a majority of Congressmen and act according to the impression

> we think this history should have made on them. Never having been a Congressman, I am handicapped in that weird endeavor. That process seems to me not interpretation of a statute but creation of a statute."

Sixteen years after *Hood*, this court held the opinion that it is beyond the province of the Judicial Department to rescue Congress from its drafting errors, and to provide for what they might think the statute should say. (See *United States v. Granderson*, 511 U.S. 39, 68 (1994)).

16. Applying these rulings and opinions held by this Court, defects of a statute are corrected by Congress, not the courts, and using legislative history and a textbook as the law or to interpret the law, because it is a psychoanalysis of Congress intent, is not interpretation of a statute but an act in the creation of a statute. It is entering the legislative dimension and assuming legislative powers.

17. Ten years after and twenty-seven years before the *Hood* case, this Court clarified in *United States v. Taylor*, 487 U.S. 326, 345-46 (1988) (Justice Scalia, concurring in part) and in *Schwegmann Bros. v. Calvert Corp.*, 341 U.S. 384, 396-97 (1951) (Mr. Justice Jackson, whom Mr. Justice Minton joins, concurring) that "For us to undertake to reconstruct an enactment from legislative history is merely to, involved the courts in political controversies which are quite proper in the enactment of a bill but should have no place in its interpretation." "We should not look to the legislative history at all."

18. Applying this Court's wisdom and direction we can inconclusively see the act of processing and administering a textbook and legislative history as the law, even using them for interpretation, is entering the legislative dimension, a separation of powers offense.

19. Seven years after *Hood*, This Court makes clear in *United States v. Albertini*, 472 U.S. 675 (1985), at 680, that Courts in administering laws "generally must follow the plain and unambiguous meaning of the statutory language. *Garcia v. United States*, 469 U.S. 70, 75 (1984); *United States v. Turkette*, 452 U.S. 576, 580 (1981).

> "[O]nly the most extraordinary showing of contrary intentions" in the legislative history will justify a departure from that language. *Garcia*, supra, at 75. This proposition is not altered simply because application of a statute is challenged on constitutional grounds. Statutes should be construed to avoid constitutional questions, but this interpretative canon is not a license for the judiciary to rewrite language enacted by the legislature. *Heckler v. Mathews*, 465 U.S. 728, 741-742 (1984). Any other conclusion, while purporting to be an exercise in judicial restraint, would trench upon the legislative powers vested in Congress by Art. I, § 1, of the Constitution. *United States v. Locke*, 471 U.S. 84, 95-96 (1985). Proper respect for those powers implies that "[s]tatutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Park 'N Fly v. Dollar Park and Fly, Inc.*, 469 U.S. 189, 194 (1985)."

All told by this Court, processing and administering legislative history and a textbook as the law trenches upon the legislative powers vested in Congress by Art. I, § 1, of the Constitution. It is a separation of powers offense.

20. The Justice Department simply cannot create or change constitutional law with obiter dicta, legislative history and a textbook. "Our Constitution's separation of

powers prohibits federal courts from assuming legislative authority." *Egbert v. Boule*, 142 S. Ct. 1793, 1809 (2022). All the above overrule the *Hood* case obiter dicta.

15. It is reasonable to correct the constitutional error that benefits millions of people.

The Fraud on the Court, If Recognized by the Court, Would Reverse the Case in Favor of William Kaetz

21. Incorporating all the above, if the separation of powers offense explained above was recognized by the Justice Department, it would reverse this case in favor of William Kaetz. The 'fraud on the court' is the Justice Department's willful failure to recognize the separation of powers offense and the Respondents promoting it.

22. The Justice Department and the Respondents willfully shut their eyes to real facts that prove a separation of powers offense that deprives rights. That is an intentional fraud by officers of the court which is directed at the court itself that in fact deceives the court. See *Herring v. United States*, 424 F.3d 384, 390 (3d Cir. 2005) See also *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944).

23. "A Court is not at liberty to shut its eyes to an obvious mistake." *Baker v. Carr*, 369 U.S. 186, 214 (1962). Federal actors shutting their eyes to real facts that prove a separation of powers offense that deprives rights is an intentional wrongful treacherous act against the Constitution and what it stands for. It is legal malpractice. It is fraud on the court.

The Lower Courts' Decisions is Contrary to Clearly Established Law Established by the Constitution and This Court

24. Incorporating all the above, the Justice Department's decisions in this case are contrary to clearly established

constitutional law established by the Constitution and this Court. "A decision is "contrary to" clearly established federal law when it applies a rule different from that set forth by the Supreme Court or if it decides a case differently than the Supreme Court on essentially the same facts." "As relevant here, a decision is "contrary to" clearly established federal law if it "applies a rule different from the governing law set forth in our cases." *Bell v. Cone* , 535 U.S. 685, 694, 122 S. Ct. 1843, 152 L.Ed.2d 914 (2002)." *Shoop v. Cassano*, 142 S. Ct. 2051, 2053 (2022).

25. Before the *Hood* case, and after the *Hood* case, applying this Court's wisdom and direction we can inconclusively see this Court's protection for the separation of powers enumerated in the Constitution. The Justice Department, including the Respondents, acted contrary to the clearly established federal law established by the Constitution and this Court concerning student loans and bankruptcy. This is a structural error for reversal of the case.

The Judicial Department's Primary Official Duty is the Enforcement of the Constitution

26. This Cout tells us: "The responsibility of this Court, however, is to construe and enforce the Constitution and laws of the land as they are and not to legislate social policy on the basis of our own personal inclinations." *Evans v. Abney*, 396 U.S. 435, 447 (1970), "Our duty is to enforce the Constitution as written, not as revised by private consent, innocuous or otherwise. " *Wellness Int'l Network, Ltd. v. Sharif*, 575 U.S. 665, 706 (2015). "Of course, it "goes without saying" that practical considerations of efficiency and convenience cannot trump the structural protections of the Constitution. *Stern*, 564 U.S., at ——, 131 S. Ct., at 2619; see *Perez*, 575 U.S., at ——, 135 S. Ct., at 1223–1224 (Thomas, J., concurring in judgment) ("Even in the face of perceived necessity, the Constitution protects us from

ourselves.") *Wellness Int'l Network, Ltd. v. Sharif*, 575 U.S. 665, 703 (2015).

27. And the N.J. Supreme Court tells us:

> "Courts have many obligations including the interpretation of statutes, the application of common and statutory law, the doing of equity, the weighing of proofs as justifying trial judgment, the scrutiny of executive or administrative actions claimed to be arbitrary or illegal, and the like. None transcends (although all are involved in and spring from) the specific obligation of courts to uphold and enforce the Constitution. *Vreeland v. Byrne*, 72 N.J. 292, 324 (N.J. 1977),

and "We may not build houses, but we do enforce the Constitution." *Hills Dev. Co. v. Bernards Tp. in Somerset Cty*, 103 N.J. 1, 24 (N.J. 1986)

28. Courts "should enforce the Constitution as the supreme law of the land ... the plain duty of the court was to follow and enforce the Constitution as the supreme law established by the people." *Muskrat v. United States*, 219 U.S. 346, 358 (1911).

29. "The real question is: can this Court, consistently with its obligations to uphold and to enforce the Constitution, trade the constitutionally guaranteed rights of [millions of people to the protections of the Constitution's enumerated separation of powers and its bill of rights, for the possibility of avoiding some difficulties that may arise from the finding of a separation of powers offense in student loan bankruptcy matters.] I do not see how this question can be answered in any way but in the negative." *Robinson v. Cahill*, 67 N.J. 35, 43 (N.J. 1975) [quoted words added, original words omitted].

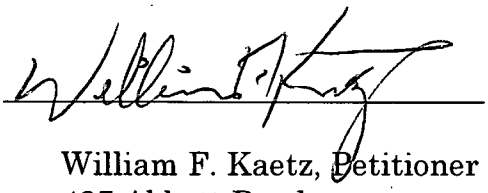
Relief Sought

William Kaetz requests this Court to grant this petition for writ of certiorari, reexamine the matters presented herein, enforce the Constitution, and if William Kaetz is correct, reverse the lower courts' judgements, declare 11 U.S.C. § 523(a)(8) unconstitutional for being void for vagueness, and the Respondents' collection activity of student loans illegitimate.

Certification

I, William F. Kaetz, swear under penalty of perjury all statements herein are true.

Respectfully.

Date: 10/12/2024 By: 

William F. Kaetz, Petitioner
437 Abbott Road,
Paramus NJ, 07652
201-753-1063
kaetzbill@gmail.com