

No. 12-CV-1129

IN THE
SUPREME COURT OF THE UNITED STATES

RICHARD KASI PRO-SE — PETITIONER
(Your Name)

vs.

BRIAN FISCHER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RICHARD KASI #98A1899
(Your Name)

GREEN HAVEN CORRECTIONAL FACILITY, P.O. BOX 4000.
(Address)

STORMVILLE - NEW YORK - 12582-4000
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

WHETHER PETITIONER FOR WRIT OF HABEAS CORPUS SHOULD BE ISSUED - BECAUSE THE UNLAWFUL ENTRY - RECEIVED AND ACCEPTED FOR FILING, WITHOUT INQUIRY FOR THE CIRCUIT CLERK.

WITHOUT THIS COURT INTERVENTION PETITIONER WOULD BE AIDING IN THE COMMISSION OF A FELONY.

ADDITIONAL, PETITIONER MAY BE ENTITLED TO THE BENEFIT OF NEW YORK "SAVING CLAUSE" - N.Y. C.P.L.R. § 205 (4). THIS ACTION HEREIN WAS FILED ON OR ABOUT OCTOBER 19, 2012. THE STATUTE OF LIMITATIONS FOR ACTIONS FILED UNDER 42 USC § 1983 IS THREE YEARS AS SET FORTH UNDER NEW YORK LAW.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

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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 A to the petition and is

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☒ is unpublished.

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

☐ reported at _____; or,
☒ 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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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 OCTOBER 11, 2017.

☒ 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 _____.
A copy of that decision appears at Appendix _____.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THIS PETITION SHOULD HAVE BEEN ALLOWED TO PROCEED FURTHER AS A MATTER OF EQUITY. THE UNLAWFULL ENTRY RAISES SERIOUS QUESTIONS AND FEDERAL CHARGES. THE 1ST, 5TH AND 14TH AMENDMENT ARE INVOLVED.

STATEMENT OF THE CASE

On July 1, 2013, The United States District Court for the Western District of New York Hon. Richard J. Arcara, Denied to Petitioner His 42 USC: 1983 Application To Proceed In Forma Pauperis. Pursuant to the "Three Strikes" Rule of 28 USC: 1915(G) and Directed to Pay the Filing Fee by July 30, 2013 or the Action will be Dismissed Pursuant to 28 USC: 1915(G). —

Petitioner Failure to Pay the Filing Fee as Directed by that Day and the Action shall be Dismissed. The Final Judgment shall be Entered in Favor of Defendants the same day or few days later. See: DAVISON V. SULLIVAN, Not Reported in F. Supp 2d. (2006 WL 381185).

On March 29, 2017, Four Years Later, The District Court Clerk Dismissing the Action and Entered the Judgment in Favor of Defendants. See: "APPENDIX C"

Petitioner Claims that a Dismissal for Failure to Pay the Filing Fee is not a Dismissal on the Merits and therefore Petitioner may be able to file a New Action and Pay the Filing Fee as long as it is still within the Applicable Statute of Limitation.. See:

N.Y.C.P.L.R. § 205 (c). Also see: GASHI V. COUNTY OF WESTCHESTER, No. 02 Civ. 6934 (GBD).

Petitioner was Prejudice by said Late Judgment and Barred him under New York Statute of Limitation "Three Years" of 42 USC: 1983, to Refile a New Action. Cite

DWENS V. DKURE, 488 U.S. 235-257, 109 S.Ct 573, 102 L.ed. 2d. 594 (1988). Also see: JEWELL V. COUNTY OF NASSAU, 917 F.2d. 738-740 (2d Cir. 1980)

On May 15, 2017, Petitioner Filed a Motion to Vacate Judgment, Pursuant to Federal Rules of Civil Procedure, Rule 60(b)(4).

On May 22, 2017, The District Court Denied to Petitioner His Motion to Vacate Judgment Entered on March 29, 2017, As the Motion is Without Merit. See: "APPENDIX D".

ON JUNE 8, 2017. PETITIONER FILED A "NOTICE OF APPEAL" AND THE DISTRICT COURT CLERK FILED AND SENT TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT. ON JUNE 13, 2017.

THE CIRCUIT CLERK RECEIVED AND DOCKET THIS APPEAL UNDER CASE NO. 17-1855. SEE "APPENDIX E"

ON JULY 5, 2017. PETITIONER RECEIVED ANOTHER APPEAL PACKAGE WITH INSTRUCTION FROM THE CIRCUIT CLERK UNDER DOCKET NO. 17-1992. NOTE, AS THE SAME CASE UNDER DOCKET NO. 17-1855. SEE "APPENDIX E".

ON JULY 26, 2017. PETITIONER WROTE A LETTER TO THE DISTRICT COURT CLERK - REQUESTING THAT I BE PROVIDED WITH A COPY OF MY LETTER ENTITLED "NOTICE OF APPEAL" THAT WAS FILED AFTER JUNE 15, 2017 OF THE DENIED PETITIONER'S MOTION FOR RECONSIDERATION.

ON JULY 28, 2017. THE DISTRICT COURT CLERK RESPOND TO PETITIONER LETTER DATED JULY 26, 2017 AND ADVISED THE PETITIONER THAT THERE WAS ONLY "ONE" NOTICE OF APPEAL ON THIS CASE IN 2017. SEE "APPENDIX F".

ON AUGUST 2, 2017. PETITIONER FILED A MOTION PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE, RULE 60 (4) - SEEKING RELIEF TO CORRECT CLERICAL MISTAKE, AND THAT MOTION WAS DENIED. AS THE MOTION IS WITHOUT MERIT. SEE "APPENDIX B"

OF COURSE THE DISTRICT COURT DECISION - THE JUDGE TURN A BLIND EYE FOR THE FEAR OF WHAT THEY MIGHT SEE - THIS WAS NOT CLERICAL MISTAKE OF THE DISTRICT COURT CLERK - BECAUSE THIS WAS A "HACKER" IN THE FEDERAL JUDICIAL SYSTEM.

PETITIONER FURTHER RESPECTFULLY REMINDS THIS COURT THAT THE CIRCUIT CLERK PARTICULARLY CATHERINE D'HAAGAN WOLFE - BEING OF "OATH AND AFFIRMATION" THAT SHE HAS A DUTY AND OBLIGATION PURSUANT TO SAID "OATH" TO REPORT ANY CRIMES AND VIOLATIONS OF PETITIONER CONSTITUTIONAL RIGHTS WHICH ARE MADE ON THE RECORD.

THE CIRCUIT CLERK HAS CHOSEN TO "AID AND ABET" A FELONY AND SHE NOT ACTED ACCORDINGLY. SEE: "APPENDIX A & E" - 17-1992

PETITIONER WAS UNDOUBTLY PREJUDICE BY THIS UNLAWFUL ACT - WHICH ARE MADE ON THE RECORDS.

PETITIONER WOULD BE AIDING IN THE COMMISSION OF A FELONY - UPON PETITIONER REQUEST.....

THIS CASE ARE UNDER INVESTIGATION BY THE U.S. DEPARTMENT OF JUSTICE AND THE FEDERAL BUREAU OF INVESTIGATION. SEE: "APPENDIX G".

FINALLY, THE COURT OF APPEALS FILING RESTRICTION EXCEED JUDICIAL POWER AS DEFINE IN ARTICLE III OF THE CONSTITUTION. THIS RESTRICTION WHICH HAD COMPLETELY CLOSED COURTHOUSE TO PETITIONER. CITE: SIRE V. GABRIEL, 748 F.2d. 49. (1984) AND COMPARE PETITIONER WITH IN RE GREEN 669 F.2d. 779 (D.C. Cir 1981).

PETITIONER WAS DEPRIVED OF THEIR RIGHTS OF ACCESS TO THE COURT TO DUE PROCESS UNDER THE 1ST, 5TH AND 14TH AMENDMENT. SEE: "APPENDIX H"

PETITIONER RESPECTFULLY PRAYS FOR VACATIONS OF THIS UNLAWFULL JUDGMENT TO REMAND THIS CASE WITH INSTRUCTION "TO APPLY THE APPLICABLE LAW TO THE FULL MERITS OF THIS CASE".

REASONS FOR GRANTING THE PETITION

BASE ON THE FOREGOING AND THOSE APPENDIX FROM "A" TO "H".

THE PETITION FOR CERTIORARI SHOULD BE LIBERALLY GRANTED IN ORDER THAT THE COURT OF APPEALS MAY HEAR AND RESPONSE OF THIS UNLAWFULL ENTRY ON YOUR FEDERAL JUDICIAL SYSTEM.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to be 'R. F.', written over a horizontal line.

Date: DECEMBER 1ST, 2017