ORIGINAL

No: 24-593

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SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

William F. Kaetz, Petitioner

vs.

United States of America; United States Department of Justice; Educational Credit Management Corp.; Law Offices of Kenneth L. Baum; *Experian Information Solutions, Inc.; Price Meese Shulman & D'Arminio; Transunion; Schuckit & Associates; *Equifax Information Services LLC; *Clark Hill Plc; Seyfarth Shaw, LLP; Kenneth L. Baum; Camille R. Nicodemus; William R. Brown, Esq.; Dorothy A. Kowal; Robert T. Szyba; Boris Brownstein, Esq.
*(Amended pursuant to Clerk Order of 6/22/23)
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: 11/25/2024 By: [signature]

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Questions 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?

If a separation of powers offense in student loan bankruptcy matters is found, would the actions of the Respondents be a fraud, a fraud on the court, civil rights violation, intention infliction of emotional distress, and legal malpractice?

And would the finding justify an injunction to stop the separation of powers offense?

The Respondents are United States corporations, law firms, attorneys, and citizens.

Do they have a legal and ethical obligation to support, uphold, and have allegiance to the Constitution of the United States?

If so, and it is found their actions are willful and violate and offend the Constitution, can a finding of wrongful treason be reasonable?

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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 civil lawsuit against the Respondents for usurpation of the Constitution of the United States with fraud that offends his civil rights.

The list of Respondents includes the same Defendants in *William Kaetz v. Educational Credit Management et. al.*, 2:16-cv-09225, Supreme Court Docket 24-432, and their attorneys in that case, includes the United States and the Department of Justice, they are being sued for fraud because they are learned in the law, but they go against the law, against the Constitution, a legal malpractice that offends civil rights and equal protection of the law.

The Respondents' fraud is the fraudulent interpretations of student loan bankruptcy law that amounts to a separation of powers offense and the cove-up of the offense with the law of the case doctrine[1], a wrongful treasonous act, it is malpractice.

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."

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[1] Collateral estoppel, also known as issue preclusion and/or res judicata. See a7, a20, a22 to a30.

Jurisdiction

William Kaetz is filing this Petition for Writ of Certiorari within the 90-day time limit of the Appeal Court's denial of the rehearing. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

Procedural History

On 6/6/2022, William Kaetz filed his original complaint against the Respondents for a separation of powers offense that amounts to legal malpractice, a 'fraud on the court', and to challenge the constitutionality of statute 11 U.S.C. 523 (a)(8). On 3/30/2023 the case was dismissed. On 3/31/2023 Mr. Kaetz filed a Rule 60 motion to vacate the dismissal order. On 5/1/2023 William Kaetz filed a notice of appeal prior to the rule 60 motion was dismissed. On 1/4/2024 the rule 60 motion was dismissed. On 1/11/2024 William Kaetz filed a motion for reconsideration presenting new information, on 4/10/2024 it was denied. On 6/11/2024, the appeal was denied. A petition for rehearing was filed. On 8/27/2024 Mr. Kaetz's petition for rehearing was denied and now files this petition 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 a civil complaint against the Respondents Educational Credit Management Crop.; Experian Information Solutions, Inc.; Transunion; and Equifax Information Services LLC., 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[2] that is an intentional fraud by officers of the court which is directed at the court itself that in fact deceives the court.

4. On 6/6/2022 William Kaetz sued again; this time included the same Defendants in *William Kaetz v. Educational Credit Management et. al.*, 2:16-cv-09225, Supreme Court Docket 24-432, their attorneys in that case, includes the United States and the Department of Justice, because they are learned in the law, but they go against the law, against the Constitution, a legal malpractice that offends civil rights and equal protection of the law concerning student loan bankruptcy matters.

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

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[2] 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 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 a22 to a30, a46 to a47 and a53 to a54.

5. 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."

6. 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 does not have the weight as clearly established law from a holding from this Court. 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 that student loan debt is presumptively nondischargeable under § 523(a)(8), and that Kaetz had not filed an adversary proceeding to determine 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. 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.

12. 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. 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 law to restrict liberty in student loan bankruptcy matters.

13. 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.

14. 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)). 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.

15. 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." 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.

16. 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 obiter dicta, legislative history, and a textbook as the constitutional law trenches upon the legislative powers vested in Congress by Art. I, § 1, of the Constitution. It is a separation of powers offense.

17. 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

18. 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.

19. 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).

20. "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

21. 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).

22. 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

23. 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).

24. 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)

25. 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).

26. "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].

Res-Judicata Claims are Inapplicable

27. Incorporating all the above, all prior orders and opinions are constitutionally questionable, there is reason to doubt the quality, extensiveness, and fairness of procedures followed in prior litigation. See *Kremer v. Chem. Constr. Corp.*, 456 U.S. 461, 480-81 (1982) (holding that res judicata applies unless "there is reason to doubt the quality, extensiveness, or fairness of procedures followed in prior litigation"). See also *Whole Woman's Health v. Hellerstedt* , —— U.S. ——, 136 S.Ct. 2292, 2305-07, 195 L.Ed.2d 665 (2016) (holding that res judicata does not bar claims in a case involving "important human values" and "even a slight change of circumstances").

28. The Respondents', and the lower courts' inferences from inferences from obiter dicta, legislative history, and a textbook, from the *Hood* case, are inadmissible and unconstitutional to reconstruct and interpret 11 U.S.C. § 523(a)(8), they are prohibited to be processed and administered as constitutional law. It is a separation of powers offense. This is the reason to doubt the quality, extensiveness, and fairness of procedures followed in prior litigation, the res-judicata, issue preclusion, law of the case claims from prior orders and opinions cannot apply. There are important human values at stake and even a slight change of circumstances; there are new and newly found U.S. Supreme Court holdings that validate William Kaetz's claims. The separation of powers within the Constitution protects human values, the separation of powers offense in the prior litigation jeopardizes human values. Res judicata cannot apply.

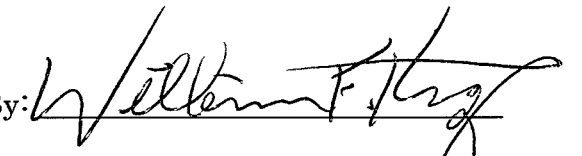
Relief Sought

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.

Certification

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

Respectfully.

Date: 11/25/2024 By: 

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