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NO. _____

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U.S. SUPREME COURT

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

CHARLES S. RENCHENSKI - PETITIONER

v.

FREDERIC J. AMMERMAN - DEFENDANT

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES SUPREME COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

CHARLES S. RENCHENSKI, PRO SE

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- QUESTIONS PRESENTED FOR REVIEW -

1. HAS THE THIRD CIRCUIT COURT OF APPEALS, AS WELL AS THE WESTERN DISTRICT COURT FOR PENNSYLVANIA, ENTERED A DECISION THAT IS IN DIRECT CONFLICT WITH THE UNITED STATES SUPREME COURT RESULTING IN EQUAL PROTECTION AND DUE PROCESS OF LAW BEING DENIED MR. RENCHENSKI VIA OBJECTIVE BIAS THAT ERODES THE PUBLIC CONFIDENCE IN THE IMPARTIALITY OF THE FEDERAL COURTS.

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- PETITION FOR WRIT OF CERTIORARI -

Charles S. Renchenski, petitioner pro se, respectfully petitions for Writ of Certiorari to review the judgment of the Court of Appeals for the Third Circuit.

- OPINIONS BELOW -

The Panel Opinion of the Court of Appeals is not reported - Denial at Appendix "A."

Petition for Panel Rehearing/En Banc Hearing is not reported - Denial at Appendix "B."

The Opinion of the Western District Court is not reported - Denial at Appendix "C."

- JURISDICTION -

Jurisdiction of this Honorable Court is invoked pursuant to Title 28 U.S.C. §1254(1).

The judgment of the Court of Appeals for the Third Circuit was entered on March 1, 2024. The Order denying Panel/En Banc Rehearing was entered May, 22, 2024.

- CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED -

The Fourteenth Amendment to the United States Constitution.

- FEDERAL STATUTES -

Title 28, U.S.C. §1983

- STATEMENT OF THE CASE -

1. On August 30, 2019, petitioner filed a State petition for Writ of Habeas Corpus invoking the sole jurisdiction of the Court via 42 Pa.C.S. §§6501-6505, as well as the Pennsylvania Constitution, article 1 section 14.

2. On September 30, 2019, President Judge Ammerman (hereinafter the defendant) sua sponte dismissed the matter as an untimely PCRA petition pursuant to 42 Pa.C.S. §§9541-9546 after a merits review of the claims raised therein.

3. On November 5, 2019, petitioner filed a timely "Notice of Appeal."

4. On June 30, 2020, the Superior Court affirmed the lower courts' "Opinion and Order."

5. On July 27, 2020, petitioner timely appealed to the Pennsylvania Supreme Court.

6. On January 11, 2021, the Pa. Supreme Court denied review.

7. On March 19, 2021, petitioner filed his second, virtually identical, petition for Writ of Habeas Corpus, specifically designating jurisdiction pursuant to 42 Pa.C.S. §§6501-6505 and not 42 Pa.C.S. §§9541-9546.

8. On June 23, 2021, the court/defendant deemed the filing an untimely PCRA petition and conducted a second merits review.

9. On September 27 2021, petitioner filed an "Application for Relief" to the Pennsylvania Supreme Court because the defendant refused to obey the laws relating to habeas corpus.

10. the Pennsylvania Supreme Court accepted the filing and reclassified the filing as a petition for writ of habeas corpus.

11. On March 10, 2022, the Court issued a one line per curiam ORDER denying the writ of habeas corpus.

12. On or about March 15, 2022, petitioner filed an "Application for Reconsideration" which was denied on April 26, 2022.

13. On March 24, 2023, petitioner filed a federal Civil Rights Complaint pursuant to 28 U.S.C. §1983.

14. On July 10, 2023, District judge Gibson dismissed the matter with prejudice.

15. On August 7, 2023, petitioner filed his "Notice of Appeal/Appeal Brief" to the Third Circuit Court of Appeals.

16. On March 1, 2024, the Third Circuit Court of Appeals affirmed the judgment of the District Court.

17. On March 13, 2024, petitioner filed a Motion for Panel/En Banc Rehearing.

18. On May 22, 2024, the Third Circuit Court of Appeals denied a rehearing.

19. This timely appeals follows.

-REASONS FOR GRANTING THE WRIT -

The Third Circuit Court of Appeals, as well as the Federal Western District Court of Pennsylvania has issued an Opinion that is in direct opposition to decisions of the United States Supreme Court.

The Third Circuit Court of Appeals, as well as the Federal Western District Court of Pennsylvania has deliberately ignored the decisions of the United States Supreme Court by determining that petitioner's right to Equal Protection and Due Process of law under the Fourteenth Amendment to the United States Constitution comes is irrelevant when it comes to protecting a fellow judge from civil liability.

The decisions of the Third Circuit Court of Appeals, as well as the Federal Western District Court for Pennsylvania erodes the public confidence in the Court being a fair and impartial adjudicators of facts and law. The lower Court's determinations have placed the Federal Courts reputation for fairness and impartiality in a place of ridicule.

- ARGUMENTS -

I. HAS THE THIRD CIRCUIT COURT OF APPEALS, AS WELL AS THE FEDERAL WESTERN DISTRICT COURT FOR PENNSYLVANIA, ENTERED A DECISION THAT IS IN CONFLICT WITH THE UNITED STATES SUPREME COURT RESULTING IN AN EQUAL PROTECTION AND DUE PROCESS OF LAW BEING DENIED PETITIONER VIA OBJECTIVE PARTIALITY THAT ERODES THE PUBLIC CONFIDENCE IN THE FEDERAL COURTS?

1. Petitioner asserts that the lower federal courts have consciously decided to protect a State Court judge from civil liability by imputing immunity that the law does not provide for, rather than obeying the United States Supreme Courts' firmly established determinations.

2. Petitioner asserts that the defendant acted "in the complete absence of all jurisdiction" in two distinct ways, therefore, was not protected by judicial immunity and shielded from civil liability. Petitioner asserts the lower federal court judges consciously and deliberately ignored the United States Supreme Court's firmly established decisions in order to protect a State Court judge (hereinafter defendant) by assigning immunity that the law does not provide for. Petitioner submits the following incontrovertible facts for this Honorable Court's review and consideration:

A) - A judge does not forfeit his judicial immunity if he "committed grave procedural errors." Stump v. Sparkman, 435 U.S. 349, 359 (1978). Allegations of "malice or corruption" does not strip a judge of his immunity. Forrester v. White, 484 U.S. 219, 227 (1988). A judge enjoys immunity if the actions he took "was in error... or was in excessive of his authority." Mireles v. Waco, 502 U.S. 9, 13 (1991). Immunity even attaches if a judge acts "maliciously and corruptly." Pierson v. Ray, 386 U.S. 547, 554 (1967).

B) - The United States Supreme Court has announced that "immunity is overcome in only two sets of circumstances. First, a judge is not immune from liability for nonjudicial actions, i.e. actions not taken in the judge's judicial capacity... Second, a judge is not immune for actions, though judicial in nature, are taken in the complete absence of all jurisdiction." 'Mireles,' 502 U.S. at 11-12, citing 'forrester,' 484 U.S. at 227-229, supra; 'Stump,' 435 U.S. at 356-357, supra. Petitioner herein asserts that the defendant divested himself of all legal jurisdiction/immunity in two distinct ways, exposing himself to civil liability. In addition, petitioner asserts the defendant may be held civilly liable for personal investigative actions performed not in his judicial capacity.

i) - On August 30, 2019, petitioner filed a State Petition for Writ of Habeas Corpus, jurisdiction being vested pursuant to Title 42 Pa.C.S. §§6501-6505. (Note: Jurisdiction was not conferred pursuant to Title 42 Pa.C.S. §§9541-9546, which are the Post-Conviction relief statutes, (PCRA)). The defendant filed an "Opinion" therefrom on March 6, 2020. (Ex. 1 attached hereto) The defendant unlawfully addressed his purported "Background and Procedural History," however, there existed no "procedural history" because it was the first time petitioner had ever filed a State habeas corpus petition. The defendant, nevertheless, analyzed the filing under the umbrella of the PCRA statutes. The result of the improper designation of the habeas filing unlawfully denied petitioner a proper appellate review of the facts in state court. (The improper invocation of §§9541-9546 will be addressed more fully at "C," infra). After the defendant's misclassification of petitioner's filing he began his "Analysis" section on page 4, even though he divested himself of lawful jurisdiction as soon as he deemed the filing an untimely PCRA petition.

At defendant's Issue 1(A) -"Untimeliness of PCRA Petition," the defendant determined that petitioner's petition for writ of habeas corpus was more properly

a PCRA petition, concluding that: "Over 30 years later it is clear that defendant's filing is well outside the time requirement of one year." (Ex. 1, Pg. 5) The moment the defendant deemed the filing an untimely PCRA petition, whether correctly or not, he was mandated to dismiss the matter immediately based upon that determination alone without proceeding onto address the merits of the claims raised therein. The United States Supreme court in Sinochen Intl. Co. v. Malay Int'l Shipping Corp., 549 U.S. 422, 434 (2007), addressed that specific point, saying: "... it is of course true that once a court determines that jurisdiction is lacking, it can proceed no further and must dismiss the cause on that account." (underlining added). There is no ambiguity in that proclamation.

The defendant was acting in clear absence of all jurisdiction to address the merits when he determined that the filing was untimely. See e.g. Haywood, v. Drown, 556 U.S. 729, 755 (2009), saying: "Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is the power to declare the law, and when it ceases to exist, the only function of the court is that of announcing the fact and dismissing the cause." As soon as the defendant declared petitioner's State habeas filing an untimely PCRA petition it could do nothing more than announce the fact and dismiss the cause. However, as can be objectively demonstrated in petition's exhibit 1, attached hereto, in clear absence of all jurisdiction the defendant proceeded on to address the merits of the cause, albeit through a distorted lens of the PCRA parameters.

From pages 6-11, after the defendant stripped himself of lawful jurisdiction/immunity to address the merits of the, arguendo, untimely petition. The defendant proceeded on to address the merits of the claims made, albeit through the distorted lens and parameters of an untimely PCRA petition. The defendant unilaterally categorizes and analyzes petitioner's claims as:

- a) - "Whether Defendant is being unlawfully confined as a result of being

denied prompt review." (Pg. 7). After providing legal authority/argument(s) the defendant concluded: "This issue is meritless." That is unquestionably a "merits review."

b) - "Whether Defendant was unlawfully denied a remedy when the Pennsylvania Supreme Court applied §9543(b) to his case." (Pg. 7). After a merits review analysis the defendant concluded: "Because this issue has been previously litigated in all Courts, Defendant is not eligible for relief on this issue." (Pg. 8). This is unquestionably a "merits review." (Note: this was not the issue raised by defendant).

c) - "Whether §9543(b) failed to provide adequate 'notice' and thereby denied Defendant due process of law." (Pg. 8). The defendant concluded: "This claim is meritless." (Pg. 9). This is unquestionably a "merits review."

d) - "Whether §9543(b) is inapplicable to Defendant's original PCRA." (Pg. 9). The defendant concluded: "... Defendant has waived this issue and is not eligible for relief on this ground." Id. This is unquestionably a conclusion of law/merits review. (Note: petitioner did not raise this claim).

e) - "Whether Defendant is now suffering cruel and unusual punishment." (Pg. 9). The defendant concluded: "This issue is meritless." Id. This is unquestionably a "merits review."

f) - "Whether Defendant was the party prejudiced due to the delay in filing of his amended PCRA." (Pg. 9). The defendant concluded: "Therefore, Defendant cannot then argue he has been burdened... This analysis is the same as the issue previously raised in his appeal." (Pgs. 11-12). This is unquestionably a "merits review."

All of the above "issues," were categorized and worded by the defendant, not the petitioner, which partially motivated the petitioner to file his second, virtually identical, State petition for Writ of Habeas Corpus and submitted a

concurrently filed memorandum of law to be absolutely clear on what claims petitioner was raising. Nevertheless, it is undeniably clear that the defendant, after divesting himself of lawful jurisdiction/immunity when he declared the filing an untimely PCRA petition, proceeded to address the merits of the claims raised, as he perceived them. That act was in direct opposition/violation of 'Sinochen,' supra; and 'Haywood,' supra. In Sanchez-Llama v. Oregon, 548 U.S. 331, 357 (2006), the Court stated: "What makes a system adversarial rather than inquisitorial... the presence of a judge who does not (as an inquisitor does) conduct the factual and legal investigation himself, but instead decides on the basis of facts and arguments pro and con adduced by the parties." The defendant in the case sub judice inserted himself into the position of co-respondent by addressing the merits rather than allowing the encaptioned respondents to respond. It was, lawfully, up to the encaptioned respondents to assert the filing was an untimely PCRA petition and provide legal authorities and arguments. (Note: this issue will be addressed more fully at "C" infra).

ii) - On March 19, 2021, petitioner filed his second State petition for Writ of Habeas Corpus. This petition, due to what happened during the first filing, petitioner clearly labeled all of his claims and filed concurrently a memorandum of law detailing substance of every claim and the legal arguments in support thereof. On June 24, 2021, the defendant issued an "OPINION and ORDER" addressing petitioner's filing. (Ex. 2, attached hereto). This time the defendant could not free-style the claims raised because petitioner was concise. The defendant acknowledged the claims as:

a) - "42 Pa.C.S. §9543(b) is void and/or inapplicable to Petitioner's case in violation of the Pennsylvania and United States' Constitutions.";

b) - "42 Pa.C.S. §9543(b) as applied to Petitioner's case violates the ex post facto laws of the Pennsylvania and United States' Constitutions.;

c) - "Petitioner was denied due process of law in violation of the Pennsylvania and United States' Constitutions.";

d) - "Petitioner was denied his right to redress the government of his grievances in violation of the Pennsylvania and United States' Constitutions.";

e) - "Petitioner is being subjected to cruel and unusual punishment in violation of the Pennsylvania and United States' Constitutions."

It is relevant to note that not one of the claims raised by petitioner attacked his conviction, sentence, or the truth-determining process and, therefore, could not be analyzed via the PCRA statutes. See e.g. Com. v. Masker, 34 A.3d 841, 843 (Pa. Super 2011) ("PCRA contemplates only challenges to the propriety of conviction or sentence") (underlining added); Com. v. Burkett, 5 A.3d 1250, 1275 (Pa. Super 2010) ("PCRA is limited to defendants who claim they were wrongfully convicted and/or are serving an illegal sentence. 42 Pa.C.S. §9542...") (underlining added). As such, it was unlawful to address petitioner's claims under the umbrella of the PCRA statutes.

On page 3 of defendant's March 19, 2021, "OPINION and ORDER" he begins his analysis of petitioner's filing. The defendant explains the availability of the PCRA vehicle and concluded that: "After review of the issues raised by Petitioner, this Court finds the PCRA is applicable to this action, not habeas corpus relief." (Pg. 4). With that determination, the defendant was required to dismiss the cause on that account alone without a merits analysis. See 'Sinochen,' 549 U.S. at 434, supra - "... it is of course true that once a court determines that jurisdiction is lacking, it can proceed no further and must dismiss the cause on that account."

The defendant did not end the matter there, but rather, proceeded on to a merits analysis/review. On pages 5-8 the defendant addressed petitioner's claims as, "Issues 1 and 2," "Issue 3," and "Issues 4 and 5." In the end the defendant concluded that: "Therefore, because the claims raised are not only untimely, but

or the State PCRA laws.

C) - In the very beginning of both petitioner's State habeas corpus petitions he highlighted the court's the Court's lawful jurisdiction, saying: "1. Jurisdiction is vested in this Honorable Court pursuant to the Pennsylvania Constitution, article 1, section 14, as well as Title 42 Pa.C.S. §§6501-6505." (EX. 3); and, "1. Jurisdiction is vested in this court pursuant to the Pennsylvania Constitution, article 1, section 14, as well as Title 42 Pa.C.S. §§6501-6505." (Ex. 3-A) (Note: Pennsylvania's Constitution, article 1, section 14, in relevant part, reads as follows: "... and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.") (Note: there was no lawful jurisdiction vested in the Court via Title 42 Pa.C.S. §§9541-9546).

The issue here is objectively clear, jurisdiction for petitioner's State habeas corpus filing was only vested in the Court pursuant to §§9501-6505, not Title 42 Pa.C.S. §§9541-9546. As such, the matter, to be adjudicate while possessing lawful jurisdiction/immunity had to be analyzed via the State habeas corpus statutes, i.e. §§6501-6505.

The defendant himself acknowledged the existence of the lawful way to dismiss an improperly titled State habeas corpus filing via §6503(b) in his June 24, 2021, "OPINION and ORDER," saying: "While habeas corpus relief is available to incarcerated defendants, the statute states 'the writ of habeas corpus shall not be available if a remedy may be had by post-conviction hearing proceedings authorized by law.' 42 Pa.C.S. §6503(b). The Courts have found ' the PCRA subsumes the remedy of habeas corpus with respects to remedies offered under the PCRA and that any petition seeking relief under the PCRA must be filed within one year of final judgment.' Commonwealth v. Perkins, (sic) 722 A.2d 638, 640 (Pa. 1998)." (Note: the proper name is 'Peterkin').

The defendant, being fully aware of §6503, was required to immediately dismiss the matter and proceed no further. 'Sinochen,' 549 U.S. at 434, supra; 'Haywood,' 556 U.S. at 755, supra. Petitioner asserts that the defendant consciously chose to ignore the controlling laws and proceed onto a merits review in order to skew the appellate courts' direction of analysis of the appeal. He was successful in that attempt.

D) - The defendant is also civilly liable for his personal actions performed that were not judicial functions, but rather, personal investigations. The act of performing personal investigations, while lacking lawful jurisdiction and/or by its own action, is also an act civilly actionable and separated from judicial immunity. The lower Federal Court's asserted that the defendant's personal investigations were "judicial acts" and that petitioner merely made "vague allegations" that the defendant's acts were non-judicial in nature. Those positions by the Court's are diametrically opposed to the facts.

There are two factual errors in the lower courts' determination that the defendant's personal investigations were "judicial" acts and warranted judicial immunity. First, and perhaps most importantly, the defendant performed those personal investigations AFTER he divested himself of lawful jurisdiction/immunity when he declared the petitioner's State habeas filing an untimely PCRA petition. As stated in 'Stump,' 435 U.S. at 357, "Moreover, even if the act is 'judicial,' judicial immunity does not attach if the judge is acting in the 'clear absence of all jurisdiction.'" - Quoting *Bradly v. Fisher*, 13 Wall 335, 351, 20 L.Ed 646 (1872).

Secondly, the defendant factually positioned himself as a co-respondent when he performed his research and provided legal authorities to support his arguments why the petition should be dismissed. The defendant was undeniably an accuser, a fact-determiner, and a dispenser of judgment - no need for an adverse party.

The United States Supreme Court has been consistently clear that: "No man in this Country, this Court has said, 'is so high that he is above the law. No officer of the law may set aside the law at defiance with impunity. All the officer's of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it.'" United States v. Lee, 106 U.S. 196, 220 (1882) (cite omitted); Bruton v. United States, 422 U.S. 228, 246 (1979) (same). The only question remaining is whether or not the petitioner will be denied equal protection and due process of law because he has brought a civil action against a judge and he is an inmate?

II. CONCLUSION

This action represents a case wherein it is difficult to obey the law because it involves a fellow judge the optics of it. The lower Federal Court's have decided that it is more important to ignore the United States Supreme Court's determinations and protect a fellow judge. We live in a society of laws and, no matter how uncomfortable the repercussions, every man should be, as the prior Supreme Court has determined, subject to the laws if he/she violates them, no matter the status involved. The petitioner in the case sub judice broke the law and is paying the penalty of incarceration. Is there justice?

The petitioner herein has objectively demonstrated three distinct ways the defendant is not subject to immunity for the unlawful actions he took. That, in and of itself, should be enough to justify a trial in order to ascertain liability.

WHEREFORE, for the foregoing reasons, petitioner prays this Honorable Court to VACATE the ORDER of the lower Court(s) and remand the matter for a trial.

Date: ~~June 16, 2024~~

July 17, 2024

Respectfully Submitted,

Charles S. Berchenski