

24-5208

IN THE

SUPREME COURT OF THE UNITED STATES

No.:

FILED

JUL 19 2024

OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

IN RE:

DAIMEYAHN STEVENSON

PETITION FOR WRIT OF MANDAMUS

Daimeyahn Stevenson #218645
David Wade Correctional Center
670 Bell Hill Rd.
Homer, LOUISIANA 71040

Pro Se Petitioner

Relator is a layman and prays that this Honorable Court
give this Petition a liberal construction.

See: Haines v. Kerner, 404 U.S. 519
(1972)

QUESTION PRESENTED

WHETHER A COURT WHICH HAS LAWFUL JURISDICTION OF A CASE
MAY BE PERMITTED BY AN ERRONEOUS OR ARBITRARY ORDER TO
DIVEST ITSELF OF JURISDICTION?

PARTIES

The Relator, Daimeyahn Stevenson is a prisoner at David Wade Correctional Center in Homer, LOUISIANA. The Respondent is the Honorable Judge Ivan L.R. Lemelle, U.S. District Court for the Eastern District of Louisiana.

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The opinions of the United States Court of Appeals for the Fifth Circuit appear at Appendix "D" and "F" of the Petition respectively and are unpublished.

The opinion of the District Court appears at Appendix "B" of the Petition and it is unpublished.

JURISDICTION

The date on which the U.S. Court of Appeals decided my case was 1-11-24. A timely Petition for Rehearing was denied on 4-23-24, and a copy of the Order denying Rehearing appears at Appendix "G".

The Jurisdiction of this Court is invoked under the provisions of 28 U.S.C. § 1651 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

This case involves Amendment I to the United States Constitution which provides:

"Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble; and to petition the government for a redress of grievances."

This case involves Amendment V to the United States Constitution which provides:

"No person shall be ... deprived of life, liberty, or property without Due Process of Law."

This case involves Amendment XIV to the U.S. Constitution which provides:

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

This case involves 28 U.S.C. § 1291 which provides:

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

This case involves 28 U.S.C. § 1331 which provides:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

This case involves 28 U.S.C. § 2244 (B)(3)(A) which provides:

(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

This case involves 28 U.S.C. § 2253 (C)(1) which provides:

(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from--

(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

(B) the final order in a proceeding under section 2255.

This case involves 28 U.S.C. § 1651 which provides:

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

STATEMENT OF THE CASE

On 9-30-22, Relator filed a civil action in the U.S. District Court for the Eastern District of Louisiana challenging the Constitutionality of a State rule of appellate procedure as applied (Case No. 2:22-cv-3512, See Appendix "A"). The rule was promulgated by the Louisiana Supreme Court in a series of cases, and applied in Relator's case. The action arises under the 14th Amendment to the Constitution of the United States and was brought pursuant to 28 U.S.C. § 1331, naming the Louisiana Supreme and the Louisiana Appellate Project as the Defendants and seeking injunctive and declaratory relief (See Appendix "A"). On 1-9-23, the District Court entered an order construing the action as a Habeas application, and finding it a Second or Successive Application under under 28 U.S.C. § 2244 (b)(1), the District Court dismissed the action for want of jurisdiction citing 28 U.S.C. § 2244 (b)(3)(A). (See Appendix "B").

An appeal pursuant to 28 U.S.C. § 1291 was timely filed on 4-12-23, Case No. 23-30079, challenging the District Court's construction of Relator's action and relying on Gonzalez v. Crosby, 545 U.S. 524, 125 S.Ct. 2641, 162 L.Ed.2d 480, to show that by the definition of an "application for habeas relief" announced in that case, Relator's civil action could not lawfully be construed as an Application for Habeas relief (See Appendix "C"). Petitioner's appeal was brought pursuant to 28 U.S.C. 1291, nevertheless, the Circuit Court Judge treated the appeal as a request for a COA pursuant to 28 U.S.C. 2253 (c)(1) and issued a denial based on that premise without reaching the merits on 5-22-23, in an unpublished order; thus appellate review was defeated. Being without remedy, Relator next sought redress through Mandamus in the Fifth Circuit Court of Appeals of the United States, Case No. 23-30722, asserting that the District Court's order is in conflict with Gonzalez v. Crosby, 545 U.S. 524, and designed to evade both lawful jurisdiction and appellate review and that the Circuit Court judge has sanctioned a gross departure by the District Court by treating Relator's appeal as of right pursuant to 28 U.S.C. § 1291 as a request for a COA. Relator requested that the Court issue a Writ of Mandamus directing the District Court to exercise its lawful jurisdiction to determine the Federal question presented in Relator's civil complaint.(See Appendix "E") On 1-11-24, in an "unpublished order" a three Judge panel denied the issuance of the Writ on the grounds that the Court's mandamus authority does not extend to a closed case and because "as an appellate remedy was available" to Petitioner he could not proceed by way of Mandamus (See Appendix "F"). Petition for Rehearing En Banc was denied on 4-23-24, in an unpublished order. (See Appendix "G").

REASONS FOR GRANTING THE WRIT

The central issue in this case is that of jurisdiction, and the manner in which both, the District Court Judge and the Circuit Judge unlawfully manipulated the power of a federal court to determine its own jurisdiction so as to unconstitutionally deny relator a merits determination of his civil action and to defeat appellate review. Relator asserts that the District Court's order construing Relator's civil action as a Successive Habeas Corpus application^{is} in direct conflict with Gonzalez v. Crosby, 545 U.S. 524, (See Appendix "B"), wherein this Court conclusively defined what constitutes an Application for Writ of Habeas Corpus:

"[F]or purposes of § 2244(b) an application for habeas relief is a filing that contains one or more claims." Id. @ 530.

The Court went on to define the word "claim" in the context of § 2244(b):

"These statutes [§ 2244(b) and § 2254(d)] and our own decisions make clear that a "claim" as used in § 2244 (b) is an asserted basis for relief from a State court judgment of conviction." Id @ 530.

Relator's civil action presents an as applied Constitutional challenge to a State rule of appellate procedure not a "State Court judgment of conviction," and this is clear on the face of the action in no uncertain terms. Moreover, the relief requested in the action is purely equitable and for these reasons the action could not reasonably or lawfully be construed as a Habeas Corpus application. (See Exhibit "A"). Relator asserts that the manifestly erroneous refusal of the District Court to adjudicate a federal question properly before

it is nothing less than a repudiation of it's lawful jurisdiction. This Court, as long^{ago} as Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60 recognized that federal courts have a duty to decide cases properly before them. Id @ 177 ("It is emphatically the province and duty of the judicial department to say what the law is"). Because Relator's position is supported by the Constitution, statutory law, an Supreme Court precedent, the only way the district court could evade it's duty to determine the merits of the Constitutional question presented in Relator's civil action was to repudiate it's jurisdiction surreptitiously. To that end the Court employed a clever device; by construing Relator's civil action as a Successive Habeas the Court could pretend to lack jurisdiction under 28 U.S.C § 2244 (B)(3)(A). A brilliant tactic; not only did it enable the court to avoid the constitutional question presented, but because it implicated the appellate jurisdiction it enabled the Court's decision to evade appellate review also. Nevertheless, the fact remains that the Courts decision is foreclosed by Gonzalez v. Crosby, supra, and 28 U.S.C. § 1331, and therefore it could not lawfully be sustained unless appellate review was somehow defeated; this task was carried out by the Circuit Court Judge; with equal lawlessness.

Relator's appeal was brought pursuant to 28 U.S.C. 1291 (See Appendix "C"), which Relator maintained was an appeal as of right based on the fact that Relator's civil action raises a constitutional challenge to a State rule of appellate procedure and seeks equitable relief. Relator expressly stated in the appeal that he was not seeking a COA because his civil action is not a habeas corpus application, citing Gonzalez, supra and 28 U.S.C. § 1331 (See Appendix "C"). In spite of the just

mentioned facts and authorities the Circuit Court Judge continued in the error of the District Court, ruling that Relator was required to obtain a COA in order to appeal the District Court's decision and that Relator had not made the requisite showing. (See Appendix "D").

Relator asserts that the ruling of the Circuit Court judge represents a "usurpation of judicial power" in order to deny Relator the relief to which he is entitled. In Bankers Life & Casualty Co. v. Holland, 346 U.S. 379, 74 S.Ct. 145, 98 L.Ed. 106, this Court pointed out that the:

"... All Writs Act is meant to be used only in the exceptional case where there is a clear abuse of discretion or usurpation of judicial power." Id @ 383.

Relator's appeal was taken pursuant to 28 U.S.C. § 1291, which Relator maintains is the proper and lawful jurisdiction. Because the District Court's ruling is in direct conflict with Supreme Court precedent and manifestly erroneous, reversal was required by law on appeal. Therefore, circumvention of appellate review was necessary in order to shield the district court's decision from judicial scrutiny. To accomplish this objective the Circuit Court Judge falsely claimed that Relator sought a COA despite the fact that in his appeal, Relator repeatedly asserted that he was not seeking a COA and that the appeal was an appeal as of right pursuant to 28 U.S.C. § 1291. The false premise created by the Circuit Court Judge was used as the basis for usurping jurisdiction pursuant 28 U.S.C. 2253 (c) in order to treat Relator's appeal as of right pursuant to 28 U.S.C. § 1291 as an appeal by permission pursuant to 28 U.S.C. § 2253 (c). In his order, the Circuit Court judge gave a fundamentally flawed rationale:

"Although Stevenson maintains that he does not need a certificate of appealability (COA) in order to appeal, because his district court pleading complained of detention arising from a State court judgment, he is required to obtain a COA. See 28 U.S.C. 2253 (c)(1)(A)." (See Appendix "D")

Relator's civil action does not complain of any "detention", it raises an as applied Constitutional challenge to a State rule of Appellate procedure only. The above statement of the Circuit Court Judge is a gross misrepresentation of the facts, clearly done for the purposes of usurping an unauthorized jurisdiction, [28 U.S.C. § 2253 (c)(1)(A)], and defeating appellate review.

Relator asserts that his right to Due Process under the 5th Amendment and to Petition the government for a redress of grievances under the 1st Amendment have been violated by the actions of the District Court and Court of Appeals.

As has been shown, both, the District Court and Circuit Court treated Relator's civil action as a Second or Successive habeas petition. But if they are correct, then the Circuit Court judge could not lawfully require Relator to obtain a COA in order to appeal. Under 28 U.S.C. § 2244 (b)(3)(A) which governs Second or Successive Habeas Petitions the law states:

"Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate Court of Appeals for an Order authorizing the District Court to consider the application."

Therefore, if Relator's civil action is really a successive habeas Petition as both courts ruled, the law would require Relator to file a Motion in the Court of Appeals requesting an order authorizing the

District Court to consider the successive petition, and not a COA as the Circuit Court Judge ruled. The law itself shows the ruling of the Circuit Court judge to be an "abuse of judicial power" in order to defeat appellate review.

Relator asserts that the District Court and the Circuit Court Judge were able to deprive Relator of a merits determination of his civil action and appellate review because proper jurisdiction was never established or enforced by the Court of Appeals. In Steel Company v. Citizens for a Better Environment, 523 U.S. 83, 118 S.Ct. 1003, 46 ERC 1097, this Court explained:

"[E]very federal appellate court has a special obligation to satisfy itself not only of it's own jurisdiction but also that of the lower courts in a cause under review, even though the parties are ready to concede it." Id.@ 95. See Mitchell v. Maurer, 293 U.S. 237, 244, 55 S.Ct. 162, 169, 79 L.Ed. 338.

To make this point abundantly clear the Court further emphasized:

"The requirement that jurisdiction be established as a threshold matter spring(s) from the nature and limits of the judicial power of the United States and is inflexible and without exception." Id @ 94-95, quoting: Mansfield, C&L.M.R.- Co. v. Swan, 111 U.S. 379, 382. Internal quotation marks omitted.

It is Relator's contention that the actions of the District Court and Circuit Court Judge in this case have deprived Relator of rights guaranteed by the Constitution, through the abuse of each Court's power to determine its jurisdiction; first in the District Court in order to deny Relator a merits determination of his constitutional challenge and then in the Circuit Court to thwart the appellate review.

Relator asserts that due to egregiously lawless actions of the District Court and the Circuit Court Judge, appellate review will be

defeated unless this Court exercises its supervisory power to correct the proceedings below; and issuance of the Writ of Mandamus, Relator respectfully contends, would be in aid of the Court's Appellate jurisdiction.

Being without remedy, Relator sought redress through Writ of Mandamus in the U.S. Fifth Circuit Court of Appeals requesting that the Court issue a Writ of Mandamus to the District Court directing the Court to exercise its proscribed jurisdiction to determine the Constitutional question properly presented in Relator's civil action and to serve summons on the defendants. (See Appendix "E"). A three judge panel denied issuance of the writ on the grounds that it's "mandamus authority does not extend to directing a district court to reconsider a ruling in a closed case," and "as an appellate remedy was available to Stevenson, he may not proceed by way of mandamus." (See Appendix "F").

Relator asserts that the ruling of the panel is just as contrary to the law as the ruling of the District Court and the Circuit Court Judge and also misrepresents the facts and the law. Both grounds put forward by the panel readily collapse under scrutiny. As for the first ground it is totally refuted by the principles of law and Supreme Court precedent. Discussing the function of mandamus, the Corpus Juris Secundum states:

"Where a case has been dismissed, and vacation of the dismissal or reinstatement of the case is refused, mandamus is the proper remedy for review of the Courts actions."

C.J.S. § 101 Mandamus

This is precisely the circumstances in Relator's case. The panel will have Relator to believe that it is powerless to correct the manifest abuses of judicial power committed in this case, but precedent from this Court has shown otherwise. In Marbury v. Madison, 5 U.S. 137, 1 Cranch 137, 2 L.Ed. 60, the Court expounded on the broad scope of mandamus:

"It is a writ of a most extensively remedial nature and issues in all cases where a party has a right to have anything done and has no other specific means by which to compel its performance." Id @ 147.

These authorities show the ruling of the panel to be disingenuous at best, but in any case unsupported by law.

Relator contends that every ruling in this case is wholly arbitrary, all are unpublished and no reasonable argument can be made in their support. Relator asserts that there are exceptional circumstances present in this case. Indeed, each of the rulings in this case represents a radical departure from Due Process of law. Relator asserts that he has an indisputable right to challenge the Constitutionality of the State rule by which he has been deprived of rights guaranteed by the 14th Amendment. See Boddie v. Conneticut, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113, (:Our cases further establish that a statute or a rule may be held constitutionally invalid as applied when it operates to deprive an individual of a protected right although its general validity as a measure enacted in the legitimate exercise of State power is unquestioned"). Id. @ 379.

Because the District Court has refused to exercise its proscribed jurisdiction to adjudicate the federal question presented in Relator's civil action, because the Court of Appeals has evaded its duty to

determine the merits of Relator's appeal as of right and because the Court of Appeals has arbitrarily denied Mandamus relief, Appellate review has been defeated and Relator is without adequate, specific legal remedy and cannot obtain adequate relief in any other form or from any other Court.

"But where a specific duty is assigned by law, and individual rights depend on the performance of that duty, it seems equally clear that the individual who considers himself injured, has a right to resort to the laws of his country for a remedy." Marbury v. Madison, 5 U.S. 137, 166.

Relator prays that this Court issue a Writ of Mandamus to the Honorable Judge Ivan L.R. Lemelle, directing him to:

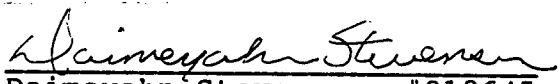
- 1): Reinstate, and proceed to adjudge, according to the law and right of the case, Civil Action No. 23-3512, previously dismissed by order of said Judge, between Daimeyahn Stevenson, Plaintiff, and The Louisiana Supreme Court and Louisiana Appellate Project Defendants;
- 2): Have summons served on the Defendants.

CONCLUSION

THE PETITION FOR WRIT OF MANDAMUS SHOULD BE GRANTED.

Homer, Louisiana, this 18 day of July, 2024.

Respectfully Submitted,


Daimeyahn Stevenson, #218645
David Wade Correctional Center
670 Bell Hill Rd. H2B
Homer, LA 71040

Anna Rawson #159232

Ex-Officio Notary

Pro se Petitioner

IN THE
SUPREME COURT OF THE UNITED STATES

No.: _____

IN RE:

DAIMEYAHN STEVENSON

PROOF OF SERVICE

I, Daimeyahn Stevenson do swear or declare that on this date,
July 18, 2024, as required by Supreme Court Rule 29,
I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPE-
RIS and PETITION FOR WRIT OF MANDAMUS on each party to the above pro-
ceeding or on that party's counsel, and on every other person required
to be served, by depositing an envelope containing the above documents
in the United States Mail properly addressed to each of them and with
first class postage prepaid or by delivery to a third-party Commercial
Carrier for delivery within 3 calendar days.

The name and addresses of those served are as follows:

Honorable Judge Ivan L.R. Lemelle, 500 Poydras St. New Orleans, LA
70130

I declare under penalty of perjury that the foregoing is true and
correct.

Executed on this 18 day of July, 2024, at Homer, LOUISIANA.

Daimeyahn Stevenson
Daimeyahn Stevenson, #218645
David Wade Correctional Center
670 Bell Hill Rd. H2B
Homer, LOUISIANA 71040

Pro se Petitioner