

24-6468 ORIGINAL
No. _____

FILED

JAN 31 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

LEONARD W. HOUSTON

— PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

LEONARD W. HOUSTON

(Your Name)

148 DEER COURT DRIVE, BLDG 4

(Address)

MIDDLETOWN, NY 10940-6867

(City, State, Zip Code)

845-343-8923

(Phone Number)

QUESTION(S) PRESENTED

STATEMENT OF ISSUE(S) PRESENTED FOR REVIEW

The Plaintiff, Leonard W. Houston, *pro-se*, submit this interlocutory appeal that the Court granted the Defendant, United States of America's motion to strike said plaintiff's jury trial demand on all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure ("FRCP") and subsection 804(d) of the Camp Lejeune Justice Act of 2022 ("CLJA") endorsed their on pursuant to his filing [11/27/2023] a required "Short-Form Complaint" of aforesaid even date.

The two statutory issues being succinctly presented for review, are as follows:

1. Whether the Plaintiff, LEOARD W. HOUSTON, *pro-se* pursuing his cause of action against the Defendant, United States of America, has a right to a trial by jury under the Camp Lejeune Justice Act (CLJA), 28 U.S.C. ch. 171 note, which the Court stated he is not entitled to jury trial as a matter of law. (D.E. # 133) (**ORDER**), dated February 6, 2024)
2. Whether the entitled Seventh Amendment (U.S. Const. Amend. VII) preserves the right to trial by jury by federal statutes in conjunction with Fed. R. Civ. P. 38(a) and CLJA § 804 (d) for appropriate relief under aforesaid statutes?

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APPENDIX A	United States Court of Appeals for The Fourth Circuit decision, dated 11/20/24 [Case No. 24-1642]; Notice of Appeal to United States Court of Appeals for The Fourth Circuit
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APPENDIX C	Plaintiff's Motion to Certify For Appeal The Order Granting Defendant's Motion to Strike The Demand for Jury Trial and Appellant's Petition for Rehearing and Rehearing Enbanc.
APPENDIX D	House of Representatives - H.R. 8545 118th Congress 2d Session, May 23, 2024
APPENDIX E	House of Representatives - H.R. 6482 117th Congress 2d Session, January 25, 2022
APPENDIX F	Senate of the United States - S.5257 118th Congress 2d Session, September 25, 2024

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[*] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[] reported at _____; or,
[X] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 11/20/2024.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 01/28/2025, and a copy of the order denying rehearing appears at Appendix A.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

RELEVANT CONSTITUTIONAL PROVISIONS

U.S. Constitution, Amendment VII, provides:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

A. Mandamus Review Is Appropriate When a Jury Trial Has Been Denied.

Rule 38, Fed. R. Civ. P., recognizes the Seventh Amendment right to trial by jury, and provides for demand of jury; but, failing such a demand, jury trial is waived. See also Rule 39, and 28 U.S.C. §§ 1861 to 1874. Government suits for money are commonly tried to a jury, if demanded.

STATEMENT OF THE CASE

Plaintiff, Leonard W. Houston (hereinafter, "Plaintiff" or "Houston") filed a "Short Form Complaint" against Defendant, United States of America, under the Camp Lejeune Justice Act of 2022 ("CLJA") in the United States District Court for the Eastern District of North Carolina, and therein alleges *inter alia* injury caused by exposure to water contamination at Camp Lejeune, North Carolina of March '1959 to March '1963, as a member of the Armed Services, which the Plaintiff during the aforesaid period live and work at the Marine Barracks at Camp Lejeune, NC., of which the Plaintiff suffered, *i.e.* Colon Polyps and relative disorders being an approximate date of March 30, 1963, and thereafter, as a results of the exposure to contaminated water at Camp Lejeune. Annexed copies of Houston's "Short Form Complaint," "Claim for Injury" filed with the Department of the Navy" and his DD-214 Form (Department of Defense Form)

A. STATEMENT OF FACTS

I. Parties

Plaintiff, Leonard W. Houston, an adult of senior age of 83 years old, and was a former resident and Veteran at the United State Marine Corps Base, Camp Lejeune, North Carolina, and stationed at Camp, Company "B" 2nd AmTracBn, Fleet Marine Force (FMF), North Carolina, from the period of 30 March 1959 to 30 March 1963, and being thereby Honorably Discharge from Enlistment on 30 March 1965. And is expressly authorized to bring this entitled "Claim" for injury for statutory action pursuant to § 840 of Title 38, United States Code, and incorporated by reference therein at § 840(b), of the honoring Our PACT Act of 2022, title 38 United States Code, the Camp Lejeune Act of 2022. the "Camp Lejeune Justice Act of 2022,"

Defendant, United States of America, is the party responsible for damages and/or injuries caused by its military service components, including, but limited to the United States Navy and United States Marine Corps, and related facilities, and thus has waived its sovereign immunity from Civil lawsuit(s) under said entitled "Act."

II. Exposure to the Contaminated Water at Camp Lejeune

At all relevant times no statute, regulation, law, executive order, or other binding authority of any federal or state government has mandated a time for presentment of a claim pursuant to 28 U.S.C. § 2675, as a condition precedent for relief under § 804 of said statutory title, as may be and/or have been amended.

That prior to the commencement of this entitled action (*i.e.*, Short Form Complaint) the Plaintiff, Leonard W. Houston (*i.e.*, Appellant) presented his claim to obtain relief for harm that was caused by exposure to the water at Camp Lejeune to the appropriate federal agency and this “Claim” of injury was deemed *denied* pursuant to 28 U.S.C. § 2675.

III. Injury as Result of the Contaminated Water At Camp Lejeune

On or about January 31, 2023, the Plaintiff, Leonard W. Houston presented his “Claim” for personal injury pursuant to the prescribed form provided by the Department of Navy, being addressed to the – OFFICE OF THE JUDGE ADVOCATE GENERAL, Tort Claims Unit, 9620 Maryland Avenue, Suite 205, Norfolk VA 23511, by U.S. Postal Service Mail. Annexed copy of said Document, herein marked as **Exhibit B**

Thereafter, no response and/or acknowledgment to aforesaid filed “Claim” of persona injury has been received by the plaintiff from the Department of the Navy, herewith being deemed *denied* under section 2675 of title 28 United States Code.

IV. Exhaustion

All statutory conditions precedent to the filing of this action under the “Camp Lejeune Justice Act of 2022” and to Plaintiff’s right to the relief sought have occurred and have been performed or have been excused.

Further, pursuant to § 804(h) of the Act, an individual may not bring a claim under § 804 (h) of the Act to obtain relief for harm that was caused by exposure to the water at Camp Lejeune before complying with 28 U.S.C. § 2675.

Accordingly, pursuant to 28 U.S.C. § 2675, an action shall not be instituted upon a “Claim” against Department, United States of America for money damages for injury or loss of property or personal injury (*i.e.*, as in this case) or death caused by the negligent or wrongful act(s) or omission of said named Defendant, its employees or agents, unless the claimant shall have first presented the “Claim” to the appropriate Federal agency and his “Claim” shall have been finally denied by the agency in writing and sent by certified mail.

At all relevant times, no statute, regulation(s), law, executive order, or other binding authority of any federal or state government has mandated a time for presentation of a claim pursuant to 28 U.S.C. § 2675, as a condition for relief under § 804 of said title with respect to plaintiff’s claim, prior to its submission, as herein aforesaid.

On January 31, 2023, the Plaintiff, Leonard W. Houston presented his claim for personal injury in the prescribed form provided by the Department of the Navy, being addressed to the Office of the Judge Advocate General, Tort Claims Unit, 9620 Maryland Avenue, Suite 205, Norfolk VA 23511-2929, by U.S. Postal Service - CERTIFIED MAIL RECEIPT, which was confirmed that said item was delivered to the addressee on February 3, 2023.

Therefore, no response and/or acknowledgment to aforesaid filed "Claim" of personal injury has been received by the Plaintiff from the Department of the Navy, herewith being deemed in all respects, "*denied*" under section 2675 of title 28 United States Code, thus the substantive and procedural requirements for claims has been met under the Camp Lejeune Justice Act of 2022 (CLJA), including but not limited to, "the right of any party to a trial by jury." Pub. L. 117-168, § 804(d), 136 Stat. 1759, 1802, 1802-04 (2022).

REASONS FOR GRANTING THE PETITION

The two statutory issues being succinctly presented for review, are as follows:

1. Whether the Plaintiff, LEONARD W. HOUSTON, *pro se* pursuing his cause of action against the Defendant, United States of America, has a right to a trial by jury under the Camp Lejeune Justice Act (CLJA), 28 U.S.C. ch. 171 note, which the Court stated he is not entitled to jury trial as a matter of law. (D.E. # 133) (**ORDER**), dated February 6, 2024)
2. Whether the entitled Seventh Amendment (**U.S. Const. Amend. VII**) preserves the right to trial by jury by federal statutes in conjunction with Fed. R. Civ. P. 38(a) and CLJA § 804 (d) for appropriate relief under aforesaid statutes?

Interlocutory Appeal of an Order. 28 U.S.C. §1292(b)

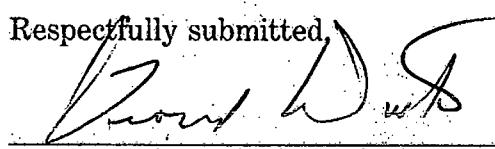
Point I: Appellant contends an affirmative right to a Trial by Jury on all issues pursuant to Rule 38 of the Federal Rules of Civil Procedure (FRCP), as constituted in subsection 804(d) of the Camp Lejeune Justice Act of 2022 (“CLJA”)

Point II: Seventh Amendment (**U.S. Const. amend. VII**) preserves the right to trial by jury by federal statute, Fed. R. Civ. P. 38(a), which denies granting of Defendant, United States of America of an **ORDER**, entered therein, to strike the jury trial demand in the Plaintiff’s Short-Form Complaint pursuant to said statute supported by a filed “**Claim for Injury**” cause by exposure to Water Contamination at Camp Lejeune during the described period of said exposure under the CLJA that provided herein, *inter alia*, “for appropriate relief” under § 804(d).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



LEONARD W. HOUSTON

Date: January 31, 2025