

U.S. SUPREME

No. 24-6707

FIRST AMENDED

FILED
OCT 29 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

EDDIE TURNER — PETITIONER
(Your Name)

vs.
DOJ - UNITED STATES DEPARTMENT OF JUSTICE, OFFICE & ADMINISTRATION,
AND CALIFORNIA DEPARTMENT OF JUSTICE OFFICE of the ATTORNEY GENERAL
ON PETITION FOR A WRIT OF CERTIORARI TO RESPONDENT(S)
* NO RULINGS ON THE MERITS AND CASE WAS DISMISSED
BEFORE RESPONDENTS REPLIED
* RULINGS HAVE ONLY BEEN MADE ON MOTIONS TO PROCEED IN FORMA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) PAUPERIS

PETITION FOR WRIT OF CERTIORARI

EDDIE TURNER

(Your Name)

SIERRA CONSERVATION CENTER
5150 OBYRNES FERRY RD.

(Address)

JAMESTOWN, CA 95327

(City, State, Zip Code)

N/A

(Phone Number)

QUESTIONS PRESENTED

1) MUST A WRIT OF HABEAS CORPUS BE ISSUED WHEN A PETITIONER HAS PLEADED SUFFICIENT FACTS THAT PROVES A CLEAR, PRESENT AND MINISTERIAL DUTY OWED TO THE PETITIONER UPON THE PART OF THE RESPONDENTS, PROVES A CLEAR, PRESENT AND CONSTITUTIONAL RIGHT OWED TO THE PETITIONER BY STATUTE, AND PROVES THAT THERE IS NO OTHER PLAIN, SPEEDY, OR ADEQUATE REMEDY OTHER THAN TO GRANT THE PETITION ACKNOWLEDGED BY THE DISTRICT COURT. OF FORM-73, NOT TO BE FRIVOLOUS OR MALICIOUS, NOR FAIL TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, NOR SEEKS MONETARY RELIEF?

2) CAN THE JUDICIAL BRANCH

2) CAN A DISTRICT COURT REFUSE SUBJECT-MATTER JURISDICTION BASED ON SOVEREIGN IMMUNITY AND THE U.S. COURT OF APPEALS REFUSE TO REVIEW THIS QUESTION OF LAW BASED ON A FRIVOLOUS OR MALICIOUS OPPOSITION RAISED FOR THE FIRST TIME BY THE CLERK OF THE COURT OF APPEALS WHEN CONGRESS (THE LEGISLATIVE BRANCH) HAS DECLARED THAT A PERSON SUFFERING LEGAL WRONGS BECAUSE OF A LACK OF AGENCY ACTION WITHIN THE MEANING OF A RELEVANT STATUTE IS ENTITLED TO JUDICIAL REVIEW THEREOF AND AN ACTION IN A COURT OF THE U.S. SEEKING RELIEF OTHER THAN MONEY DAMAGES

1 AND STATING A CLAIM THAT AN AGENCY OR AN
2 EMPLOYEE THEREOF FAILED TO ACT IN AN
3 OFFICIAL CAPACITY SHALL NOT BE DISMISSED NOR
4 RELIEF THEREIN DENIED ON THE GROUND THAT IT
5 IS AGAINST THE U.S. OR THE U.S. IS AN
6 INDISPENSABLE PARTY?

7
8 3) DID BOTH THE U.S. COURT OF APPEAL AND THE U.S.
9 DISTRICT COURT, WHICH PERFORMED THE INITIAL
10 IN FORMA PAUPERIS SCREENING AND ACKNOWLEDGED
11 BY COURT FORM CV-73 THAT PETITIONER IS NOT
12 ABLE TO PAY THE FILING FEES AND THAT HIS
13 PETITION FOR MANDAMUS WAS NOT FRIVOLOUS OR
14 MALICIOUS BOTH ERR IN DENYING LEAVE TO PROCEED
15 IN FORMA PAUPERIS.

16
17 4) PETITIONER IS MOTIONING TO PROCEED IN FORMA
18 PAUPERIS FOR A THIRD CONSECUTIVE TIME, WHICH
19 IS THIS COURT'S FIRST ORDER OF BUSINESS TO RESOLVE,
20 AND DOES AN IN FORMA PAUPERIS RULING IN HIS
21 FAVOR DEMAND HIS PETITION FOR MANDAMUS BE
22 REMANDED FOR FURTHER ACTIONS ON THE MERITS
23 OF HIS WRIT?

24
25 5) DID THE COURT OF APPEAL ERR BY NOT ALLOWING
26 PETITIONER TO CURE THE 28 U.S.C. 31915(e)(2)
27 DISMISSAL BY PAYING THE OUTSTANDING FILING FEES
28 TO CONTINUE HIS APPEAL AND RECEIVE ^A RULING ON THE
MERITS?

6) IN FORMA PAUPERIS "IFP" WAS LEGISLATED TO ENSURE INDIGENT LITIGENTS HAVE EQUAL ACCESS TO COURTS AND CONGRESS SPECIFICALLY DESIGNATED ITS GRANTING TO A JUDGE BASED ON PRIVATE FINANCIAL DECLARATIONS, SO WHY IS A CLERK SCREENING APPLICATIONS AND ISSUING ORDERS TO SHOW CAUSE "OTSC," IN CLEAR VIOLATION OF RULE 27-7 REGARDING THE WAIVED AND FORFEITED MATTER OF FRIVOLOUSNESS AND IS THIS AN ABUSE OF AUTHORITY AND THE ASSOCIATED OTSC, THE DISMISSAL OF PETITIONER'S MOTION FOR IFP, AND THE SUPPOSED STRIKE NULLITIES WITHOUT AN EXTRAORDINARY EXPLANATION, IN AN OPINION FROM THE APPELLANT PANEL.

LIST OF PARTIES

~~YES~~ ☒ All parties appear in the caption of the case on the cover page.

~~NO~~ ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

UNITED STATES DEPARTMENT of JUSTICE, OFFICE of
ADMINISTRATION

CALIFORNIA DEPARTMENT of JUSTICE, OFFICE of the
ATTORNEY GENERAL

RELATED CASES

US DISTRICT COURT, CENTRAL DIST., CASE No. 2:23-cv-09026-AB-KS
US CIRCUIT COURT of APPEALS, 9TH CIR., CASE No. 24-2465

TABLE of CONTENTS

OPINIONS	PAGES
U.S. DISTRICT COURT, APPENDIX A	I-V
U.S. COURT of APPEAL, APPENDIX B	VI-XII
JURISDICTION	XIII
STATEMENT of CASE	1-8
*PAGES LEFT BLANK ON PURPOSE	9-11
PROCEEDINGS	12
REASONS for GRANTING CASE	14
PRAYER for RELIEF	34

INDEX To APPENDICES

APPENDIX A, U.S. DISTRICT COURT OPINIONS	I-V
APPENDIX B, U.S. COURT of APPEAL OPINIONS	XI-XII
APPENDIX C, CIRCUIT RULE 27-7	37
CIRCUIT RULE 27-10	45
FRAP R 40	46
U.S. DISTRICT COURT INSTRUCTIONS	47
APPENDIX D, GRANT DEED	50
DOJ CORRESPONDENCES	52

TABLE OF AUTHORITIES

CASES

THE PEOPLE V. TURNER, LASCBA 424226; COA 20-930 pg 12, 18, 22
KALAMAZOO COUNTY COMM'N V. DELEON 574 U.S. 1104 pg 14
COUNTY OF SAN DIEGO V. CALIFORNIA 164 CAL. APP 4TH 580, 606 pg 16
MAY V. BOARD OF DIRECTIONS 34 CAL. 2d 125 pg 16
EX PARTE YOUNG, 209 U.S. 123 pg 17, 20, 35
YUANOVA V. NEW CENTURY MORTG 62 CAL 4TH SUPRA Pg 13, 22
HIGHMARK V. ALLCARE HEALTH 188 L.Ed. 2d 827 572 U.S. 559 Pg 18
BOAG V. MACDOUGAIL U.S. 364, 70 L.Ed. 2d 551, 102 S.Ct. 700 Pg 23
WALKER V. WALKER 2021 WL 2652568 at *2 Pg 23
NEITZE V. WILLIAMS 490 US 319, 104 L.Ed. 2d 338, 109 S.Ct. 1827 Pg 23
U.S. V. LAVABIT, LLC (UNRE UNDER SEAL) 749 F. 3d 276 Pg 29
AKHTAR V. MESA, 698 F. 3d 1202, 1212 9TH CIR. 2012 Pg 30
HOLLINGSWORTH V. PERRY, 558 U.S. 183 AND 570 U.S. 693 Pg 31
VEY V. CLINTON (1997 US) 138 L.Ed. 2d 132, 117 S.Ct. (792) Pg 32
TODD V. EVERETT, 247 CAL. APP 2d 209 Pg 13
DENTON V. HERNANDEZ (1992 US) 118 L.Ed. 2d 340, 112 S.Ct. 1728 Pg 32

STATUTES & RULES

USCS § 1361 Pg 17, 20, 33
USCS RULE 15 Pg 14, 20 (USCS FED RULES CIV PROC R 15)
5 USCS § 702 pg 15, 20, 21, 32
28 USCS § 1914 Pg 32
28 USCS § 1915(e)(2) Pg 14, 22, 28, 29, 30, 32, 34, 35
U.S. SUPREME COURT RULE 10 Pg 20, 33
CIV. CODE OF PROC § 1085 & § 1086 Pg 13, 16, 20, 21, 23, 32
CAL GOV. CODE § 68150 Pg 13
PENAL CODE 115 Pg 14, 22, 31
FIRST AMENDMENT Pg 13
SEVENTH AMENDMENT Pg 34
14TH AMENDMENT Pg 17, 20, 31, 32, 34

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 B to the petition and is

☒ reported at PAGES VI.-XII.; 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 A to the petition and is

☒ reported at PAGES I.-V.; or,
☐ 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 02/28/24.

☐ 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: 10/15/24. N/A, and a copy of the order denying rehearing appears at Appendix _____.

IS STILL OUTSTANDING AND NEVER RULED ON

☐ 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).

XIII

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

IN FORMA PAUPERIS

28 USCS § 1915(e)(2)

USCS Ct App 9th Cir, CIRCUIT RULE 27-7

USCS Ct App 9th Cir, CIRCUIT RULE 27-10

USCS SUPREME Ct R 10

SOVEREIGN IMMUNITY / SUBJECT MATTER JURISDICTION?

5 USCS § 702

EX PARTE YOUNG DOCTRINE

WRIT OF MANDAMUS

28 USCS § 1361

CA1 Code CIV PROC § 1086

CA1 Code CIV PROC § 1087

PENAL CODE § 115

CONSTITUTION

7th AMENDMENT

14th AMENDMENT

USCS FED RULES CIV PROC R 15

I. STATEMENT OF THE CASE

THIS REVIEW INVOLVES A WRIT OF MANDAMUS AND THE PERFECT COMBINATION OF THE NON-DISCRETIONARY DEMANDS OF PENAL CODE §115, CIVIL CODE OF PROCEDURES §§ 1087 & 1086, 28 USC § 1361, 5 USC § 702, AND THE THE EX PARTE YOUNG DOCTRINE COUPLED WITH THE FACT THAT JURORS FOUND DEED OF TRUST "DOT", LOS ANGELES COUNTY INSTRUMENT No. 2007-074-5400, FORGED, FRAUDULENT OR BOTH FORGED & FRAUDULENT MAKES PETITIONER'S WRIT OF MANDATE FULL PROOF AGAINST DISMISSALS RELATED TO AND/OR BASED ON A LACK OF SUBJECT - MATTER JURISDICTION OR THE FRIVOLOUS REVIEW STANDARDS OF 28 USC § 1915, TO PROCEED IN FORMAL PAUPERIS.

RULE 10 OF THE UNITED STATES SUPREME COURT PROVIDES:

A PETITION FOR WRIT OF CERTIORARI WILL BE GRANTED WHEN A COURT HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, AS TO CALL FOR THE MANDATORY EXERCISE OF THE U.S. SUPREME COURT'S SUPERVISORY POWER.

THE U.S. DISTRICT COURT "USDC" HAS COMMITTED "CLEAR ERRORS" OF THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AND THE APPLICATION OF STATUTES THAT GOVERNS MANDAMUS ACTIONS AND THE U.S. COURT OF APPEAL "USCOA" HAS ALLOWED ITS CLERK'S OFFICE TO ABUSE ITS AUTHORITY AND MAKE JUDICIAL DECISIONS

RESERVED FOR A SITTING JUDGE AND/OR THE COURT'S
ASSIGNED REVIEW PANEL.

I. 28 USCS § 1915

IN FORMA PAUPERIS (28 USCS § 1915) WAS LEGISLATED TO
ENSURE THAT INDIGENT LITIGENTS HAVE MEANINGFUL
ACCESS TO FEDERAL COURTS AND CONGRESS' OVERALL
GOAL IN ENACTING THE STATUTE WAS TO ASSURE
EQUALITY OF CONSIDERATION FOR ALL LITIGANTS. THE
FRIVOLOUSNESS STANDARD § 1915(e)(2) WAS ADDED TO
DISCOURAGE AND WEED OUT INARGUABLE OR BASELESS
CLAIMS. AN INFORMAL PAUPERIS CAN ONLY BE DISMISSED
IF THE PETITIONER CANNOT MAKE ANY RATIONAL
ARGUMENT IN LAW OR FACT, WHICH WOULD ENTITLE HIM
TO RELIEF.

CLAIMS THAT LACK SUBJECT-MATTER JURISDICTION
ARE DISMISSED UNDER FEDERAL RULE OF CIVIL
PROCEDURE 12(h)(3), WHICH ~~REQUIRES~~ REQUIRES THE
COURT TO APPLY THE RULE "FAILURE TO STATE A
CLAIM" STANDARD VERSUS THE FRIVOLOUS STANDARD
OF § 1915(e)(2). TO CONFLATE THE STANDARDS DENIES
INDIGENT PETITIONERS THE PRACTICAL PROTECTION
UNDER RULE 12'S STANDARD OF REVIEW, WHICH GIVES
NOTICE OF THE PENDING MOTION TO DISMISS, AN
EXPLANATION, AND AN OPPORTUNITY TO AMEND THE
COMPLAINT PRIOR TO THE ^{CASE} MOTION BEING RULED UPON
(RULE 15).

3*

1 THUS FAR THERE HAVE BEEN TWO (2) CONFLICTING RULINGS
2 REGARDING PETITIONER'S MOTIONS TO PROCEED IN FORMA
3 PAUPERIS AND WHEN THERE ARE CONFLICTING RULINGS
4 ON THE SAME MOTION IT IS THE U.S. SUPREME COURT'S
5 CHIEF RESPONSIBILITY TO RESOLVE. PETITIONER IS RE-
6 SUBMITTING HIS APPLICATION TO PROCEED IN FORMA
7 PAUPERIS FOR A THIRD TIME FOR THIS WRIT OF CERTIORARI.
8 THIS COURT'S INITIAL RESPONSIBILITY IS TO REVIEW
9 PETITIONER'S APPLICATION AND GRANT REQUESTED
10 RELIEF. BY DEFAULT THIS COURT HAS TO GRANT CERTIORARI
11 REVIEW OF BOTH PRIOR RULINGS DENIAL RULINGS BASED
12 ON A LACK OF SUBJECT-MATTER JURISDICTION AND
13 FRIVOLOUSNESS UNDER THE 28 USCS §1915 STANDARD OF
14 REVIEW.

15
16 THE SUPREME COURT HAS DETERMINED THAT A DISMISSAL
17 UNDER 28 USCS §1915 IS NOT A DISMISSAL ON THE
18 MERITS OF THE CASE, BUT RATHER AN EXERCISE OF THE
19 COURT'S DISCRETION. THE DISMISSAL DOES NOT PREJUDICE
20 THE FILING OF A PAID COMPLAINT MAKING THE SAME
21 ALLEGATIONS. APPENDIX C.12, Pg 48. PETITIONER SHOULD HAVE
22 BEEN GIVEN A CHANCE TO PAY FEES AND PROCEED.

23 ~~1ST QUESTION PRESENTED~~

24 ON MAY 8TH, 2024 PETITIONER RECEIVED AN ORDER TO
25 PAY THE FILING AND DOCKETING FEES OR FILE A MOTION
26 TO PROCEED IN FORMA PAUPERIS; see APPENDIX B.2. CAN
27 PETITIONER CURE THE DENIALS OF HIS ~~DENIED~~ MOTIONS
28 TO PROCEED IN FORMA PAUPERIS BY PAYING THE COURT FEES TO

HA
1 CURE THE FAILURE TO PROSECUTE SUPPOSED VIOLATION
2 (9TH CIR. R. 42-1) AND DISMISSAL OF HIS WRIT? APPENDIX C.12
3

4 TO PUT IT ANOTHER WAY, IF PETITIONER WAS DENIED
5 HIS MOTION FOR EXTENSION OF TIME TO FILE AN OPENING
6 BRIEF HIS ORIGINAL BRIEFING DATE WOULD STILL STAND.
7 THE DENIAL OF THE MOTION DOES NOT DISMISS THE CASE.
8 WHY WOULD THE DENIAL OF PETITIONER'S MOTION TO PROCEED
9 IN FORMA PAUPERIS BE ANY DIFFERENT (VEY V. CLINTON
10 (1997, US) 138 L. ED 2D 132, 117 S CT (792)?
11

12 ON OCTOBER 31, 2023 JUDGE BIROTTE DENIED PETITIONER'S
13 MOTION TO PROCEED IN FORMA PAUPERIS AND DOCUMENTED
14 HIS DECISION BY UTILIZING COURT FORM "CV-73"; SEE
15 APPENDIX A.6. JUDGE BIROTTE SPECIFICALLY **DID NOT RULE**
16 PETITIONER'S PLEADING WAS:

17 A. FRIVOLOUS OR MALICIOUS

18 B. FAILED TO STATE A CLAIM, WHICH
19 RELIEF MAY BE GRANTED

20 OR,

21 C. WAS AN ACTION SEEKING MONE-
22 TARY RELIEF AGAINST DEFENDANTS
23 IMMUNE FROM SUCH RELIEF

24 JUDGE BIROTTE FURTHER ~~DISPENSED~~ DISMISSED THE CASE
25 WITHOUT PRESUDICE TO ALLOW PETITIONER TO RAISE HIS
26 CLAIMS IN "STATE" COURT; (28 USC § 1361?) (WELL-PLEADED)
27

28 RESPONDENTS NEVER FILED A RESPONSE AND THERE IS

5
1 ABSOLUTELY NO EVIDENCE OR OPPOSITIONS/~~CLAIMS~~ THAT
2 CONCLUDES OR SUGGEST PETITIONER'S PLEADING IS
3 FRIVOLOUS UNDER THE STANDARD OF 28 USC § 1915(e)(2).
4

5 ~~2ND QUESTION PRESENTED~~

6 WHAT OTHER CHOICE DOES THE U.S. SUPREME COURT
7 HAVE OTHER THEN TO REVERSE THE APPELLATE^{7th}
8 COURT'S DISMISSAL? THE RECORD DOES NOT SUPPORT 28 USC § 1915(e)(2)
9

10 ON JUNE 17TH, 2024, THE USCOA CLERK'S OFFICE ISSUED
11 AN UNAUTHORIZED "ORDER TO SHOW CAUSE" WHY PETITIONER'S
12 APPEAL SHOULD NOT BE DISMISSED FOR BEING FRIVOLOUS OR
13 MALICIOUS IN REGARDS TO 28 USC § 1915(e)(2). WHEN
14 INQUIRED ABOUT THE AUTHORIZATION TO ISSUE JUDICIAL
15 ORDERS, PETITIONER WAS DIRECTED TO APPENDIX A, PURSUANT
16 TO CIRCUIT RULE 27-7, TITLED "DISPOSITION OF MOTIONS
17 BY THE CLERK; see APPENDIX B, ~~pg 24~~ "C"
18

19 THERE IS ABSOLUTELY NO AUTHORIZATION GIVEN TO
20 A DEPUTY CLERK TO ISSUE ORDERS TO SHOW CAUSE
21 RELATED TO MOTIONS TO PROCEED IN FORMA PAUPERIS,
22 WHICH IS AN EXERCISE OF DISCRETION IMPOSED ON A JUDGE.
23 IN ADDITION, ALL ORDERS ISSUED BY A DEPUTY CLERK ARE
24 APPEALABLE BY MOTIONS FOR RECONSIDERATION, IN
25 ACCORDANCE TO CIRCUIT RULE 27-10; see APPENDIX C
26

27 FURTHER, RULE 27-7 DOES NOT DELEGATE AUTHORITY TO A
28 DEPUTY CLERK TO DENY PENDING MOTIONS AS MOOT, UNLESS

6
1 THEY ARE ASSOCIATED WITH UNOPPOSED ENTRIES &
2 DEFAULT. CIRCUIT RULE 27-7 ALSO DOES NOT AUTHORIZE
3 THE CLERK'S OFFICE TO ORDER THE DOCKET CLOSED TO
4 FURTHER FILINGS BECAUSE THAT WOULD BE IN DIRECT
5 OPPOSITION TO THE RULE'S APPEAL PROCESS BY MOTION
6 FOR RECONSIDERATION. APPENDIX C.1

7
8 THERE WAS NO COURT MINUTE ORDER ATTACHED TO
9 THE "ORDER TO SHOW CAUSE" NOR A PANEL SIGNED
10 ORDER OF DISMISSAL OR PANEL SIGNED MANDATE FILED
11 THUS, APPLYING DEDUCTIVE REASONING CONCLUDES THE
12 PANEL OF SCHROEDER, M. SMITH, AND HURWITZ DID
13 NOT ISSUE THE "ORDER TO SHOW CAUSE, MAKE THE
14 DISMISSAL RULING OR ISSUE THE RECENT MANDATE
15 WHICH MAKES ALL OF THE UNAUTHORIZED FILLINGS
16 NULLITIES BY ~~OR~~ OPERATION OF THE LAW.

17
18 THE UNETHICAL ACTIONS OF THE CLERK'S OFFICE
19 COUPLED WITH THE ~~BLATANT~~ BLATANT DEVIATION FROM
20 THE ACCEPTED AND USUAL COURSE OF APPELLATE
21 PROCEDURES MAKES IT EVIDENT THAT PETITIONER
22 CANNOT RECEIVE A JUST RULING ON THE ONLY QUESTION
23 OF LAW PRESENTED TO THE COA REGARDING "SUBJECT-
24 MATTER JURISDICTION" AND THIS MATTER DEMANDS THE
25 EXERCISE OF THE U.S. SUPREME COURT'S SUPERVISORY
26 POWER.

27
28 *NOTE, TO THE COURT'S ATTENTION

AN AUDIT REVEALS THAT IN AUGUST OF 2021, 2021, AND
2024 300 CASES HAVE BEEN DISMISSED RELATED TO
28 USC § 1915 (e)(2) IN SOME TYPE OF IDENTICAL AND
UNETHICAL PURGE INSTIGATED BY AN ABUSE OF AUTHORITY
BY THE CLERK'S OFFICE AND IN OPPOSITION TO CONGRESS'S
GOAL TO GIVE EVERYONE THEIR DAY IN COURT REGARDLESS OF ABILITY TO PAY

6 of 35

7

SUBJECT MATTER JURISDICTION

1 ON OCTOBER 3RD, 2023 DISTRICT JUDGE BIROU
2 RULED THAT:

3 "A PARTY INVOKING THE FEDERAL
4 COURT'S JURISDICTION HAS THE
5 BURDEN OF PROVING THE ACTUAL
6 EXISTENCE OF SUBJECT-MATTER
7 JURISDICTION. THE COMPLAINT IS
8 DISMISSED FOR LACK OF JURISDICTION
9 IF JURISDICTION IS LACKING AT THE
10 ONSET, THE COURT HAS NO POWER TO
11 DO ANYTHING WITH THE CASE EXCEPT
12 DISMISS. THE 11TH AMENDMENT BARS
13 SUITS IN FEDERAL COURT AGAINST
14 STATES ON THE BASIS OF ~~SOV~~ VIOLA-
15 TIONS OF STATE LAW."

16
17 HOWEVER, 28 USCS § 1361 STATES:

18 THE DISTRICT COURTS SHALL HAVE
19 ORIGINAL JURISDICTION OF ANY
20 ACTION IN THE NATURE OF
21 MANDAMUS TO COMPEL AN OFFICER
22 OR EMPLOYEE OR ANY AGENCY THERE-
23 OF TO PERFORM A DUTY OWED

24
25 CONGRESS ACTUALLY PROPOSED 28 USCS § 1361 TO
26 SPECIFICALLY EXTEND THE POWER OF DISTRICT COURTS
27 OUTSIDE THE DISTRICT OF COLUMBIA TO COMPEL OFFICIAL
28 ACTIONS BY MANDATORY ORDER IN CASES INVOLVING

3

NONDISCRETIONARY MINISTERIAL DUTIES.

1
2 A VOID DEED OF TRUST CANNOT LEGALLY
3 TRANSFER TITLE AND THE ILLEGAL TRANSFER
4 OF PETITIONER'S TITLE IS A CONTINUOUS MORTGAGE
5 FRAUD THE ATTORNEY GENERAL'S OFFICE INVOLVED
6 IN U.S. DISTRICT CASE NO. 2:23-CV-09026-AB-KS
7 HAD A DUTY TO STOP AND/OR CANCEL BY ENFORCING
8 THE MANDATORY PROVISIONS OF PENAL CODE 3115

9
10 JUDGE BIROITE SURPRISINGLY ANNOUNCED THAT:

11 "PLAINTIFF SOUGHT AN "ALTERNATIVE
12 WRIT OF MANDATE" UNDER CALIFORNIA
13 LAW THAT WOULD HAVE DECLARED THE
14 2007 DEED OF TRUST VOID AND THAT
15 CANCELED THE FORECLOSURE, (ID. at 10)"
16 IN HIS CIVIL MINUTES, DATED APRIL 8TH, 2024,
17 THAT STATEMENT, BESIDES BEING UNNECESSARY TO
18 HIS DECISION, IS QUITE LEGALLY WRONG. NO FACT
19 RULED ON MAY BE RE-EXAMINED BY A JURY MAY
20 BE RE-EXAMINED AND WHEN JURORS RULE DEED
21 OF TRUST 2007-074-5400 WAS FORGED OR FRAUDULENT
22 AND NOT CONSIDERED FILED BECAUSE IT IS NOT
23 CONSIDERED GENUINE IT CANCELED THE FORECLOSURE,
24 DEED UPON TRUSTEE SALE, AND GRANT DEED TO THE
25 CURRENT ILLEGAL TITLE HOLDERS BY OPERATION OF
26 THE LAW. JUDGE BIROITE HAD A MINISTERIAL DUTY
27 TO GRANT THE PETITIONER'S WRIT PRESCRIBED BY
28 LAW WITHOUT REGARD TO ANY PERSONAL JUDGEMENT,
AS TO THE PROPRIETY OF THE ACT.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

* PAGES 9-11
PURPOSELY LEFT BLANK

LEFT BLANK for ADMENDMENT

I. PROCEEDINGS

FRED FELBERG GRANTED TITLE to 2436 NORTH ALTADENA DRIVE, ALTADENA, CALIFORNIA, 91001 TO THE PETITIONER, IN 2005, AND HIS ORIGINAL COUNTRYWIDE PURCHASE LOAN WAS PAID IN FULL IN 2007, THUS GIVING HIM "SUPERIOR" TITLE TO THE PROPERTY FREE AND CLEAR; (CASE 2:23-CV-09026-AB-KS, DOCUMENT 4, PAGES 344); **APPENDIX D, Pg 50**

AN ILLEGAL DEED OF TRUST WAS RECORDED AGAINST THE PROPERTY IN 2007 AND DECLARED FORGED OR FRAUDULENT AND NOT CONSIDERED GENUINE OR IN OTHER WORDS **VOID** BY JURORS IN LASC CRIMINAL CASE No. BAY24226-01, IN 2016 AND IN ACCORDANCE TO PENAL CODE 115.

THE **Re-EXAMINATION CLAUSE** of THE U.S. CONSTITUTION DECLARES:

THAT **NO FACT** TRIED BY A JURY, SHALL BE OTHERWISE RE-EXAMINED IN ANY COURT OF THE UNITED STATES THEN IN ACCORDANCE WITH THE RULES OF COMMON LAW

AT THIS POINT, PENAL CODE 115 SHOULD HAVE BEEN ENACTED AND UPHELD TO THE "LETTER OF THE LAW" AND THE RELATED DEED, L.A. COUNTY INSTRUMENT No. 2007-074-5400 SHOULD HAVE BEEN DECLARED VOID AB INITIO AND A LIS PENDENS SHOULD HAVE BEEN RECORDED AGAINST PETITIONER'S ALTADENA PROPERTY

PETITIONER INITIALLY FILED HIS FORMAL WRITTEN DEMAND FOR VOID L.A. COUNTY INSTRUMENT No. 2007-074-5400 TO BE DECLARED VOID WITH THE STATE OF CALIFORNIA, DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL, IN SACRAMENTO, CALIFORNIA

PETITIONER REDIRECTED HIS FORMAL DEMAND TO THE EXECUTIVE OFFICE FOR THE U.S. DEPARTMENT OF JUSTICE AFTER NOT RECEIVING A RESPONSE FROM THE STATE. THE ~~U.S.~~ U.S. OFFICE OF ADMINISTRATION OFFICE PROVIDES EXECUTIVE SUPPORT FOR COMPLEX MATTERS FOR THE 93 DOJ OFFICES THROUGHOUT THE COUNTRY

ON AUGUST 2ND, 2023, THE U.S. DEPARTMENT OF JUSTICE, CIVIL LAW DIVISION, RE-DIRECTED PETITIONER TO THE U.S. CLERK'S OFFICE, CENTRAL DIVISION FOR RETRIEVAL OF THE DECLARATIONS DECLARING VOID INSTRUMENT 2007-074-5400 FORGE, FRAUDULENT, OR FORGED & FRAUDULENT **APPENDIX D, pg 52**

PETITIONER SPENT SEVERAL WEEKS PHYSICALLY VISITING THE CLERK'S OFFICE ATTEMPTING TO RETRIEVE SAID DECLARATIONS TO NO AVAIL AND THUS PROMPTING THE FILING OF HIS WRIT OF MANDATE.

NOTE, U.S. DISTRICT CLERKS OF THE COURT BRAIN P. KARTH AND KIRY GRAY WERE BOTH FORMALLY REQUESTED TO PROVIDE A COPY OF THE SOUGHT OUT DECLARATIONS AND ~~WHO~~ BOTH FAILED TO RESPOND IN THEIR OFFICIAL CAPACITY AND NEED TO BE AMENDED TO THE COMPLAINT (CAL. CIV. CODE § 68150(1)). A CLERK'S DUTY UNDER § 68150 IS MINISTERIAL, NOT JUDICIAL, AND MUST BE PERFORMED; (TODD V. EVERETT, 247 CAL. APP 2d 209). DISTRICT CLERKS DO NOT HAVE JUDICIAL DISCRETION IMMUNITY

PETITIONER HAS A 1ST AMENDMENT RIGHT TO THE REQUESTED DECLARATIONS AND A WRIT OF MANDATE MUST BE ISSUED IN ALL MATTERS WHERE THERE IS NOT A PLAIN, SPEEDY, AND ADEQUATE REMEDY IN THE ORDINARY COURSE OF LAW; (CIV. CODE OF PROC. § 1086).

II. U.S. SUPREME COURT RULE 10

RULE 10 OF THE UNITED STATES SUPREME COURT PROVIDES:

A PETITION FOR WRIT OF CERTIORARI WILL BE GRANTED WHEN A COURT HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AS TO CALL FOR THE MANDATORY EXERCISE OF THE U.S. SUPREME COURT'S SUPERVISORY POWER (KALAMAZOO COUNTY COMM'N V. DELEON, 574 U.S. 1104); SEE SEQUENCE OF PROCEEDINGS

JURORS IN L.A. SUPERIOR COURT, CRIMINAL CASE NO. BA424226-01 RULED THAT DEED & TRUST, L.A. COUNTY INSTRUMENT NO. 2007-074-5400 RECORDED AGAINST PETITIONER'S PROPERTY WAS FORGED OR FRAUDULENT AND NOT CONSIDERED GENUINE OR IN OTHER WORDS VOID (PL 115).

THE JURORS' RULING WAS REAFFIRMED BY A.G. XAVIER BECERRA, AG SUSAN SULLIVAN PITHEY, U.S. MAGISTRATE KAREN STEVENSON, U.S. JUDGE ANDRE BIROTE, CIR. JUDGE GRABER, CIR. JUDGE TALLAN, AND ETCETERA. THE JURORS' VERDICT IS AN "UNDISPUTED FACT" GOVERNING THIS WRIT OF CERTIORARI AND PETITIONER'S WRONGFULLY DISMISSED WRIT OF MANDATE, BASED ON IRRECONCILABLE CLAIMS OF LACK OF SUBJECT MATTER JURISDICTION AND IRRECONCILABLE CLAIMS OF THIS MATTER BEING FRIVOLOUS AND MALICIOUS PURSUANT TO 28 U.S.C. § 1915(e)(2), WHICH IS IMPOSSIBLE. NOTE, THE OFFICERS LISTED ABOVE WITH THE ATTORNEY GENERAL'S OFFICE NEEDS TO BE AMENDED TO PETITIONER'S WRIT OF MANDATE WHEN ITS REMANDED TO THE DISTRICT COURT; (U.S.C.S. RULE 15), IN THEIR OFFICIAL CAPACITY.

PENAL CODE 115 DEMANDS THAT WITHIN TEN (10) CALENDAR DAYS AFTER A PERSON IS CONVICTED OF A

LEFT BLANK ON PURPOSE
FOR AMENDMENTS

VIOLATION OF PC 115, THE PROSECUTING AGENCY **SHALL** MAKE A WRITTEN MOTION FOR A COURT ORDER DECLARING THE VOID DOT FALSE, FORGED, OR FALSE & FORGED, AB INITIO.

THE ORDER **SHALL** BE RECORDED IN THE COUNTY WHERE THE AFFECTED REAL PROPERTY IS LOCATED. THE ORDER **SHALL** REFERENCE THE COUNTY RECORDER'S DOCUMENT RECORDING NUMBER OF ANY NOTICE OF PENDENCY OF ACTION RECORDED PURSUANT TO PC 115.

FAILURE OF THE PROSECUTING AGENCY TO PROVIDE WRITTEN NOTICE **SHALL NOT** PREVENT THE PROSECUTING AGENCY FROM LATER MAKING THE MOTION AND NOTIFYING ALL INTERESTED PARTIES OF A COURT SET HEARING TO DETERMINE TITLE IN A CIVIL HEARING.

THE LEGAL DEFINITION OF **SHALL** MEANS:

HAS A DUTY TO; MORE BROADLY IS REQUIRED:

THIS IS THE **MANDATORY** SENSE THAT THE DRAFTERS OF PENAL CODE § 115 INTENDED; THE **MANDATORY** INSTRUCTIONS WITHIN PC 115 ARE **NOT DISCRETIONARY** AND **ARE GUARANTEED** BY THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT.

AN ACTION IN A COURT OF THE UNITED STATES SEEKING RELIEF OTHER THAN MONEY DAMAGES AND STATING A CLAIM THAT AN AGENCY OR AN OFFICER OR EMPLOYEE THERE OF ACTED OR FAILED TO ACT IN AN OFFICIAL CAPACITY OR UNDER LEGAL AUTHORITY **SHALL NOT BE DISMISSED**, NOR RELIEF THEREIN **BE DENIED** ON THE GROUND THAT IT IS AGAINST THE U.S. OR THAT THE U.S. IS AN INDISPENSABLE PARTY;
5 USC § 702 2 of

THE SUPREME COURT HELD THE ELEVENTH AMENDMENT **DOES NOT** BAR A SUIT FOR PROSPECTIVE INJUNCTION RELIEF WHEN A LITIGANT **ALLEGES** A STATE OFFICER VIOLATED FEDERAL LAW. OFFICERS WHO VIOLATE FEDERAL LAW ARE STRIPPED OF STATE AUTHORITY AND THEREFORE SUBJECT TO INJUNCTION RELIEF; EX PARTE YOUNG DOCTRINE

TO OBTAIN A WRIT OF MANDATE, THE PETITIONER **MUST** SHOW THERE IS NO OTHER PLAIN, SPEEDY, AND ADEQUATE REMEDY; THE RESPONDENT HAS A CLEAR, PRESENT, AND MINISTERIAL **DUTY to ACT** IN A PARTICULAR WAY; AND THE PETITIONER HAS A CLEAR, PRESENT, AND BENEFICIAL RIGHT TO PERFORMANCE OF THAT DUTY (COUNTY OF SAN DIEGO v. STATE OF CALIFORNIA (2008) 164 CAL. APP. 4TH, 580, 606). "A MINISTERIAL DUTY IS AN OBLIGATION TO PERFORM A SPECIFIC ACT IN A MANNER PRESCRIBED BY LAW, **WITHOUT REGARD** TO ANY **PERSONAL JUDGMENT** AS TO THE PROPRIETY OF THE ACT.

THE WRIT **MUST BE ISSUED** IN **ALL CASES** WHERE THERE ~~IS~~ IS NOT A PLAIN, SPEEDY AND ADEQUATE REMEDY, IN THE ORDINARY COURSE OF LAW. IT **MUST BE ISSUED** UPON THE VERIFIED PETITION OF THE PARTY BENEFICIALLY INTERESTED (CODE OF CIVIL PROCEDURE SECTION 1086). THE WORD "**MUST**" MEANS THAT THE COMMAND IS **MANDATORY AND NOT DISCRETIONARY**. IN THE ORDINARY COURSE OF LAW, PETITIONER IS ENTITLED TO THE WRIT OR, IN OTHER WORDS, IT WOULD BE AN ABUSE OF DISCRETION TO REFUSE IT. HOWEVER, IN THIS PRE UNIQUE AND PRECEDENT CASE THERE ~~IS~~ **IS** **NOT DISCRETIONARY** AND THE DISTRICT COURT **MUST ISSUE** THE WRIT AS A **MATTER OF RIGHT**. (MAY v. BOARD OF DIRECTIONS, 34 CAL. 2d. 125) **3 &**

III. ACTION TO COMPEL AN OFFICER OF THE U.S. TO PERFORM HIS DUTIES: (USCS § 1361):

THE DISTRICT COURTS SHALL HAVE ORIGINAL JURISDICTION OF ANY ACTION IN THE NATURE OF MANDAMUS TO COMPEL AN OFFICER OR EMPLOYEE OF THE UNITED STATES OR ANY AGENCY THEREOF TO PERFORM A DUTY OWED TO THE PETITIONER.

THE COURT HAS NO MORE RIGHT TO DECLINE THE EXERCISE OF JURISDICTION WHICH IT IS GIVEN, THAN TO USURP THAT WHICH IT IS NOT GIVEN. THE ONE OR THE OTHER WOULD BE TREASON TO THE CONSTITUTION. ~~RULINGS~~ DECISIONS MAY HAVE TO BE MADE BY LAW THAT THE COURT WOULD PREFER TO AVOID, BUT THE COURT MUST NOT DELAYS IN RECTIFYING VIOLATIONS OF STATUTORY RIGHTS CONTRIBUTES TO DAMAGES AND IRREPAIRABLE HARM; (EX PARTE YOUNG, 209 U.S. 123).

IV. AMENDMENT FOURTEEN STATES:

ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES, NOR SHALL ANY STATE DEPRIVE ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

A VOID CONTRACT IS WITHOUT LEGAL EFFECT. IT BINDS NO ONE AND IS A MERE NULLITY. SUCH A CONTRACT HAS NO EXISTENCE WHATSOEVER. IT HAS NO LEGAL ENTITY

FOR ANY PURPOSE AND NEITHER THE INACTION, NOR ACTIONS OF A PARTY; (LASC CRIMINAL CASE No. 20-830 AB(LKS)) TURNER V. DIAZ, 2021 WL 2458679); CAN VALIDATE IT." "YVAN, SUPRA, 62 CAL 4TH)

" A **VOID** THING IS A NOTHING, A **VOID** TRANSACTION **CANNOT** BE RECTIFIED OR VALIDATED BY THE PARTIES TO IT EVEN IF THEY SO DESIRED. A HOMEOWNER WHO HAS BEEN FORECLOSED ON BY ONE WITH NO RIGHT TO DO SO HAS SUFFERED AN **INJURIOUS INVASION** OF HIS LEGAL RIGHTS; (YUANOVA V. NEW CENTURY MORG. CORP., 62 CAL. 4TH, SUPRA)

THERE IS AN **INDEFINITE CLOUD** ON THE TITLE OF PETITIONER'S PROPERTY THAT THE U.S. SUPREME COURT HAS AN ABSOLUTE DUTY TO RESOLVE BY EXERCISING ITS SUPERVISORY POWERS BECAUSE BOTH THE U.S. DISTRICT COURT AND THE U.S. COURT OF APPEAL HAVE SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDING IT "SHOCKS ONE'S CONSCIOUS."

V. SUBJECT MATTER JURISDICTION

AS A MATTER OF THE SOUND ADMINISTRATION OF JUSTICE, THE DISTRICT COURT IS BETTER POSITIONED TO DECIDE WHETHER A CASE CAN PROCEED OR ~~IF~~ THE ACTION "FRIVOLOUS OR MALICIOUS" BECAUSE IT LIVES WITH THE CASE OVER A PROLONGED PERIOD OF TIME. THE U.S. SUPREME COURT THEREFORE HOLDS THAT AN APPELLATE COURT SHOULD APPLY AN ABUSE-OF-DISCRETION STANDARD IN REVIEWING A DISTRICT COURT'S DETERMINATION; (HIGHMARK, INC. V. ALLICARE HEALTH MGMT. SYS., 687 F.3d 188 L.Ed. 2d 824, 572 U.S. 559)

ON 10/31/23 JUDGE BIROTTI SPECIFICALLY RULED:

"MOTION TO PROCEED IN FORMA PAUPERIS IS DENIED BECAUSE THE DISTRICT COURT LACKS SUBJECT MATTER JURISDICTION. AS EXPLAINED, BECAUSE IT IS ABSOLUTELY CLEAR THAT THE DEFICIENCIES IN THE COMPLAINT CANNOT BE CURED BY AMENDMENT, THIS CASE IS HEREBY DISMISSED WITHOUT PREJUDICE."

NOTE, JUDGE BIROTTI DOCUMENTED HIS DECISION BY UTILIZING FORM CV-73 "ORDER ON REQUEST TO PROCEED IN FORMA PAUPERIS (NON-PRISONER CASE)." JUDGE BIROTTI **DID NOT** DENY THE REQUEST BECAUSE:

- 1) THE ACTION IS FRIVOLOUS OR MALICIOUS
- 2) THE ACTION FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED.

ROR,

- 3) THE ACTION SEEKS MONETARY RELIEF AGAINST DEFENDANT(S) IMMUNE FROM SUCH RELIEF.

PETITIONER'S REQUEST WAS SPECIFICALLY DENIED BECAUSE JUDGE BIROTTI RULED HIS DISTRICT COURT LACKED SUBJECT MATTER JURISDICTION AND THIS WAS THE ONLY "QUESTION OF LAW" BEFORE THE U.S. COURT OF APPEAL TO RESOLVE. (CASE 2:23-cv-09026-AB-KS, DOC #7, PAGE 1 & 2).

ON 04/08/24 JUDGE BIROTTI **EXTENDED HIS RULING** BY STATING:

"THE COURT FOUND THAT ONE OF THE DEFENDANTS, the UNITED STATES DEPARTMENT OF JUSTICE OFFICE OF ADMINISTRATION, WAS IMMUNE FROM SUIT UNDER THE DOCTRINE OF SOVEREIGN IMMUNITY. (CORT. No 7). THE MANDAMUS STATUTE DOES NOT WAIVE DEFENDANT'S SOVEREIGN IMMUNITY."

SOVEREIGN IMMUNITY

SOVEREIGN IMMUNITY **DOES NOT** DIMINISH A COURT'S SUBJECT MATTER JURISDICTION. THE FACT, THAT THE GOVERNMENT HAS THE ABILITY TO WAIVE THE BENEFIT OF SOVEREIGN IMMUNITY DEMONSTRATES THE DOCTRINE IS NON-JURISDICTIONAL. JURISDICTION IS SECURE UNDER 28 USCS § 1331 AND 28 USCS § 1361. THE FORMER BECAUSE PETITIONER'S CLAIM ACTION IS GUARANTEED BY THE DUE PROCESS CLAUSE AND THE EQUAL PROTECTION OF THE LAW CLAUSE OF THE 14TH AMENDMENT. THE LATTER BECAUSE BOTH DEFENDANTS ARE AGENCIES AND PETITIONER'S WRIT WAS FILED TO ENFORCE AN ACT BY STATUTE BE PERFORMED BY ITS OFFICERS IN THEIR OFFICIAL CAPACITY.

AS OUTLINED THROUGHOUT THIS WRIT CERTIORARI, THE PERFECT COMBINATION OF PENAL CODE § 115, CIV. CODE OF PROC. §§ 1085 & 1086, 28 USCS §§ 1331 & 1361, USCS RULES 104 & 15, 5 U.S.C. § 702, EX PARTE YOUNG DOCTRINE, THE 1ST & 14TH AMENDMENTS GOVERNS PETITIONER'S WRIT OF MANDATE. THE PINPOINTED STATUTES COUPLED WITH THE JURORS' RULING THAT DECLARED DEED OF TRUST 2007-074-5400 FORGED OR FRAUDULENT AND THE U.S. DEPARTMENT OF JUSTICE ACKNOWLEDGING THE SOUGHT OUT DECLARATIONS ARE IN THE HANDS OF THE U.S. DISTRICT'S CLERK'S OFFICE, MAKES PETITIONER'S WRIT OF MANDATE FULL PROOF AGAINST A DISMISSAL RELATED TO LACK OF SUBJECT MATTER JURISDICTION OR CATTY ACCUSATIONS FROM A CLERK OF THE COURT RELATED TO PETITIONER'S ACTION CONSIDERED FRIVOLOUS OR MALICIOUS.

AN ACTION AGAIN, IN A COURT OF THE UNITED STATES SEEKING RELIEF OTHER THAN MONEY DAMAGES AND STATING A CLAIM THAT AN AGENCY OR AN OFFICER OR EMPLOYEE

43
THERE & ACTED OR FAILED TO ACT IN AN OFFICIAL CAPACITY OR UNDER LEGAL AUTHORITY **SHALL NOT** BE DISMISSED, NOR RELIEF THEREIN BE DENIED ON THE GROUND THAT IT IS AGAINST THE U.S. OR THAT THE U.S. GOVERNMENT IS AN INDISPENSABLE PARTY; 5 USC § 702,

VI SUBSTANTIAL FEDERAL QUESTIONS

SUBSTANTIAL FEDERAL QUESTIONS ARE GOVERNED BY THE GRABLE TEST WHICH PROVIDES THAT THERE IS FEDERAL QUESTION JURISDICTION WHEN AN ACTION/CLAIM PRESENTS A FEDERAL ISSUE THAT IS:

- 1) NECESSARILY RAISED
- 2) ACTUALLY DISPUTED
- 3) SUBSTANTIAL
- 4) CAPABLE OF RESOLUTION IN FEDERAL COURT WITHOUT DISRUPTING CONGRESS'S INTENDED DIVISION OF LABOR BETWEEN THE STATE AND THE FEDERAL COURT

FIRST, RAISING A SUBSTANTIAL FEDERAL QUESTION **IS NOT** A PREREQUISITE TO FILING A WRIT OF MANDATE OR THE GRANTING OF A WRIT OF MANDATE; (CIV. CODE OF PROC. §§ 1086 & 1085, etc.), WHICH GRANTS SUBJECT MATTER JURISDICTION.

SECOND, THERE IS NO ACTUAL DISPUTE REGARDING THE VIOLATIONS OF PETITIONER'S CONSTITUTIONAL RIGHTS BECAUSE THE RESPONDENTS **HAVE NOT** RESPONDED OR HAVE BEEN HELD TO RESPOND, BY MANDATE AS THE LAW REQUIRES.

THIRD, PETITIONER'S CONSTITUTIONAL CLAIMS **ARE NOT** A SUBSTANTIAL FACTOR ^{FOR} A WRIT OF MANDATE, ^{IS WHICH} IS CONGRESS'S INTENDED SOLUTION WHEN A RESPONDENT HAS A MINISTERIAL DUTY TO PERFORM A SPECIFIC ACT IN A MANNER PRESCRIBED BY LAW, BUT HAS FAILED TO DO SO.

FINALLY, PETITIONER'S CLAIM THAT HIS PROPERTY'S TITLE HAS BEEN ILLEGALLY AND UNCONSTITUTIONALLY TRANSFERRED OUT HIS NAME, WITH A DECLARED VOID DEED & TRUST, WITHOUT THE GUARANTEES OF THE FOURTEENTH AMENDMENT'S DUE PROCESS AND EQUAL PROTECTION CLAUSES IS NOT A MERE "BARE ALLEGATION." IT IS AN AFFIRMED FACT DOCUMENTED BY LOS ANGELES COUNTY INSTRUMENT NO. 2010-044-2572; (CASE 2:23-cv-04025-AB-KS, Doc #4, pgs 19-21).

THE SUBSTANTIAL FEDERAL QUESTION WITHIN PETITIONER'S WRIT OF MANDATE HAS BEEN SETTLED BY THE SUPREME COURT OF CALIFORNIA, WHICH HAS DECLARED THAT A VOID DEED OF TRUST IS WITHOUT LEGAL EFFECT, BINDS NO ONE, AND IS A MERE NULLITY; (CYANOVA V. NEW CENTURY MORT CORP, 62 CAL. 4TH 919).

PETITIONER'S ACTION IS BASED ON ENFORCING A JURORS' RULING, IN ACCORDANCE TO THE "LETTER OF THE LAW," GOVERNED BY THE NON-DISCRETIONARY PROVISIONS OF PENAL CODE 115.

VII. FRIVOLOUS AND MALICIOUS 28 U.S.C § 1915 (e)(2)

A JUDGE ON ITS OWN MOTION MAY DISMISS AN ACTION AS FACTUALLY FRIVOLOUS ONLY IF THE FACTS ALLEGED ARE CLEARLY BASELESS. THE SUPREME COURT HAS OBSERVED A FINDING OF FACTUAL FRIVOLOUSNESS IS ONLY APPROPRIATE WHEN THE FACTS ALLEGED RISE TO THE LEVEL OF IRRATIONAL OR WHOLLY INCREDIBLE. AN INFORMAL ACTION CANNOT BE DISMISSED SIMPLY BECAUSE A JUDGE FINDS THE ALLEGATIONS UNLIKELY AND THE DISMISSAL SHOULD BE

BRIEFED, THUS GIVING AN EXPLANATION FOR THE GROUNDS OF THE DISMISSAL TO FACILITATE INTELLIGENT APPELLATE REVIEW (BOAG V. MACDOUGAIL (1982) US 364, 70 L Ed 2d 551, 102 S CT 700).

AS BRIEFED EARLIER, A COURT ORDER REGARDING FRIVOLOUS ALLEGATIONS IS MOOT AND FUTILE BECAUSE PETITIONER'S WRIT OF MANDATE IS BASED ON AN ACTUAL AFFIRMED FACT AND THE NON-DISCRETIONARY STIPULATIONS OF PENAL CODE 3115. UNDER 28 USCS 31915 (e)(2) AN INFORMAL PAUPERIS PRO SE COMPLAINT CAN ONLY BE DISMISSED IF THE PETITIONER CANNOT MAKE ANY RATIONAL ARGUMENT IN LAW OR FACT, WHICH WOULD ENTITLE HIM TO RELIEF; (WALKER V. WALKER, 2021 WL 2652568, 3+*2); NEITZE V. WILLIAMS (1989) 490 US 319, 104 L. Ed. 2d 338, 109 S. CT 1827). THUS, WHEN A PETITIONER PLEADS FACTS THAT SATISFIES CODE OF CIV. PROC 31096 HE BY DEFAULT EXTINGUISH ALL OPPOSITIONS THAT CLAIMS HIS PLEADING IS FRIVOLOUS OR MALICIOUS.

ON JUNE 17TH, 2024, THE CLERK'S OFFICE ABUSED ITS MINISTERIAL AUTHORITY AND ISSUED THE PETITIONER AN UNAUTHORIZED AND AN UNORTHODOXED "ORDER TO SHOW CAUSE" DISGUISED AS A NOTICE. SAID JUDICIARY DISGUISED "ORDER TO SHOW CAUSE" UNETHICALLY DEMANDED THAT WITHIN 35 DAYS APPELLANT EITHER FILE A STATEMENT ADDRESSING THE NON-BRIEFED MATTER OF FRIVOLOUSNESS, NOT BEFORE THE COURT OR FILE A MOTION TO VOLUNTARILY DISMISS HIS WRIT OF MANDAMUS. (CASE: 24-2465, DKENTRY DKENTRY #8).

On Thursday, September 5, 2024, 10:07 AM, Questions CA09Operation wrote:

Hello,

The order was issued on 6/17 by the clerk. The General Orders, especially Appendix A to the General Orders explains who can issue what type of order. I have attached the link below for you to see the types of orders.

<https://www.ca9.uscourts.gov/rules/general-orders/>

Thanks

*SEE APPENDIX C-1, Pg 37 for APPENDIX A.
ABSOLUTELY NO AUTHORITY TO ISSUE OR MAKE A JUDICIAL
DETERMINATION ON MY RESPONSE, SO ITS A NULLITY
BY OPERATION OF LAW

APPENDIX B-1

24 of 35

PAGES 25-28
LEFT BLANK ON PURPOSE
for ADMINDMENTS

LEFT BLANK ON PURPOSE

THE APPELLATE COURT **WILL NOT** ACCEPT ON APPEAL THEORIES OR CONSIDER ISSUES NOT RAISED IN THE DISTRICT COURT EXCEPT UNDER UNUSUAL CIRCUMSTANCES. THE SETTLED RULE IS SIMPLE AND THE CRIMINAL PLAIN-ERROR STANDARD IS THE MINIMUM STANDARD THAT MUST BE MET BEFORE UNDERTAKING DISCRETIONARY REVIEW OF ISSUES NOT RAISED OR IN OTHER WORDS WAIVED. AN APPELLATE COURT MAY REVIEW A FAILED OR WAIVED ARGUMENT ONLY IF A NEWLY RAISED ARGUMENT ESTABLISHES FUNDAMENTAL-ERROR. TO MEET THE FUNDAMENTAL-ERROR STANDARD, A PARTY MUST DEMONSTRATE EVEN MORE THAN IS NECESSARY TO MEET THE PLAIN-ERROR STANDARD IN A CRIMINAL TRIAL; (UNITED STATE V. LAVABIT, LLC (IN RE UNDER SEAL), 749 F.3d 276).

BOTTOM LINE, THE CLERK'S OFFICE **DOES NOT** HAVE THE JUDICIAL AUTHORITY OF A JUDGE TO ISSUE "ORDERS TO SHOW CAUSE" RELATED TO AN ISSUED **NOT RAISED** BEFORE THE DISTRICT COURT, WHICH CARRIES THE CONSEQUENCES OF A DISMISSAL AND STRIKES UNDER U.S.C. § 1915. THE CLERK'S OFFICE HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, WHICH HAVE BEEN IGNORED BY CIRCUIT JUDGES SCHROEDER, M. SMITH, AND HURWITZ THAT THIS SPECIFIC MATTER CALLS FOR THE MANDATORY EXERCISE OF THE U.S. SUPREME COURT'S SUPERVISORY POWER; (USC RULE 10).

NOTE, PETITIONER RESPONDED TO THE BOGUS "ORDER TO SHOW CAUSE" AS ORDERED, BY WAY OF A MOTION THAT CIRCUIT JUDGES SCHROEDER, M. SMITH, AND HURWITZ FAILED TO RULE UPON, THE CLERK'S OFFICE "OPENED THE DOOR" FOR PETITIONER'S OPPOSITION BY MOTION, THAT MUST BE CONSIDERED BY THE PANEL PRIOR TO DISMISSAL; (OKTENTRY #9).

THE INITIAL IN FORMA PAUPERI SCREENING, IN COMPLIANCE WITH PC 1915(e)(2) WAS PERFORMED BY U.S. DISTRICT JUDGE BIROTTE WHO DISMISSED THE CASE SPECIFICALLY FOR A LACK OF SUBJECT MATTER JURISDICTION, UTILIZING FORM CV-73; (CASE 2:23-CV-09026-AB-KS, DOC #7). JUDGE BIROTTE SPECIFICALLY **DID NOT** DETERMINE PETITIONER'S WRIT WAS FRIVOLOUS OR MALICIOUS, FAILED TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, OR SOUGHT MONETARY RELIEF AGAINST DEFENDANTS IMMUNE FROM SUCH RELIEF; (DOCUMENT #7, FILED 10/31/23). JUDGE BIROTTE EXPLAINED IN AN ATTACHED STATEMENT THAT HE WAS ABSOLUTELY CLEAR THAT THE DEFICIENCIES RELATED TO SUBJECT MATTER JURISDICTION (**ONLY**) COULD NOT BE CURED BECAUSE OF SOVEREIGN IMMUNITY, IN AN EXTENDED DISCUSSION; (DOC #7, DOCUMENT #17, FILED 4/8/24).

A DISTRICT COURT **SHOULD NOT** DISMISS A PRO SE COMPLAINT WITHOUT LEAVE TO AMEND UNLESS "IT IS ABSOLUTELY CLEAR THAT THE DEFICIENCIES OF THE COMPLAINT COULD NOT BE CURED BY AMENDMENT; (AKHTAR V. MESA, 698 F.3d 1202, 1212 9th CIR. 2012).

PETITIONER OPPOSES JUDGE BIROTTE'S OPINIONS AND RULING BASED ON LACK OF SUBJECT MATTER JURISDICTION, AS ARGUED EARLIER; SEE ARGUMENT **II. - V. "SUBJECT MATTER JURISDICTION."** SUBJECT MATTER JURISDICTION **WAS THE ONLY** "QUESTION OF LAW" PROPOSED TO THE COURT OF APPEAL, WHICH REQUIRED RESOLVE AND IS STILL OUTSTANDING. THE COURT OF APPEAL AVOIDED ITS DUTY TO RULE ON THE MATTER WITH AN EXPLANATION FOR THE GROUNDS OF THE DISMISSAL TO FACILITATE INTELLIGENT CERTIORARI REVIEW.

VIII. LEGAL CONCLUSION

THE U.S. SUPREME COURT HAS A SIGNIFICANT INTEREST IN SUPERVISING THE ADMINISTRATION OF THE JUDICIAL SYSTEM. THE COURT'S INTEREST IN ENSURING COMPLIANCE WITH PROPER RULES & JUDICIAL ADMINISTRATION IS PARTICULARLY ACUTE WHEN THOSE RULES RELATE TO THE INTEGRITY OF JUDICIAL PROCESSES; (HOLLINGSWORTH V. PERRY, 558 U.S. 183)

FOR THERE TO BE A CASE OR CONTROVERSY, IT IS NOT ENOUGH THAT THE PARTY INVOKING THE POWER OF THE COURT HAVE A KEEN INTEREST IN THE ISSUE. THAT PARTY MUST ALSO HAVE "STANDING," WHICH REQUIRES, AMONG OTHER THINGS, THAT IT HAVE SUFFERED A CONCRETE AND PARTICULARIZED INJURY. IN OTHER WORDS FOR A FEDERAL COURT TO HAVE AUTHORITY UNDER THE CONSTITUTION TO SETTLE A DISPUTE THE PARTY BEFORE IT MUST SEEK A REMEDY FOR A PERSONAL AND TANGIBLE HARM; (HOLLINGSWORTH V. PERRY, 570 U.S. 693).

IT IS UNDISPUTED THAT PETITIONER'S TITLE TO HIS PROPERTY HAS BEEN UNCONSTITUTIONALLY AND ILLEGALLY TRANSFERRED OUT OF HIS NAME WITH A VOID DEED AND WITHOUT DUE PROCESS OF THE LAW, CONSTITUTING A CONTINUOUS MORTGAGE FRAUD (1ST AMEND). IT IS UNDISPUTED THAT THIS MATTER CAN BE REMEDIED BY THE ISSUANCE OF A WRIT OF MANDATE ENFORCING THE MANDATORY STIPULATIONS OF PENAL CODE § 115, WHICH DEMANDS DECLARATIONS DECLARING NON-GENUINE AND VOID INSTRUMENT LOS ANGELES COUNTY No 2007-074-5400 VOID AND A COURT DATE SET TO PROCLAIM & DECLARE SUPERIOR TITLE

114

THE CRUX OF THE MATTER IS; THAT THE SUPREME COURT HAS DETERMINED THAT A DISMISSAL OF A COMPLAINT UNDER THE 28 USCS § 1915 PROVISION AUTHORIZING THE DISMISSAL OF FRIVOLOUS AND MALICIOUS CLAIMS IS NOT A DISMISSAL ON THE MERITS BUT RATHER AN EXERCISE OF THE COURT'S DISCRETION UNDER THE IN FORMA PAUPERIS STATUTE; (DENTON V. HERNANDEZ (1992 US) 118 L Ed 2d 340, 112 S CT 1728). THE DISMISSAL DOES NOT PREJUDICE THE FILING OF A PAID COMPLAINT MAKING THE SAME ALLEGATIONS; (VEY V. CLINTON (1997, US) 138 L Ed 2d 132, 117 S CT 1792)); APPENDIX C.12

HENCE, PETITIONER RESERVES HIS RIGHT TO CURE THE WRONGFUL AND UNLAWFUL DISMISSAL OF HIS APPEAL BY THE CLERK'S OFFICE, IN ACCORDANCE TO ~~9TH CIR R 42-1~~ ^{28 USCS § 1914} 1; (CASE: 24-2465, DISTRICT #3). IF NEEDED, PETITIONER WILL PAY THE REQUIRED SIX HUNDRED AND FIVE DOLLAR (\$605) FILING FEE TO CONTINUE HIS MATTER ~~FOR~~ FOR AN INEVITABLE RULING ON THE DISTRICT COURT'S SUBJECT-MATTER JURISDICTION DENIAL, REFUSAL, AND DISALLOWANCE RULING, WHICH INCLUDED A DENIAL OF PETITIONER'S RIGHT TO AMEND HIS COMPLAINT, AS A MATTER OF PROCESS.

AN ACTION IN A COURT OF THE U.S. SEEKING RELIEF OTHER THAN MONEY DAMAGES AND STATING A CLAIM THAT AN AGENCY OR AN OFFICER THERE OF ACTED OR FAILED TO ACT IN AN OFFICIAL CAPACITY SHALL NOT BE DISMISSED, NOR RELIEF THEREIN BE DENIED ON THE GROUND THAT IT IS AGAINST THE U.S. GOVERNMENT, OR THAT THE GOVERNMENT IS AN INDISPENSABLE PARTY; 5 USC § 702

A WRIT OF MANDAMUS MUST BE ISSUED UPON THE VERIFIED PETITION OF THE PARTY BENEFICIALLY INTERESTED, WHERE THERE IS NOT A PLAIN, SPEEDY, AND ADEQUATE REMEDY, IN THE ORDINARY COURSE OF LAW; (CAL CODE CIV PROC § 1086, AMENDMENT 14)

THE U.S. DEPT OF JUSTICE CAN ONLY BE SUED IN A U.S. DIST. COURT

FINALLY, SOVEREIGN IMMUNITY DOES NOT ABATE A COURT'S SUBJECT MATTER JURISDICTION BECAUSE THE DOCTRINE IS NON-JURISDICTIONAL. JUDGE BIROITE WRONGFULLY DISMISSED PETITIONER'S WRIT WITHOUT THE OPPORTUNITY TO AMEND BECAUSE HE WRONGFULLY CLAIMED SUBJECT MATTER FAILED TO EXIST WHEN THE ACTION WAS COMMENCED. HOWEVER, 28 USCS § 1361 SPECIFICALLY STATES: THE DISTRICT COURT SHALL HAVE ORIGINAL JURISDICTION OVER ANY ACTION IN THE NATURE OF MANDAMUS AND SETTLES THE QUESTION OF LAW IN PETITIONER'S FAVOR. THE MATTER MUST BE REMANDED TO THE DISTRICT COURT TO ALLOW PETITIONER TO AMEND HIS PLEADING AS A MATTER OF PROCEDURE, IN ACCORDANCE TO USCS FED RULES CIV PROC 15.

AND THE U.S. SUPREME COURT

BOTH THE DISTRICT COURT AND THE U.S. COURT OF APPEAL ARE "THUMBING THEIR NOSE" AT THE PETITIONER, THE ACCEPTED & USUAL COURSE OF JUDICIAL PROCEEDINGS. THE LOWER COURTS ARE GAMBLING ON A GAME OF PROBABILITIES THAT THE U.S. SUPREME COURT WILL NOT EXERCISE IT'S SUPERVISORY AUTHORITY TO CORRECT THEIR DEPARTURE FROM THE RULES OF COURT, BECAUSE THE SUPREME COURT RARELY DOES.

THE U.S. DISTRICT COURT DISMISSED PETITIONER'S WRIT FOR LACK OF SUBJECT MATTER JURISDICTION, AND THE U.S. COURT OF APPEAL DISMISSED PETITIONER'S WRIT FOR SUPPOSEDLY BEING FRIVOLOUS AND NOT STATING A CLAIM UPON WHICH RELIEF MAY BE GRANTED. WHEN THERE ARE CONFLICTING RULINGS ON THE SAME MATTER IT IS THE U.S. SUPREME COURT'S CHIEF RESPONSIBILITY TO RESOLVE THE CONFLICT CREATED BY THE DEPARTURE OF ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS; (U.S. SUPREME COURT RULE 10).

IX. PRAYER FOR RELIEF

PETITIONER PRAYS FOR:

HIS MATTER TO BE REMANDED TO THE DISTRICT COURT, AN AMENDMENT ALLOWED, AND WRIT GRANTED, IF RESPONDANTS FAIL TO ACT OR RESPOND WITHIN THE 10 DAYS ALLOWED BY LAW, OR,

HIS MATTER TO BE REMANDED TO THE APPELLATE COURT WITH INSTRUCTION TO THE COURT TO RESOLVE THE ONLY OUTSTANDING QUESTION OF LAW IN REGARDS TO SUBJECT MATTER JURISDICTION, UPON AN GRANTED AMENDMENT. OR,

THE RIGHT TO CURE THE SUPPOSED 1915(e)(2) DISMISSAL BY PAYING THE REQUIRED COURT FEES. HIS MATTER THEN REMANDED TO THE APPELLATE COURT WITH ORDERS FOR THE COURT TO RULE ON ALL OUTSTANDING MOTIONS AND INSTRUCTIONS FOR THE COURT TO RESOLVE THE ONLY OUTSTANDING QUESTION OF LAW IN REGARDS TO SUBJECT MATTER JURISDICTION. OR,

ANY AND ALL RELIEF DEEMED APPROPRIATE BY THE COURT. PETITIONER HAS A 7TH AMENDMENT RIGHT TO A DECISION ON THE MERITS AND A 14TH AMENDMENT RIGHT TO DUE PROCESS, EQUAL PROTECTIONS OF THE. THUS FAR, THIS IS A DOCUMENTED CASE OF SYSTEMIC RACISM.

"THE JUDICIARY CANNOT, AS THE LEGISLATURE MAY, AVOID A CASE BECAUSE IT APPROACHES THE CONFINES

OF THE CONSTITUTION. THE COURT CANNOT PASS IT BY BECAUSE IT IS DOUBTFUL. WITH WHATEVER DOUBTS, WITH WHATEVER DIFFICULTIES, A CASE MAY BE ATTENDED, THE COURT MUST DECIDE IT, IF IT BE BROUGHT BEFORE IT.
(EX PARTE YOUNG, 209 U.S. 123)

IT IS IMPOSSIBLE TO RULE A PLEADING FIVOLOUS, WHICH STATES A CLAIM WHICH RELIEF **MUST BE** GRANTED. THE ACTIONS OF THE CLERK'S OFFICE ARE QUITE TROUBLING. "IT IS DIFFICULT ENOUGH TO PRACTICE LAW AS A PRO PER WITHOUT HAVING ~~TO~~ THE CLERK'S OFFICE AS AN ADVERSARY."
CROTAS V. CUTSFORTH (1998) 57 CAL. APP. 4TH 774, 777 [79 CAL. RPTR. 2d 292] (CROTAS).

RESPECTFULLY SUBMITTED,

X L Turner

EDDIE TURNER

POLITICAL PRISONER, IN PRO PER

APPENDIX C