

NO. 17-72963

original

IN THE
SUPREME COURT OF THE UNITED STATES

ALBER SAID I. SAID
PETITIONER

VS.

CLERK'S OFFICE OF TAX COURT
Assistant Deputy Counsel (Della
Bauserman)
Record Department (Brandy Diablo)
RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURTS OF APPEALS
FOR THE NINTH CIRCUIT

PETITIONER FOR WRIT OF CERTIORARI

ALBER I. SAID
15565 GORRION COURT
MORENO VALLEY CA. 92551
(951) 924-4792

QUESTIONS

- 1- The Appeals Court altered the defendants' name from Tax Court's clerk to IRS to allow her to deny "the new petition for review" for "petitioner failed to explain what means of the extraordinary remedy of mandamus" The new petition has no exhibits against IRS because it has no charge for IRS (IRS not defendant). In my new petition I asked the appeals court to issue order to enforce the Tax Court to file my motion for request to inspect...and to file my compliant because the petition is against Tax Court's clerk.
- 2- The tax court's clerk acted outside lows/outside the court's Rules.
- 3- Tax court's clerk unfilled the motion as court's Rule and referred to respondent's agent instead referred to the Chief Judge FRAB 45. I filed the motion three times and the clerk acted same fraud action.
- 4- I filed three complaints against the clerk and IRS's agent and the clerk acted fraud action and referred all complaints unfilled to IRS'S agent to respond instead referred to the Chief Judge as Court's rule. That mean court's clerk communicated with the respondent behind petitioner.
- 5- I request photo copying from previous petition, and after I paid all fees Sandy Diablo (record's clerk) told me one time no exhibits in the record and another time told me she found it. When she sends all copying, she did not send all exhibits and told me The Judge did not allow releasing any more documents.
- 6- The Appeals court's order was error of Jurisdiction/was an abuse of discretion occurs when a decision is based on an erroneous view of the law and a clearly erroneous assessment of the facts. The Appeal Court denied the petition without any respondents' respond.
- 7- The motion contained facts and supported by evidence: (1)the Tax Court unfilled the motion for requesting to inspect...(it filed under tax court 34 (a) (1) to produce and permit the requesting party...to inspect.../and based on Tax court's order "asking me to refill this motion correctly".

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1- Tax court Rule 34 (a) (1) to produce and permit the requesting party...to inspect...the following items: (A) any designated documents or electronically stored information...and other data or data compilations-stored...

2- Article six of the United States Constitution & Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974), because respondents' exhibits prove that their fraud/ prove the mathematical errors whose raise any additional taxes/ and prove their alteration. Also when review respondents' exhibits/their briefs/their motion/and petitioners' briefs, you will discover that the previous orders are VOID because the judges acted outside jurisdiction/The Constitution. Foregoing reasons, petitioners request to inspect all respondents' exhibits/ petitioners' exhibits/ both parties' briefs; stipulation and their answer brief/ and both judges' orders.

3- Rule 26(b)(3)(B)(C)(i)(ii). On Sep. 21, 2015 petitioners filed request to inspect and the Judge advice in his order to file it one more time correctly.

4- IRS' agents under fraud category See USC section 7206/ they operate I.R.C. unconstitutionally.

5- Notes of advisory Committee on Rule- 1970 Amendment: Rule 34 is revised to accomplish the following major changes in the existing rule: (1) to eliminate the requirement of good cause the audit has alterations and mathematical errors whose arise any additional taxes "it is good/justice reasons"; (2) to have the rule operate extra judicially.

5-Rule 60(b) states that "grounds for Relief from a final judgment, order, or proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, or excusable neglect.

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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 _____ 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 _____ to the petition and is

☐ reported at _____; 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 A to the petition and is

☒ reported at JAN 24, 2018; 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 _____.

☐ 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: _____, 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. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 01/24/2018.
A copy of that decision appears at Appendix A.

☐ 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).

-I-

JURISDICTION

Petitioners move, pursuant to the provision of Supreme Court Of The United State Tax court Rule 34 (a) (1) to produce and permit the requesting party...to inspect...the following items: (1) any designated documents or electronically stored information...and other data or data compilations-stored; (2)Article six of the United States Constitution & Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974), because respondents' exhibits prove that "their fraud/ prove the mathematical errors whose raise any additional taxes/ and prove their alteration". Also when review respondents' exhibits/their briefs/their motion/and petitioners' briefs, you will discover that the previous orders are VOID because the judges acted outside jurisdiction/The Constitution. Foregoing reasons, petitioners request to inspect all respondents' exhibits/ both parties' briefs; stipulation and their answer brief/ and both judges' orders; (3) Rule 26(b) (3) (B) (C)(i)(ii). On Sep. 21, 2015 petitioners filed request to inspect and the Judge advice in his order to file it one more time correctly; (4) IRS' agents under fraud category See USC section 7206/ they operate I.R.C. unconstitutionally; (5) Notes of advisory Committee on Rule- 1970 Amendment: Rule 34 is revised to accomplish the following major changes in the existing rule: (1) to eliminate the requirement of good cause the audit has alterations and mathematical errors whose arise any additional taxes "it is good/justice reasons"; (2) to have the rule operate extra judicially; and (6) Rule 60(b) states that "grounds for Relief from a final judgment, order, or proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, or excusable neglect.

-II-

STATEMENT OF THE CASE

The Tax Court's clerks acted outside court's Rules/their actions were fraud and the Appeals court's order was error of Jurisdiction/was an abuse of discretion occurs because a decision is based on an erroneous view of the law and a clearly erroneous assessment of the facts and Tax Court's clerks acted outside the constitution because:

1- Petitioners filed two petitions Docket No. 11202- 01 & 11633- 10L. In these previous cases respondents acted outside IRC/ they altered every single number in the audit/ they submitted fraud exhibits/ the audit has mathematical errors/ generally they acted unconstitutionally.

-3-

In both petitions Judges acted individual (in person) and they did not obey the Constitution or the laws. Their orders are VOID and would be DESTROYED because they acted as a trespasser of the law, and they do not follow the laws, they lose subject-matter jurisdiction and their orders are avoidable, but VOID, and of no legal force or effect. See Article six of the United States Constitution & Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974), because respondents' exhibits prove that "their fraud/ Prove the mathematical errors whose raise any additional taxes/ and prove their alteration. Also when review respondents' exhibits/their briefs/their motion/and petitioners' briefs, you will discover that the previous orders are VOID because the judges acted outside jurisdiction/The Constitution. Tax Court's clerk did not file the motion for request that has all exhibits whose proving that previous orders are VOID because the judges acted outside jurisdiction/The Constitution and The Appeal Court did not review the motion with the exhibits. The Appeal Court did not ask respondents to file any response and denied the petition for review. Without respondents' response how The Appeal Court knows the facts and denied the petition.

2- On 07-05-2016 I filed motion for request to inspect the previous petitions based on: (1)the court's Rules see Code Section 7429(a)(2) Subdivision (b) Rule 34(a) (1) states that "is also amended to make clear that parties may request an opportunity to test or sample materials sought under the rule in addition to inspecting and copying them; the amendment expressly permits it...issues of burden and intrusiveness raised by requests to test or can be addressed under Rule 26(b) (2) and (b)(c). Courts should guard against, under intrusiveness resulting from inspecting or testing such systems. Rule 34(a)(1) is Further amended to make clear that tangible things must - like documents and land sought to be examined - be designated in the request"; and (2)I filed it based on court's order see exhibit 1H in the petition. As above the Tax Court has jurisdiction to review it and I have rights to file this motion in the Tax Court. The court's clerk did not file this motion as court's Rule see FRAP 45 but they referred the motion to IRS's agent "Mr.Bauserman" unfilled to respond instead filed it and referred to the Chief Judge see exhibit 2H & 4H in the petition. The clerk conceded the defendant is judge and allow him to do judge's job; of course, he returned back the motion unfilled for the Tax Court no longer has jurisdiction over these cases based on his own opinion (see exhibits in the petition). Court's clerk's action against court's Rule see FRAP 45/against the Judge's order/ but against the Constitution. This action is fraud because any party has

Constitution rights to file motion for request to inspect the previous cases after final decision and tax court has jurisdiction over these cases see Rule 34 (see our motion) & see tax court's order dated Oct. 29, 2015 Chief Judge Michael B. who stated at (3:16-18) that "as to petitioners' request to inspect the previous court's orders..., petitioners are advised that photocopying requests should be submitted to the Court's reproduction department" see exhibit in the petition. Also the clerk must file any documents and submitted it to the Chief Judge, not referred it to the defendant to review it to secure respondent's fraud (respondent has no facts to dispute all errors whose contain in the previous petition). This is fraud action but it is under discrimination category "Ex parte discussions" CA. Rules of professional conduct 5-300 and CA. Rules of Judicial ethics 3B(7). As Tax court's Rule 34 and as Chief Judge Michael's order dated Oct. 29, 2015 petitioners have Constitution rights to file this motion and Tax court has no jurisdiction to decide this motion.

3- On Aug.9, 2016 I filed compliant with the motion for request to inspect the previous petitions under Chief Judge's name see exhibit 3H in the petition, and the clerk instead file it and referee it to the Chief Judge, the clerk referred it to assistant deputy counsel "Della Bauserman" who is IRS agent for response (when I called tax court's clerk, to ask which department I can file compliant against Mr. Bauserman I told by the clerk I have file it with IRS). As court's rule the clerk must file any document and refer it to the Chief judge not refer it to any person (MR. Bauserman job as assistant deputy counsel is: "under the general supervision of the county counsel, to provide a variety of professional legal services to the county through the county counsel's office; to assume responsibility for the department in the absence of the county counsel; and to do other related work as required. This position serves at the will and pleasure of the county counsel") it is clear he has no right to review any document. This action is false action!

4- On Sep. 30, 2016 again I filed a complain with a motion for request , and the clerk office instead file it and refer it to the Chief Judge, the clerk office unfilled it and referred to Mr. Bauserman for response. This clerk's action is false action because the clerk office has no authority to communicate with any party/or to refer any document to any party without court's order but the office must be file any document and referred it to the Chief Judge for review it. Also Mr. Bauserman's action to review any document filed in the court is fraud action (this compliant against him).

5- On June 14, 2017 I filed another compliant against clerk office/ Mr.

Bauserman's false action with my motion and again the clerk office referred it to Mr. Bauserman for response who has no authority to review any complain or any documents, instead to referee it to the Chief Judge to review it. It is fraud action see exhibit 4H in the petition.

6- On Aug. 2, 2017 I filed forth compliant against clerk office/ assistant deputy counsel/ and record department, the clerk office instead referrer it to the Chief Judge, he referee it to MR. Bauserman for response see Appendix A. On or about Sep. 1, 2017 I called Chief Judge's office ((202)521-0777) and I told by Chief Judge's clerk "no compliant referred". On or about Sep. 16, 2017 I called Chief Judge's office and I told by Chief Judge's clerk "no compliant referred and after she asked me about my phone number, she told me some one will call you". On Sep. 25, 2017 I called the Chief Judge's office and the clerk told me the clerk office will call you within few days, and until now no one call me.

7- On or about April 25, 2016 I called record department based on court Order (see exhibit 1H)/ based on court's Rule to request photocopying from some documents from Docket No. 11202-01 and the clerk asked me to pay \$25.00 fees to order the box. On April 28, 2016 at 7:39 PM I paid this fee (\$25.00) under pay. Gov Tracking ID 25 qutrdf; agency tracking ID 74993592313; docket 11202-01; and control No. 20861. About week later I called the record department at (202)521-4694 (Brandy Diablo) and I asked her photocopying from documents as follow: (1) respondent's second stipulation with exhibit 1-J throw 17-J; (2) respondent's answer to amended petition dated Apr. 29, 2003; and (3) petitioner's brief. First, she told me no respondent's exhibits 1-J throw 17-J in the record, and after few minutes she told me she founded it. She asked me to pay \$65.50 for 131 pages. On April 28, 2016 at 7:30 PM I paid this fee (\$65.50) pay. Gov tracking ID 25rbztio; agency tracking ID 75006088637; control No. 21309; and docket No. 11202-01. After about two weeks she send the documents but not include respondent's exhibits 1-J throw 17-J and she send another documents, I did not requested it. I called her several times and no answer. After about two weeks, she answered and told me she must ask the Judge. About three weeks later, she told me the Judge was in vacation and when he came back she will call me. After about two weeks I called her and she told me the Judge does not allows releasing any more information. About three weeks later I called her several times and I left message asking what the Judge name to call him and asking him why he does not allow releasing any information although, I have rights as court's rule to ask for photocopying any documents (see

exhibit 1H), but she never responds. On Sep. 30, 2016 I filed motion to pay me my money back or send the right documents and no respond see exhibit 5H. I am asking if she asked any Judge or this statement is false statement based on her opinion. Also I am asking where these exhibits, are its still in the record or some one destroyed it/ and who removed it from the record.

8- On 10/02/2017, I filed new petition for review in The United States Court of Appeals for the 9th Cir. The Appeals Court altered the defendants' name from Tax Court's clerk to IRS to allow her to deny "the new petition for review" with "petitioner has not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus." The new petition has no exhibits against IRS because it has no charge against IRS (IRS not defendant). In my new petition I asked the appeals court to issue order to enforce the Tax Court to file my motion for request to inspect ...and to file my compliant because my petition against Tax Court's clerks (see exhibit 1J & appendix A). This order is error of Jurisdiction/is an abuse of discretion occurs because a decision is based on an erroneous view of the law and a clearly erroneous assessment of the facts/ and based on the Court altered the defendants' name. If the Appeals Court review the new petition, the Court will found out the defendants are Tax Court's clerks not IRS, and their actions are fraud because: (1) the clerk must file the motions/all complaints and referred to the Chief Judge for respond but they did not and referred unfilled to MR. Bauserman for response; (2) MR. Bauserman has no authority/or he has no jurisdiction to review any motion or compliant special whose against him; and (3) Brandy Diablo has no right to refuse sending the document who I request it and I paid all fees. Petitioner has demonstrated that this case warrants the intervention of the Appeals Court and defendants' actions are extraordinary remedy of mandamus. The Appeals Court's order is error of Jurisdiction/is an abuse of discretion occurs because a decision is based on an erroneous view of the law and a clearly erroneous assessment of the facts.

Finally, as above defendants' actions are unconstitutional/ and its are fraud actions because the clerk must file any document and referee it to the Chief Judge for review it based on court's Rule/ based on the jurisdiction. The clerk should not communicate with any party and refer the documents (motion and complaints) to him for response. This is fraud action but it is under discrimination category "Ex parte discussions" CA. Rules of professional conduct 5-300 and CA. Rules of Judicial ethics 3B(7). Also Brandy Diablo's action is illegal and against the court's Rule/against The Constitution.

I thing there is communication between Brandy and respondent to disappear all exhibits or she does not send these exhibits to me whose proving respondent's fraud. The Appeals Court's order is error of Jurisdiction.

-III-

REASONS FOR GRANTING THE PETITION

1- The Appeals Court altered defendants' name from Tax Court's clerks to IRS to allow her to deny my new petition.

2- I have Constitution rights to file motion for request to inspect under Tax Court's Rule.

3- The Tax Court's clerk should file the motion/a compliant and referred to the Chief Judge but they did not see FRAP 45.

4- The clerk instead referred the motion and a compliant to the Chief Judge; they referred to the defendant unfilled for respond.

5- After I paid the fees to the Court to send me the photocopying the clerk refused to send me all documents I request it.

6- After I sported my new petition with all exhibits whose proving defendant's fraud actions/they acted outside court's Rules. The Appeals Court denied my new petition after she altered defendant's names

7- In the petition I asked the Appeals Court to enforce Tax Court to file the motion who filed based on Court's Rule/ to file a compliant and referred to the Chief Judge.

Wherefore, I am praying the court issues equitable relief, to investigate why The Appeals Court altered defendants' names/ clerk's fraud action/ Della Bauserman's fraud action/Brandy Diablo's false action/to investigate why the Appeals Court denied the new petition although petitioner has demonstrated that this case warrants the intervention of the court. This court issue order to file my motion for request to inspect under court's Rule/ and based on previous Judge's order "see above" to secure petitioner from IRS agents' fraud/ and to secure petitioner from the clerk's unconstitutional action.

-IV-

CONCLUSION

For the foregoing reasons; the Court must grand petition for a write of certiorari and issue order to enforce the tax court to file the motion for request to review/ to file a compliant/ and to referee its to the chief Judge for response.

Dated: 03/02/2018

ALBER SAID

