

NO. 17-7284

IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT WILLIAMS – PETITIONER,
vs.
VICTORIA’S SECRET – RESPONDENT.

THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

PETITION FOR REHEARING

Robert Williams
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PETITION FOR REHEARING

1. Pursuant to Rule 44.1 Petitioner constitutionally petitions this court for rehearing.

REASONS WHY CERTIORARI MUST BE GRANTED

PRELIMINARY STATEMENT

The United States Constitution guarantees all citizens of the United States have inherited rights, put forth by the creator, essentially representing the front end of this contract between the government and its citizens. The United States Supreme Court which has a non-negotiable duty to make sure no citizen is devalued as if they do not have a “guarantee” that government must respect. Significantly, within the judicial system this court oversees.

On the back end within The United States Supreme Court the constitutional guaranteed right is premised on a discretionary standard contradicting the government contract between the citizens, if this court does not value all citizens and compliance of the Universal Declaration of Human Rights by correcting the underlying staff. Further, correcting the underlying courts or adjudication is not premised on the element of discretionary but rest ultimately, on the laws, which, apply to all for humanitarian reasons.

Among other things, guarantee and discretion are antonyms. If a petitioner has demonstrated that the very underlying judicial branch of government has adjudicated in a manner not consistent with constitutional rights, as in this instance, The Due Process Clause of the Fifth Amendment. Respectfully, The United States Supreme Court does not have the luxury of discretion to hear the petition. It becomes, of bare minimum, a respect and honor of The United States Constitution and compliance of The Universal Declaration of Human Rights.

Rule 10 of The United States Supreme Court only allows discretion if this court has evidence one has had a "full and fair opportunity" to be heard. If this court concedes petitioner a United States Citizen has a Fifth Amendment Constitution Due Process Guarantee, then it must correct the underlying adjudication for this guarantee to be effective. This court's supervisory authority must not concede or be subdued by discretion.

Under the circumstances, this option is not available pursuant The United States Supreme Court did not weigh petitioner contractually is entitled to a competent tribunal, petitioner has a right to recognition as a person before the law, petitioner is to be treated equal before the law including equal protection of the law. Under the circumstances and among other things, the law states the respondent is a Joint Employer all consequential adjudication must follow this path.

ARGUMENT

COMPLAINT ADMINISTRATIVE UNIFORMITY AND DUE PROCESS

The same Complaint filed in any United District Court in the United States of America that has met jurisdictional, venue, statute of limitations etc. Administratively, must have the same result in processing. Significantly, the determination does the complaint put the defendant on notice of what the complaint is about. If this burden is met a plaintiff is entitled to proceed to discovery in pursuit of a meaningful full and fair opportunity to be heard under the Rule of Law. The law must govern the nation, as opposed of being governed by decisions of individual judicial government employees.

More, the process of objectively fair treatment throughout the different stages of the judicial system is effective consistent with the Due Process Clause of the Fifth Amendment guarantee. The highest court in this land is aware if a litigant cannot pay the filing fee to

commence a lawsuit they can move to waive the filing fee and must be afforded the very same meaningful full and fair opportunity to be heard just as one who has paid the filing fee.

In the underlying district court, the petitioner's Complaint was prescreened by the screening judge and found to be consistent with the standards necessary to proceed. More, the uniformity of prescreening pursuant all United States District Courts of litigants who move to have the filing fee waived rest on dismissal, or portion thereof, that fails to state a claim which relief can be granted. 28 U.S.C. para 1915(e)(2)(B). *Livingston Adirondack Beverage Co.*, 141 F.3d 434,437(2d Cir.1998). The law mandates dismissal on this ground.

Among other things, the prescreening judge correctly determined and recognized petitioner is entitled to relief as an employee of a joint employer. Petitioner is now entitled by the Constitution, law and The Universal Declaration of Human Rights to a meaningful full and fair opportunity to be heard within the judicial system.

The prescreening judge Ordered petitioner to amend his complaint to support his effort to be entitled to seek relief by suggesting the following; (1) give the names and titles of all relevant persons; (2) describe all relevant events, stating the facts that support Plaintiff's case, including what each defendant did or failed to do; (3) give the dates and times of each relevant event or, if not known, the approximate date and time of each relevant event; (4) give the location where each relevant occurred; (5) describe how each defendant's acts or omissions violated Plaintiff's rights and describe the injuries Plaintiff suffered; and (6) state what relief Plaintiff seeks from the court, such as money damages, injunctive relief or declaratory relief. (Rehearing Appendix A1 - A7).

Therefore, a legal cause of action exists, and an arguable basis of law and of facts exist, premised on the Amended Complaint. (Rehearing Appendix B7-B19).

PREJUDICIAL ADJUDICATION COMPRIMISING DUE PROCESS AND FAIRNESS

Since the law determines petitioner is a joint employee under the Joint Employer Doctrine administrative procedural protocol must be followed. The Joint-Employer Doctrine offers no ambiguity of the petitioner's official employee status. The law mandates the court to follow.

The case was assigned to another judge who would hear the case who began to follow the uniformity of all district courts and set forth an Order of Service acknowledging a cause of action exist pertaining to Civil Rights and The Joint -Employer Doctrine. (Rehearing Appendix C20-C21). The assigned Judge eventually Ordered a Pretrial Conference. (Rehearing Appendix D22-D24).

After this docketed Pre-Trial Conference, the respondent filed a Motion to Dismiss or in the Alternative Summary Judgment. simultaneously, the underlying courts became an incompetent tribunal attenuating petitioner has a right to recognition as a person before the law, petitioner is to be treated equal before the law including equal protection of the law.

The Report and Recommendation failed to rule petitioner by law is a joint employee mandated by law. This failure to deem petitioner in accordance to The Joint-Employer Doctrine for his official status contaminates his R&R. (Rehearing Appendix E25-E32).

He States, "Whether Williams was an Independent Contractor or an Employee Remains A Disputed That Cannot Be Resolved On The Present Record" However, the law mandates

under the Joint-Employee Doctrine Williams is not an Independent Contractor. The failure of the court to give petitioner his due status within the legal analysis is prejudicial.

It is undeniable plaintiff as an employee is protected by the Fair Labor Standards Act ("FLSA"). The determination of whether an employer-employee relationship exists for purposes of the FLSA should be grounded in "economic reality rather than technical concepts," *Goldberg v. Whitaker House Coop., Inc.*, 366 U.S. 28, 33, 81 S.Ct. 933, 6 L.Ed.2d 100 (1961) (internal quotation marks omitted),

Moving forward, the District Judge aided in prejudicial adjudication by certifying an appeal would not be taken in good-faith although the law mandates petitioner is a joint-employee, and/or the respondent is a joint-employer.

The certification violates petitioner has a right to recognition as a human being before the law, petitioner is to be treated equal before the law including equal protection of the law. Among other things, this certification also is a declaration by the judge inferring an appeal is not necessary because I have not made any mistakes. All human beings do make mistakes, as in this instance. More, it puts petitioner at a dis-advantage from the very beginning of an appeal, significantly, *pro-se* litigants.

United States Supreme Court Precedent and standard of review pursuant a court certifying an appeal will not be taken in good -faith and revokes In Forma Pauperis for appeal only logically suggest one must re-apply at the appellate stage of litigation. Which, an appeal if taken is a right. For example, the uniformity standard of federal appellate court rests on that an appeal *in forma pauperis* be taken "in good faith" is satisfied when petitioner substantiated appellate review of any issue that was not clearly frivolous. Then leave to proceed *in forma*

pauperis must be granted. More, due process rights exist and must be protected to be heard.

Further, the law mandates petitioner is a joint-employee and/or respondent is a joint-employer.

For example, as noted in petitioner's writ of certiorari, petitioner filed a motion to waive filing fee and raised non-frivolous positions which the appellate court concluded it lacks an arguable basis of law or fact. *See* (Writ of Certiorari Appendix at A1). A violation of Due Process Rights. The Supreme Court of the United States deems petitioner's motion for *IFP* status was to be granted under the circumstances. petitioner is "entitled to appeal as a matter of right, and he need not petition the Court of Appeals for the exercise of its discretion to allow him to bring the case before it". *Coppedge v. United States*, 369 U.S. 441-442 (1962). The requirement that an appeal *in forma pauperis* be taken "in good faith" is satisfied when the one seeks appellate review of any issue that is not frivolous. Pp. 369, 444-445. Any issue not clearly frivolous, leave to proceed *in forma pauperis* must be granted. P. 369 U.S. 446. An indigent litigant is entitled in all respects to the same right of appeal as a person who can pay the expenses of his appeal. Pp. 369 U.S. 446-447. In, essence, respect for all people.

The failure of the underlying courts to remain impartial for whatever reasons, when they are to remain impartial at all times should be disturbing for the highest court in the land. Petitioner's rights are not to be collateral damage pursuant arbitrary and capricious decisions and or feelings. The United States Supreme Court has evidence of underlying adjudication violates Human Rights.

RULE OF LAW-OPPORTUNITY TO BE HEARD

The basic requisite of due process of law is the opportunity to be heard. In addition, to adequately safeguard the right for which the constitutional protection is invoked. The United

States of America has the Universal Declaration of Human Rights. This humanitarian signing means the United States will comply with the articles set forth in this document. Among other things, this is a national and worldly importance,

The United States of Supreme Court must comply with this standard under the element and leadership of the Federal and State Judicial System of The United States of America. Among other things, The Universal Declaration of Human Rights in its Preamble states in part “....that human rights are to be protected by the rule of law”. (Rehearing Appendix F33) In Article 6 “Everyone has the right to recognition everywhere as a person before the law”. (Rehearing Appendix) F35). In Article 7 “All are equal before the law and are entitled without any discrimination to equal protection of the law.....”. (Rehearing Appendix F35-). In Article 8 “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”. (Rehearing Appendix F35).

If the United States of America is to be following these Articles and a petitioner has demonstrated the very underlying tribunal(s) designed to uphold fundamental due process rights then this courts discretionary standard must adhere to the United States Supreme Courts legal and humanitarian duty to get involved, to correct underlying co-workers and possibly prevent this from ever happening again.

In accordance to the United States Supreme Courts Own Rule 10 certiorari, is not a matter of a right. However, this court, at bare minimum, has no evidence petitioners right to appellate review was performed. It then suggests petitioner should have this right.

More Rule 10 infers certiorari will only be granted for compelling reasons. Nothing can be more ultimately compelling then Human Rights violations by the federal judicial system of The United States of America.

In accordance to Rule 10(a) the underlying courts far departed from the accepted and usual course of judicial proceedings extending to far departure from universal human rights.

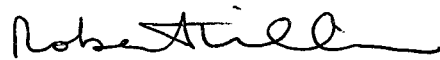
CONCLUSION

This underlying adjudication is being done on this court's watch and it has been brought to this courts attention. There is something wrong and this court needs to get involve humanitarianly. If any other industry, if executive management found out the procedural process standard were being compromised and did nothing to correct, the courts would deem them liable for not acting. These same principles hold steadfast here.

The respondent is aware petitioner is a joint-employee and they are a joint-employer.
(Rehearing Appendix G41-G44).

Pursuant the above-mentioned points the Petition For Rehearing must be Granted.

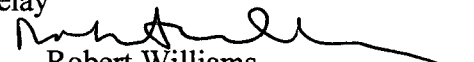
Dated: April 18, 2018


Robert Williams

CERTIFICATION

I Robert Williams certify that the grounds of this Petition for Rehearing are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

This Petition for Rehearing is presented in good faith and not for delay


Robert Williams

Dated:
April 18, 2018

No. 17-7284

IN THE
SUPREME COURT OF THE UNITED STATES

Robert William PETITIONER
(Your Name)

VS.

Victoria's Secret RESPONDENT(S)

PROOF OF SERVICE - Petition For Rehearing

I, Robert William, do swear or declare that on this date, April 18, 2018, as required by Supreme Court Rule 29 I have served the enclosed ~~MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS~~ and ~~PETITION FOR A WRIT OF CERTIORARI~~ on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Taryn T. Lo
52 E. Gay St. P.O. Box 1008
Columbus, OH 43216

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 18, 2018

Robert William
(Signature)

**Additional material
from this filing is
available in the
Clerk's Office.**