

No. 24-5643

**IN THE
SUPREME COURT OF THE UNITED STATES**

IN RE DEANDRE ARNOLD,

Petitioner,

On Petition for a Writ of Mandamus to the United States
Court of Appeals for the Eleventh Circuit

PETITION FOR REHEARING

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PETITION FOR WRIT OF CERTIORARI

Pursuant to Rule 44, Petitioner Arnold requests rehearing of the Court's 11/25/2024 Order denying the Petition for a Writ of Certiorari, on substantial grounds not previously presented.

REASONS FOR GRANTING THE PETITION

Rule 44 authorizes a petition for rehearing based on "substantial grounds not previously presented." Mr. Arnold's Writ of Mandamus presented the following question: "Whether the Circuit Court Judge was disqualified and exceeded her jurisdiction in denying the Petitioner's Motion to proceed IFP? Whether the Circuit court clerk's office was disqualified and exceeded its jurisdiction when performing tasks that were an integral part of a judicial function? Whether the Clerk's failure to provide Petitioner a required deficiency notice prior to dismissal of his appeal for want of prosecution was a failure to perform its ministerial duties." Arnold alleged in his Writ that he complains of delays which are not delays occasioned by ordinary appeal being delayed until final judgment, rather, delays which are the fruits of the actual or appearances of deliberate acts of the Respondent's collectively that unjustly delays review of the merits of the district court's order dismissing his complaint for which this court has appellate jurisdiction to review. Arnold alleged that facts showed that Circuit Judge Lagoa's denial of his IFP motion, the Circuit Clerk Court's Office's dismissal and refusal to reinstate his appeal were entered in excess of their appropriate jurisdiction by their having disqualifying factors evidencing the actual or the appearances of bias, prejudice, partiality and antagonism prior to their performance of judicial discretionary function. The substantial grounds Arnold presents not previously presented is that his *right to a remedy* to redress wrongs under Federal Article III jurisdiction will be forever nullified if his Writ is not granted contrary to the judicial recognition that it is the province of the court to fashion an adequate remedy for every wrong under impartial judicial officers.

ARGUMENT

This court in *Bush*, quoting Chief Justice Marshall's invocation of Blackstone's commentaries said that, "[I]t is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit, or action at law, whenever that right invaded... [I]t is a settled and invariable principle in the laws of England, that every right, when withheld, must have a remedy, and every injury its proper redress." *Bush v Lucas*, 462 U.S. 367 (1983). "[A] private injury for which the law affords no remedy, cannot be converted into a remediable injury merely because it results from an act of which the public might complain. In other words, the law will afford redress to a litigant only for injuries which invade his own legal right." *Chicago Junction Case*, 264 U.S. 258 (1924). "No one has a fundamental right not to be injured by a fellow private citizen." *Smith v Schulte* 671 So. 2d 1334 (Ala. 1996). In fact, it has been held that government may only "protect" citizens from the actions of government. "[T]his is because the Constitution is a charter of negative liberties; it tells the state to let people alone; it does not require the federal government or the state to provide services." *Cox v Strauch*, civil action no. 07-680-GPM (S.D. Ill. Oct. 5, 2007).¹ However, "[A] State may adopt... [a] form of remedy as it sees fit." *Harris Invest. Co. v Hood*, 167 So. 25 (Fla. 1936). "[I]n the case law of Florida, there is... a remedy in tort for the redress of intentionally inflicted mental distress." *Holmes v. Elks Club, Inc.* 389 F. Supp. 854 (M.D. Fla. 1975). "[T]he right to 'due course of law' provides an independent guarantee of legal remedies for private wrongs by one person against another, through the state's judicial system. Gormley Treatise, at § 14.4(c)." *Konidaris v. Portnoff Law Associates*, 598 Pa. 55 (Pa. 2008). In too seeking such remedy, "One such constitutional right is the right to due process of law." *State v Walden*, 19 Ohio App. 3d 141 (Ohio Ct. App. 1984).

¹ See also *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189 (1989) "[I]ts purpose was to protect the people from the State, not to ensure that the State protected them from each other."

- (i) Arnold's legal right to a tort suit for IIED will be nullified by judicial actors that were obliged to recuse.

"[A] judge who was obliged to recuse acts outside his jurisdiction." Moody v. Simmons, 858 F.2d 137 (3d Cir. 1988). As an initial matter, Arnold had a right to redress any intentionally inflicted injury related to extortion under Florida law. "[W]e hold that Florida's extortion statute, section 836.05, does encompass injuries, such as... in this case, where [she] threatened the victim and caused [them] emotional distress." Duan v State, 970 So 2d 904 – Fla Dist. Court of Appeals (2007). See also Gallogy v. Rodriguez, 970 So. 2d 470 (Fla. Dist. Ct. Ap., 2007). See, e.g., Leibovitz v. New York City Transit Auth., 252 F. 3d 179, 184-85 (2d Cir. 2001) ("Concluding that emotional trauma "is sufficient to establish standing under Article III" because the plaintiff "has alleged an actual injury to [his]self...") Estate of Morris Ex Rel. Morris v. Dapolito, 297 F. Supp. 2d 680 (2004).

- (ii) The 11th Circuit deems this court's decision in *Ankenbrandt* frivolous.

As alleged in Arnold's Writ of Mandamus, the 11th Circuit judge's denial of Arnold's IFP motion on the grounds of frivolity due to his appeal being barred by the domestic relations exception because his claims necessarily implicated the enforcement of state court domestic relations orders was so far departed from this court's dominant instruction, her presumptions and experience as a judge that it evidences an intent to do wrong - an evil mind. An "[E]vil mind can be [both] proven either by direct evidence or by evidence that his conduct was so oppressive, outrageous, or intolerable such that an evil mind can be inferred." Walter v Simmons, 169 Ariz. 229 (Ariz. Ct. App. 1991). This court has already said that the Domestic relations "[E]xception **does not apply to a tort suit for intentional infliction of emotional distress**". Ankenbrandt v. Richards, 504 US 689 – Supreme court (1998). In fact, this court stated "[T]hat the domestic relations exception encompasses **only cases** involving the **issuance** of a divorce, alimony, or

child custody decree.” Ankenbrandt v. Richards, 504 US 689 — Supreme court (1998). There is no absolutely no circumstance in which there would be lacking an arguable basis in law or fact based on tort claims of IIED arising from the violation of a criminal law that does not involve the elements of the violation of child custody order for the court to consider in reaching its ultimate decision on an IIED claim. [T]o prove the crime of extortion the State must prove the following four elements... [1] verbal communication... [2] by such communication threatened an injury to the person ... [3] the threat was made maliciously... [4] with the intent to extort money... or with intent to compel the person so threatened... to do any act... against his or her will.” Duan v State, 970 So. 2d 903 (Fla. Dist. Ct. App. 2007). These four elements do not require a failure to perform to a child custody order. The only elemental foundation or essence of extortion is the verbal or “[W]ritten threat to commit... harm on another, which encompasses all of the required elements of section 836.10.” Doyle v. State, 240 So. 3d 95 (Fla. Dist. Ct. App. 2018).

Moreover, the Federal courts would not enter any order that would result in any issuance of any state court order because there would be no direct *enforcement* of the order which would be close to the equivalent of contempt. Any order would be directly concerned with only the claim of IIED. “[W]hen the order of a State court is disobeyed, Federal courts and courts of other States have no power to punish the contemnor.” In re Marriage of Alush, 172 Ill. App. 3d 646 (Ill. App. Ct. 1988). Yet, the judge Lagao considered Arnold’s claims frivolous in a manner that sits aside his tort claims because it involved a state court order. In this circumstance, if the 11th Circuit has considered Arnold’s claims as frivolous, which it has, then it absolutely considers this court’s decision in the case of *Ankenbrandt*, frivolous. Thus, Arnold requests rehearing because without it, Arnold’s *right to redress* intentionally inflicted mental distress will be nullified based

on 11th Circuit action that deprived him of a forum to redress such injuries within its jurisdiction by judicial discretionary functions of judicial officers acting outside their jurisdiction.

CONCLUSION

For all the reasons stated above, the Petitioner respectfully requests that this Honorable Court to GRANT the Petitioner's Writ of Certiorari.

Date: 12/20/2024



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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 44.1, Petitioner certifies that this Petition for Rehearing is submitted in good faith and not for delay and that it is presented as to the grounds specified in Rule 44. This Petition also does not exceed 40 pages excluding the parts of the Petition that are exempted by Supreme Court Rule 33.1(d). The Petitioner certifies that the word limitations provided for in subparagraph 1(g) of Rule 33.1 does not apply to documents prepared under Rule 33.2 for which the Petitioner's documents were prepared under.

Date: 12/20/2024

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Deandre Arnold, Petitioner, do hereby certify as required by Rule 29 that I have sent an original and 10 copies of the foregoing Motion for leave to proceed in forma pauperis and declaration in support and the Petition for Writ of Mandamus including the appendix's attached thereto via next day service to the United States Supreme Court clerk's office on the date below. I also certify that I have caused a single copy of the same to be delivered to the Appellee below via first class mail pursuant to Supreme Court Rule 29(3).

Respondent Circuit Judge Barbara Lago 56 Forsyth St. NW, Atl, GA 30303	Respondent David J Smith 56 Forsyth St. NW, Atl, GA 30303
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Date: 12/20/2024

Respectfully submitted,



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**PETITIONER'S DECLARATION TO CLERK OF TIMELY FILING VIA
THIRD PARTY COMMERCIAL CARRIER**

I, Deandre Arnold, Petitioner, do hereby certify that an original and 10 copies of the foregoing Motion for leave to proceed in forma pauperis and declaration in support including 10 copies of the Petition for Writ of Mandamus and the appendix's attached thereto ("Documents") was packaged together for delivery to the United States Supreme Court clerk's office via third party commercial carrier and that the tracking number that is displayed thereon the shipping label attached to the package will show that the packages were *delivered* to a third party commercial carrier for delivery to the United States Supreme Court clerk's office on the date below.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. 28 U.S.C. § 1746.

Date: 12/20/2024

Respectfully submitted,



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