

No. \_\_\_\_\_ (24-5218)

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In The  
*Supreme Court of the United States*

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MARTIN AKERMAN, PRO SE,

*Appellant,*

v.

THE NORTHWESTERN MUTUAL INSURANCE COMPANY,

*Respondent.*

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**PETITION FOR REHEARING OF DISMISSED  
PETITION FOR WRIT OF CERTIORARI  
TO THE U.S. COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

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MARTIN AKERMAN, Appellant, Pro Se  
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Arlington, VA 22201  
(202) 656 - 5601

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## QUESTIONS PRESENTED

- Does the denial of in forma pauperis status and the dismissal of a petition for certiorari under Rule 39.8, which requires payment of fees to appeal an IFP denial, contradict the First Amendment's Petition Clause and due process rights by imposing financial barriers that effectively prevent indigent litigants from accessing appellate review?
- Does the application of Rule 39.8, which labels petitions as frivolous or malicious, have serious implications that warrant heightened scrutiny on rehearing, as it unjustly discredits legitimate legal claims and limits access to the Court, particularly for those without financial means?

**TIMELINESS**

This petition is timely, filed two days after a dismissal of his IFP petition, under Rule 39.8, as communicated to the petitioner on October 15, 2024.

## **PARTIES TO THE PROCEEDING**

The petitioner, Martin Akerman, appeared pro se in the proceedings below and is the appellant in this case.

The respondent, The Northwestern Mutual Insurance Company (Northwestern Mutual), is a Wisconsin-based company that has recently made an appearance in the lower court proceedings.

The U.S. Court of Appeals for the Seventh Circuit and the U.S. District Court for the Eastern District of Wisconsin are interested parties in this case.

## **RELATED PROCEEDINGS**

The petitioner's application for an injunction/stay, under 24A273, has been paid and is currently before the Honorable Judge Brett H. Ludwig in the Milwaukee Division of the United States District Court for the Eastern District of Wisconsin, awaiting a response from Northwestern Mutual in Case No. 24cv152.

The merits of the underlying breach of contract and bad faith claims are also pending before Judge Brett H. Ludwig in the same court, having already received a response from Northwestern Mutual in Case No. 24cv152.

The petitioner is therefore only seeking review of the dismissal of his in forma pauperis petition for a writ of certiorari, and the application of Rule 39.8, which now attaches a label of frivolous or malicious to the petitioner.

## **OTHER SUPREME COURT CASES**

Mandamus to the Federal Circuit...Pending Docket No.  
Federal Habeas Corpus..... 24-83 (Pending Rehearing)  
Federal Circuit Replevin..... 24A155, 24A147, 24A278  
Freedom of Information Act..... 24-339  
Urgent Stay..... 24A332

## **RELATED CASES IN OTHER COURTS**

Ninth Circuit - State Habeas Corpus..... 2024-6166  
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**JURISDICTION**

The United States Court of Appeals for the Seventh Circuit entered its denial of the petitioner's motion to waive fees when appealing an IFP denial on June 18, 2024. A timely petition for a writ of certiorari was filed with this Court and docketed on July 31, 2024. The petition was dismissed under Rule 39.8 on October 15, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### First Amendment to the U.S. Constitution:

The Petition Clause guarantees the right to petition the government for redress of grievances. Additionally, the First Amendment guarantees the right to free speech, protecting individuals from government actions that would suppress expression or inhibit the ability to communicate grievances, including those brought through the judicial process.

### Fifth Amendment to the U.S. Constitution:

The Due Process Clause, which provides for fair treatment through the normal judicial system.

### 28 U.S.C. § 1915:

Governs proceedings in forma pauperis in federal courts.

### Supreme Court Rule 39.8:

Permits the denial of in forma pauperis status and dismissal of a petition that is deemed frivolous or malicious.

## **STATEMENT OF THE CASE**

This petition arises from the dismissal of Martin Akerman's petition for a writ of certiorari due to the denial of his in forma pauperis (IFP) application under Supreme Court Rule 39.8. The petitioner, a financially disadvantaged individual, had submitted substantial evidence demonstrating his inability to pay court fees. Nonetheless, the lower courts denied his IFP application, and his petition was dismissed under Rule 39.8, implying that his claims were frivolous or malicious.

This dismissal not only imposed a significant financial barrier but also attached a stigmatizing label of frivolousness to the petitioner's legitimate claims. The petitioner challenges the constitutionality of Rule 39.8 as applied in this case, asserting that it unjustly blocks access to the courts, particularly for indigent litigants, and violates both the First Amendment's Petition Clause and due process protections.

In parallel, the petitioner is involved in related litigation regarding breach of contract and bad faith claims against The Northwestern Mutual Insurance Company, pending before the U.S. District Court for the Eastern District of Wisconsin. The petitioner has also filed various other cases, as noted in the "Related Cases" section, that are connected to his collateral efforts to secure legal remedies through the federal judicial system.

Financial Hardship

The petitioner remains unemployed and continues to suffer significant financial and psychiatric hardship, as affirmed by collateral cases pending before this and other courts. These cases, which address various harms the petitioner has endured, provide additional evidence of the psychiatric damages and economic struggles the petitioner faces as a result of these ongoing legal and personal challenges.

As suggested by Judge Brett H. Ludwig in the U.S. District Court for the Eastern District of Wisconsin, the petitioner liquidated a portion of his retirement account under the disability provisions of the IRS to pay the required court fees. This necessary step further depleted the petitioner's financial resources, which are already strained due to the effects of unemployment and psychiatric distress.

The petitioner's financial and psychological situation highlights the difficulty indigent litigants face in accessing the courts when mandatory fees are imposed. The liquidation of retirement savings, along with the emotional and financial burdens stemming from multiple ongoing legal battles, underscores the injustice of requiring payment as a condition for seeking judicial review. Despite these sacrifices, the petitioner continues to seek review of the IFP denial to protect the right of all people to meaningful judicial access without undue financial barriers.

## **REASONS FOR GRANTING THE PETITION FOR REHEARING**

Reconsidering the dismissal of the petitioner's claims is crucial to affirming that constitutional rights are not contingent upon financial resources. The Court has an opportunity to correct this injustice and ensure that indigent litigants are not barred from accessing the courts or labeled unjustly under Rule 39.8.

The Court should take this opportunity to reassess the application of Rule 39.8 in cases where indigent litigants are unfairly labeled and prevented from pursuing valid claims.

The Court should reconsider its dismissal to ensure that access to justice remains available to all, regardless of financial status.

### 1. Violation of the First Amendment's Petition Clause and Due Process Rights

The denial of in forma pauperis status and the subsequent dismissal of the petition under Rule 39.8 raise critical constitutional concerns. The First Amendment's Petition Clause guarantees the right to seek redress of grievances in the courts, but that right becomes meaningless if financial barriers block access to appellate review for indigent litigants. The Court has recognized this in *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), where it held that fundamental rights, such as access to the courts, cannot be denied solely based on financial inability.

By requiring fees to appeal the denial of in forma pauperis status, the courts effectively prevent indigent individuals from having their claims heard, infringing upon their fundamental right to petition the government, as established in *Boddie v. Connecticut*, 401 U.S. 371 (1971).

Furthermore, the dismissal without consideration of the merits also violates the petitioner's due process rights. The Fifth Amendment's Due Process Clause requires fair treatment in the judicial system, and the dismissal based solely on financial inability denies the petitioner meaningful access to the courts.

The Supreme Court, in *Griffin v. Illinois*, 351 U.S. 12 (1956), emphasized that "there can be no equal justice where the kind of trial a man gets depends on the amount of money he has." The petitioner's claims were not frivolous or malicious, yet they were dismissed without a proper hearing, undermining his right to a fair legal process.

## 2. Rule 39.8's Label of Frivolousness and its Broader Implications

The application of Rule 39.8, which labels petitions as frivolous or malicious, has significant and harmful implications. This label is unjustly attached to legitimate claims and discredits the petitioner's efforts to seek judicial relief. Moreover, it creates a stigmatizing effect, discouraging indigent litigants from pursuing their rights through the judicial system out of fear of being similarly labeled.

This misuse of Rule 39.8 not only discourages access to justice but also has a chilling effect on the Speech Clause of the First Amendment. By attaching the frivolous or malicious label to legitimate claims, Rule 39.8 effectively deters indigent litigants from exercising their right to petition the courts, which is a protected form of speech under the First Amendment. The threat of being labeled frivolous discourages individuals from speaking out against perceived injustices, thus impeding their constitutional right to express grievances through the judicial process.

The misuse of Rule 39.8 in this case warrants heightened scrutiny because it blocks access to the courts for financially disadvantaged individuals, as was highlighted in *Zatko v. California*, 502 U.S. 16 (1991). The petitioner's claims are substantial and not the type of frivolous filings that Rule 39.8 was designed to curtail.

### 3. Serious Impact on Access to Justice for Indigent Litigants

This case raises issues of broad importance to the judicial system, particularly the accessibility of courts to indigent litigants. If the denial of in forma pauperis status and the misapplication of Rule 39.8 are allowed to stand, it would set a dangerous precedent, effectively creating a paywall for accessing justice.

This is especially concerning in cases where the petitioners have demonstrated genuine financial need and present substantial claims, as underscored in *Anders v. California*, 386 U.S. 738 (1967).

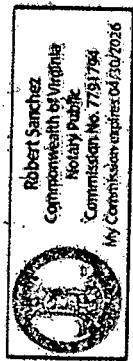
The petitioner's situation exemplifies the hardships faced by indigent litigants. Despite being unemployed and suffering from psychiatric damages as a result of harms covered in collateral cases, the petitioner was required to liquidate a portion of his retirement account to pay the court fees. This places an unjust burden on individuals who are already struggling financially and psychologically.

#### 4. The Need for Uniform Application of Constitutional Protections

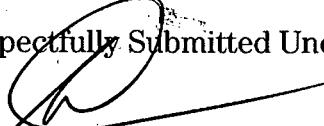
The petitioner's case underscores the need for consistent and fair application of constitutional protections across the judicial system. As the Supreme Court recognized in *Gideon v. Wainwright*, 372 U.S. 335 (1963), indigents cannot be denied legal recourse based on their financial situation. The courts cannot selectively apply the First Amendment's Petition Clause and the Fifth Amendment's Due Process Clause based on a litigant's financial means. The Constitution guarantees the right to petition and fair treatment for all individuals, not just those who can afford to pay court fees.

## CONCLUSION

For the reasons stated above, the petitioner respectfully requests that this Court grant the petition for rehearing, reconsider the dismissal of the petition for a writ of certiorari, and allow the case to proceed to full consideration. The petitioner has demonstrated the substantial constitutional issues involved, the unjust application of Rule 39.8, and the importance of maintaining meaningful access to the courts for all individuals, regardless of financial means.



Respectfully Submitted Under Oath,

  
Martin Akerman, Pro Se  
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County/City of Arlington  
Commonwealth/State of Virginia

The foregoing instrument was acknowledged  
before me this 17 day of April

2024 by

Martin Akerman  
(name of person seeking acknowledgement)

Notary Public

My Commission Expires: 30 April 2028

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v.

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INSURANCE COMPANY,

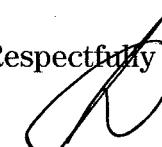
Respondent.

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**RULE 33.1 CERTIFICATE OF COMPLIANCE**

Pursuant to Supreme Court Rule 33.1(h), I, Martin Akerman, certify that the attached PETITION FOR REHEARING contains 1,776 words, excluding the parts of the petition that are exempt by Supreme Court Rule 33.1 (d). I declare under penalty of perjury that the foregoing is true and correct. Dated October 17, 2024.

Respectfully submitted,

  
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