

No 17-6413

IN THE
SUPREME COURT OF THE UNITED STATES

ABDULLAHI JARA PRO SE petitioner,

V.

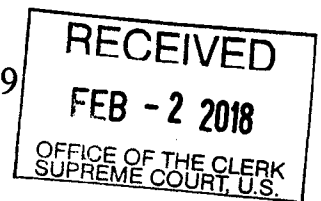
STANDARD PARKING & TEAMSTER LOCAL UNION 455

Respondents.

On Petition for a Writ of Certiorari to the United States Court of
Appeals for the Tenth Circuit

PETITION FOR REHEARING

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Date January 29, 2018

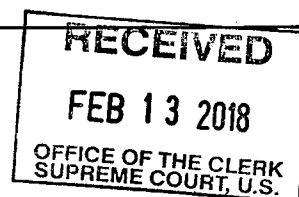


TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
PETITION FOR REHEARING	1
A. INTRODUCTION.....	2,3
B. ARGUMENT.....	3,4
C. PROCEEDING BELOW	4,5
D. PROCEEDING BEFORE THIS COURT.....	4,6
REASONS FOR GRANTING THE PETITION	6
CONCLUSION	7
CERTIFICATE OF SELF- REPRESENTED PRO SE.....	8

TABLE OF AUTHORITIES

Cases

Akins V. united steelworkers of America 237 p. 3d 744 (2010)	3
Campbell v. Wells Fargo Bank, 781 F.2d 440, 442 (5th Cir. 1986)	1, 3, 6
CEPLA and PALMER, CYCLOPEDIA OF FEDERAL PROCEDURE, '§14.160, at 248 (3d ed. 1986)	1
Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957)	1, 3, 6
Erickson v. Pardus, 551 U.S. 89 (2007)	6
Estelle v. Gamble, 429 U.S. 97, 106 (1976)	6
Espinoza v. United States, 52 F.3d 838 (10th Cir. 1995)	6
Goodman v.Lukens steel Co., 482 U. S, 656, 669,(1987)	3
Gray v. Powell, 313 U.S. 596 (1941)	1
GRESSMAN, ET AL., SUPREME COURT PRACTICE § 15.I.6 (A) at 838 (10th ed. 2013)	1
Haines v. Kerner, 404 U.S. 519 (1972)	6
Halbert v. Michigan, 545 U.S. 605 (2005)	6
Halliburton, 327 U.S. 812 (granting rehearing on February 25, 1946)	3
Husain v. Olympic Airways, 316 f.3d 829, 835 (9th Cir. 2002)	1
Lopez v. Smith, 173 F.3d 749 (9th Cir.1999)	1,3,6
Lowery v. texas A and M univ sys. 117 f.3d 242, 247 (5th Cir. 1997)	1,3,6
MacGregor, 327 U.S. 812 (granting rehearing on March 11, 1946), and 329 U.S. 402 (1947)	3
Malibu Media, LLC v. Doe, No. 14-cv-288, 2014 WL 7507259 (D. Md. Dec. 24, 2014).....	6
Petrucelli v. Bohringer & Rat zinger, GMBH, 46 F.3d 1298 (3d Cir. 1995)	6
Thompson v. Brown, 91 F.3d 20 (5th Cir. 1996)	6
Zapata v. City of New York, 502 F.3d 192 (2d Cir. 2007)	6

Staub v. proctor hospital U. S, 131 s. ct. 1186, 179 l., ed. 2d 144 (2011)	3
Vance v. ball state University U.S. 133 s.ct 2434, 186 l.m 2d 565 (2013).....	3

STATUTES

28 U.S.C § 1654.....	1
28 U.S.C. § 1331.....	1, 2, 3
28 U.S.C. § 1291.....	1
28 U.S.C 2201.....	2
42 U.S.C. §1981.....	3
42 U.S.C. § 1983.....	3
42 U.S.C. § 1985)	3
18 U.S.C. § 242.....	3

Rule

Supreme court Rule 16.....	1
Fed. R. civ. P. Rule 12(d).....	3, 6
Fed. Rule 12(b)(6)	1, 2
Fed Rule 56 (c).....	2
Rule 29.....	8

PETITION FOR REHEARING

Petitioner still brought this case under signature of self-represent see 28 U.S.C 1654. Pursuant to Supreme Court Rule 44, petitioner abdullahi hamu jara respectfully petitions this Court for rehearing of its January 08, 2018 order denied the writ of certiorari in this case. Petition for rehearing must grantee where the court itself must need to rehearing to clarify the disputed issues. It is purposely ignored or error (or errors) occurred in the opinion of the court of appeal which skews the analysis and result, or an erroneous finding of procedural default by the court. Therefore, it is reasonable possibility of a cure by means of a rehearing petition. Supreme Court grantee petition for rehearing see *Gray v. Powell*, 313 U.S. 596 (1941) and GRESSMAN, ET AL., SUPREME COURT PRACTICE §15.I.6 (A) at 838 (10th ed. 2013). On October 11, 2017, petitioner pro se timely filed petition for certiorari to resolve the court of appeal decision conflict with the decision of another United States Court of appeals including Supreme Court on the same important matter; *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). *Lowery v. Texas A and M Univ Sys.* 117 F.3d 242, 247 (5th Cir. 1997). *Lopez V. Smith*, 173 F.3d 749 (9th Cir.1999). *Campbell v. Wells Fargo Bank*, 781 F.2d 440, 442 (5th Cir.1986). Under supreme court rule 16 the order of denial will not be suspending disposition on court record for further rehearing by the court order or a justice. whether all or majority of the court at the instance of a justice denied the petition writ for certiorari, this petition for rehearing must be grantee and, automatically reverse and remanded for further consideration based on District court chief judge exercises jurisdiction pursuant to 28 U.S.C. 1331 and single final judgement entered on date {December 22, 2016 Dkt-126}. The court of appeal must have Jurisdiction of appeals from all final decision pursuant to 28. U.S.C 1291 before the case was dismissed. After petitioner strongly challenged against chief judge lack or error, the court of appeal panel judge exercise pursuant to 28. U.S.C 1291 opposite of chief judge exercised and the appeal panel judges issued the order of denied brief on July 13, 2017 based on unpublished Opinion see {Pet. App. 32.1 and 10th Cir. R. 32.1} and without any oral argument. Whether procedures are required in due process, Petitioner's right deprivation under fifth and fourteenth amendments. Due process clause applies to the federal government No person shall be deprived of life, liberty, or property by the law. procedural due process purposes are a matter of federal constitutional law. Petitioner is public employee has a contract and, terminated without any fault and without any kind of hearing. Termination was occurred after petitioner reported discrimination, retaliation and participate the complaint with entire co-workers against both defendants see exhibit 4 attached to petition writ for certiorari. Public employee issue should constitute a property interest triggering procedural due process

protections by the law. Therefore, this case should be fairly treat and should be take serious circumstances otherwise petitioner have possibility or good reason to file against federal judges for declaration relief under 28 U.S.C 2201 and any other may apply. The procedures of federal judges or the government are inadequate is there a deprivation of due process. Under due process procedural in federal rules, The Supreme court reversed a dismissal under rule 12(b)(6) of the federal rules of civil procedure for failure to state a claim previously in civil case. Black pro se self-represent it does not mean that a litigant is free to ignore relevant rules of procedural and substantive law. The function of Rule 12(b)(6) in the Federal Rules of Civil Procedure it just categorization approach of the complaint but not for final dismissal see CEPLA and PALMER, CYCLOPEDIA OF FEDERAL PROCEDURE, '§14.160, at 248 (3d ed. 1986). Petitioner surely Entitle to offer evidence to Support the claims of Genuine issue for trial; see Celotex v. Catrett, 447 U.S. 317, 324(1986). Plaintiff reported discrimination in June 13, 2013 and October 25, 2013 and terminated in May 2014 without fault. Petitioners have the worth enough evidence of discrimination, retaliation and wrongful termination on court record. Denying the fact and law in expectation of civil right protection, it always hurt and willful misconduct same Husain v. Olympic Airways, 316 f.3d 829, 835 (9th Cir. 2002).

A INTRODUCTION

On November 14, 2016 Dkt-116 magistrate judge issued improper report and recommendation without further consider affidavit and deposition and grantee both defendants motion Dkt-80 and Dkt-82 under rule 12(b)(6) for failure to state a claim which relief should be grantee while summary judgement already filed by both defendants on September 30, 2016 in the Dkt-96 and Dkt-97 in pending. On November 28, 2016 Dkt-120 plaintiff timely objected improper report and recommendation and requested the court's attention to omission. On December 22, 2016 Dkt-126 District court chief judge exercises jurisdiction pursuant to 28 U.S.C. 1331incorrectly and single final judgement entered and adopted magistrate judge improper report and recommendation. Petitioner timely filed the important briefing of ultimate fact and entire argument on march 02, 2017 and The Court appeal panel judges issued order without oral argument and affirm district judge's decision based on unpublished Opinion {Pet. App. 32.1 and 10th Cir. R. 32.1} on July 13, 2017. On July 26, 2017 Petitioner timely filed petition under rule 40 and request attention to EN BANC on July 28, 2017 under rule 35 opposing the deny of appeal pane judge issued order on July 13, 2017. The court of appeal panel judges refused and denied both petition and rehearing on August 14, 2017. District

court chief judge and the court of appeal panel judges did not respect procedural due process right and Petitioner prevented from having a fair trial and significant error has occurred that the trial court should need to correct. Appeal panel judges' decision based on the past magistrate judge and chief judge decision while it still has opportunity to correctly apply the law and fact. Petitioner attentional adverse by court of appeal panel judges.

Regarding statutes of limitation Chief Judge Lack of the different between Title VII and section 1981. The Standards and protections of Two Provisions are not identical. Under section 42 U.S.C 1981 Claim plaintiff does not have to fulfill various Prerequisites, including the completion of the EEOC. Title VII claim should be equitable tolling and will not dismiss based on District court chief judge recognizable under Title VII on Page 6 on dated 12/22/2016 Dkt-126 without review plaintiff complaint. Plaintiff complaint well established discrimination was timely reported in state and federal but actively misleader by EEOC and both defendants. Ultimate fact recorded in the deposition and document available also.

B ARGUMENT

The United States Court of Appeals for the Tenth Circuit (Pet. App. 32.1 and 10th Cir. R. 32.1) issued an order on July 13, 2017 denied based on unpublished opinion. the United States District Court Exercise Jurisdiction over the matter Pursuant to 28 U.S.C 1331 on December 22, 2016 (Dkt-126) incorrectly. Supreme Court denied petitioner for a writ of certiorari on January 08, 2018 also not connected or not based on merits. Additionally, Fed. R. C. P. rule 12(d) subjected court's discretion. petitioner is requesting for this court to careful review an important question of the law in what circumstances may an employer and union be held liable for unlawful at workplace and in civil right cases. Goodman v. Lukens steel Co., 482 U. S, 656, 669 (1987), Staub v. proctor hospital U. S, 131 s. ct. 1186, 179 l., ed. 2d 144 (2011) and Vance v. ball state University U.S. 133 s.ct 2434, 186 l.m 2d 565 (2013) and Akins V. united steelworkers of America 237 p. 3d 744 (2010). Whether the justice opinion divided or may ignored back pro se case, supreme court grantee petition for rehearing in several cases see Halliburton, 327 U.S. 812 (granting rehearing on February 25, 1946), and 329 U.S. 1 (1946) (issuing decision in case reargued on October 23 and 24, 1946); MacGregor, 327 U.S. 812 (granting rehearing on March 11, 1946), and 329 U.S. 402 (1947). Petitioner pleading must construe see Campbell v. Wells Fargo Bank, 781 F.2d 440, 442 (5th Cir.1986). Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). What it means of civil right protection by the law that Section 1981 of Title 42 (Equal Rights under the Law) protects Individuals from Discrimination Based on race in making and enforcing contracts, participating in

lawsuits, and giving evidence. See 42 U.S.C. § 1981. Other statutes, derived from acts of the Reconstruction Era, that protect against discrimination include: Civil Action for Deprivation of Rights (See 42 U.S.C. § 1983); Conspiracies to Interfere With Civil Rights (See 42 U.S.C. § 1985); Is it Stonewalled all the trust efforts to find out, nor is there anything in the record that would Suggest a legal basis for the judges' action. Black letter law must be respected without ignore. It is wrong and highly abusive for the court of appeal panel judges to Exercise their power without Normal Procedure. More fundamentally the court of appeal judicial Process by ensuring that judicial court action must base on law but not on judges Caprice. it necessary to remand this case for evidentiary hearing on fairness of pretrial identification procedures. Appellant has discovered several issues under Title VII of the Civil Rights Act of 1964, 42, U.S. C 1981 and section 301 hybrid claim in Second Amend Complaint in Dkt-78 paragraph 1, 14, 15, 39 to 63 have been ignored and left undecided by the court of appeal or supreme court. Petitioner respectfully disagrees with the Court's denied without stating these issues explained in petitioner's petition for a writ certiorari filed October 11, 2017. Rehearing on the undecided issues or clarification of the Opinion is necessary not to avoid the procedural due process. Petitioner therefore, requests this court to grantee rehearing the matter and decide the merits of the remaining issues and then remand for a search hearing, or in the alternative, requests that, this Court modify its unpublished Opinion to clarify this issue before this case under the serious circumstances, this court should exercise its discretion to reverse and remanded this case to reinstate the case and restore the exceedingly opportunity petitioner secured successfully and undisputable claim persuaded this Court to grant pro se petition for rehearing.

C A: Proceedings Below

Petitioner Currently have permission right to sue letter from EEOC and timely filed at federal court On September 15, 2015 (Dkt- 1); alleging that defendant standard parking and teamsters local union violated my right under Title VII civil right act 1964, 42.U.S.C 1981 and under section 301. On September 23, 2015 in the Dkt-6 district court orders the plaintiff to show Cause. Plaintiff response to show cause on October 22, 2015 in The Dkt- 8, the court agrees and the case further ordered to draw on 10/29/2015 in the Dkt-10 by magistrate judge Gordon P. Gallagher. On Dated 11/2/2015 in the (Dkt-15), the case further Ordered Regarding custody of exhibit and Deposition used in evidence hearing at trail. On Dated 12/08/2015 in the Dkt-25 union file the motion under rule 12(b)(6) to Dismiss Plaintiff Title VII Complaint after 46 days before they answer to the complaint. On 12/09/2015 Dkt-26 Defendant standard parking file motion under rule 12(b) (6) to dismiss Plaintiff title VII Complaint after 47 days before they

answer to plaintiff complaint. On Dated 12/10/2015 dkt-29-minute Entry for proceeding by magistrate judge Michael j Watanabe. On dated 01/14/2016 in the Dkt-37 courtroom minute Order for proceeding by magistrate judge Michael J. watanabe. On 01/15/2016 in the Dkt-39 trial preparation order entered. On July 29, 2016 court grantee both defendants motion to strike plaintiff second Amend Complaint and the court grantee plaintiff leave to file a motion seeking leave to amend The Complaint on Filed second amend complaint by court order on or before August 12, 2016. Plaintiff second amend complaint Dkt-74-2 grantee on August 17/2016. Defendant Standard Parking Filed motion to dismiss plaintiff second amend complaint on 08/31/2016 Dkt-82. Union filed motions on 08/26/2016 Dkt-80 to dismiss Plaintiff's Second Amended Complaint Dkt-78 pursuant to Fed. R. Civ. P. 12(b) (6) for failure to state a Claim upon which relief may be granted. Plaintiff file oppose Response to Dkt-80 on 09/20/2016 in the Dkt-92. Plaintiff Oppose response to motion Dkt-82 on 09/20/2016 in the Dkt-93 evidence attached but all were ignored. Standard parking file motion for Summary judgment on 09/30/2016 See Dkt-96. Union file motion for summary judgment on 09/30/2016 See Dkt-97. On 10/21/2016 Dkt-108 plaintiff oppose response to court and sent to defendant SP on October 24, 2016. On 10/24/2016 Dkt-109 Plaintiff oppose Response to union motion Dkt- 97. On 11/10/2016 Dkt-114-minute Order granting plaintiff's second amend Complaint Motion Dkt-91. On November 14, 2016 Dkt-116 Judge favor both defendants' motion dkt-80 and Dkt-82 pursuant to rule 12(b) (6) while summary judgement already filed by both defendants Dkt-96 and Dkt-97 in pending and without hear any attach A to L attached to Dkt-92 and Dkt-93. Under U.S.C 636 magistrate judge should not vacate affidavit and deposition. On November 28, 2016 Dkt-120 plaintiff timely objected to magistrate judges improper report and recommendation. On 12/13/2016 Dkt-123 Defendant standard parking counsel response to plaintiff Objection Dkt-120 after deadline passed and union did not response to plaintiff objection at all. On dated 12/23/2016 Dkt-128 Plaintiff file motion to strike defendant standard parking motion Dkt-123. On December 22, 2016 (Doc-126) chief judge Marcia S. Krieger overrules plaintiff Objection and ADOPTS magistrate judge's decision entered November 14, 2016 (Doc-114). On January 06, 2017 both defendants file bill of costs the amount of \$8033.20. On January 18, 2017 notice of appearance entered by pro se and filed On 02/17/2017. On February 15, 2017 the Costs taxed for the amount of \$8033.20 rewarded by clerk. On February 15, 2017 both defendants filed on same day see Dkt-138 against plaintiff abdullahi jara. On February 21, 2017 plaintiff oppose response and set the important objection see Dkt-139. On March 02, 2017 plaintiff filed important brief and argued district judge action Strongly Ignored, Skipped and disregarded plaintiff fact alleges in the complaint (Doc 78) paragraph 1, 14, 15 39 to 63, (Doc-

92), (Doc-93) and attached A to L filed September 20, 2016 Oppose response to both defendants' motion (Doc-80 -82). On April 03, 2017 both Appellees joint filed the brief. On April 19, 2017 Appellant filed reply oppose to defendants standard parking. On July 13, 2017 panel judges Affirmed district court wrongful dismissal without oral argument. On July 26, 2017 appellant filed aggressive motion for rehearing under rule 40. On July 28, 2017 petitioner respectful requested Rehearing En banc under rule 35 for plaintiff so much suffered. Both rehearing was denied on August 14, 2017.

B: Proceedings before This Court

Petitioner still proceeding pro se, petitioner timely filed a petition for rehearing and motion for leave to proceed in forma pauperis filed on October 11, 2017 petition in this Court. This Court did request optional response to the petition, however respondents standard parking and, teamsters local union did not file any opposition brief to October 11, 2017 petition filed to supreme court. Supreme Court decided on an issue that was never brief by respondents and denied petition writ for certiorari. The Supreme Court shall afford the parties an opportunity to present their views on the matter through supplemental briefing. The court fails to afford that opportunity, a rehearing shall be ordered upon timely petition of petitioner under Government code 68081 and any other government code may apply.

REASONS FOR GRANTING THE PETITION FOR REHEARING

this court should be granted the petition for rehearing to resolve the court of appeal decision conflict with the decision of another United States Court of appeals including Supreme Court on the same important matter; Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). Lowery v. Texas A and M Univ sys. 117 F.3d 242, 247 (5th Cir. 1997). Lopez V. Smith, 173 F.3d 749 (9th Cir.1999). Campbell v. Wells Fargo Bank, 781 F.2d 440, 442 (5th Cir.1986). More fundamentally Fed. R. C. P. rule 12(d) subjected court's discretion. Insofar Plaintiff showing of good cause never at issue that should Compare Zapata v. City of New York, 502 F.3d 192, 196-97 (2d Cir. 2007); Petrucelli v. Bohringer & Ratzinger, GMBH, 46 F.3d 1298, 1305 (3d Cir. 1995); Thompson v. Brown, 91 F.3d 20, 21 (5th Cir. 1996); Malibu Media, LLC v. Doe, No. 14-cv-288, 2014 WL 7507259, at *4 (D. Md. Dec. 24, 2014); Espinoza v. United States, 52 F.3d 838 (10th Cir. 1995) Petitioner taking further effort until fortune favors petitioner with a judge who is willing to accept his view of the law or his construction of the evidence. As the Court has recognized on several occasions, "[n]avigating the appellate process without a lawyer's assistance is a perilous endeavor for a layperson." Halbert v. Michigan, 545 U.S. 605, 621 (2005); see also, 7 e.g., Erickson v. Pardus, 551 U.S. 89, 94 (2007) (emphasizing that "[a] document filed

pro se is 'to be liberally construed'"); Estelle v. Gamble, 429 U.S. 97, 106 (1976) (same); Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (same). That is no less true of the process before this Court. All these ultimately fact appeal panel judges relied and wrongly interpreted and dismiss base on conspiracy theories. Therefore, it would be inequitable to deny petitioner who managed everything timely manner to reach the justice. It wide opportunity to have this case heard by the Supreme Court of the United States.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for rehearing, vacate the order denied the writ of certiorari, and reverse this case to its merits to do so. Respectfully submitted.

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Date January 29, 2018

CERTIFICATE OF PRO SE

Corrected statement attached to petition for rehearing.

I hereby certify that this petition for rehearing from Denial of Certiorari is presented in good faith and not for delay and The petition, its grounds and accompanied by certificate of pro se or unrepresented by counsel stating that the grounds are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.



Abdullahi Hamu Jara

Date February 9, 2018

Statement of fact

On January 22, 2016 Pursuant Fed. R. Civ. P rule 26(a) (1) and other may apply; appellant respectfully Requested ground for relief previously under Title VII claim, 42, U.S.C 1981 claim and section 301 hybrid claim the amount of maximum Allowance by the law for both defendant liable. The Copy of preliminary disclosure attached to brief filed march 02, 2017 to court of appeal. Previously, Petitioner have fully briefed the ground for relief in lower court and in brief filed march 02, 2017 to the court of appeal including procedural default by the court and the suspension of fraud and conspiracy in the court and union own duty care to plaintiff. Such alleges never denies by the court of appeal. Therefore, this petition for rehearing will preserve the best vehicle for review of the unquestionably "important" questions presented by pro se regarding the courts of appeals dismissed this case. in what circumstances may an employer and union be held liable for unlawful at workplace and in civil right violation cases. Goodman v. Lukens steel Co., 482 U. S, 656, 669 (1987), Staub v. proctor hospital U. S, 131 s. ct. 1186, 179 l., ed. 2d 144 (2011) and Vance v. ball state University U.S. 133 s.ct 2434, 186 l.m 2d 565 (2013). Whether procedures are required in due process, Petitioner's right deprivation under fifth and fourteenth amendments. Black pro se self-represent it does not mean that a litigant is free to ignore relevant rules of procedural and substantive law. Denying the fact and law in expectation of civil right protection, it always hurt and willful misconduct same Husain v. Olympic Airways, 316 f.3d 829, 835 (9th Cir. 2002). All these challenged already in petition for rehearing filed on January 29, 2018.

Whether plaintiff failure to state a claim which relief may grantee under 12(b)(6), Fed. R. C. P. rule 12(d) subjected court's discretion. Plaintiff fact pleading must construe see Campbell v. Wells Fargo Bank, 781 F.2d 440, 442 (5th Cir.1986). Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). In this case discovery served, deposition taken and summary judgement filed by both defendants in September 30, 2016 see (Docket 96-97). Now black letter law in question for judges' action for what reasonable judicial dismiss plaintiff complaint under rule 12(b)(6) while summary judgement in pending? More fundamentally the court of appeal Judicial process must be ensuring that judicial court action must base on law but not on judge's Caprice.