

No. 18-5548

In the
Supreme Court of the United States

BRIAN TUTTLE,

Petitioner,

v.

ALLIED NEVADA GOLD CORP., ET AL.,

Respondents.

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

CORRECTED PETITION FOR REHEARING

Brian Tuttle

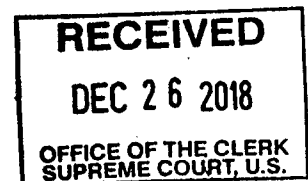
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PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, Brian Tuttle, *pro se*, hereby respectfully petitions for rehearing of this Court's November 13, 2018 order denying Mr. Tuttle's Petition for Writ of Certiorari. This petition for rehearing, calls the Court's attention to a recent development that may affect the Court's consideration of this case.

1. On October 31st, 2018, the United States Court of Appeals for the Eleventh Circuit rendered a *per curiam* decision in *Bennett, v. Jefferson County, Alabama* denying rehearing. *Andrew Bennett, et al v. Jefferson County, Alabama WL 3892979 (11th Cir. 2018)* App. A. The Eleventh Circuit's order invoked this Court's jurisdiction under 28 U.S.C. § 1254 (1).

2. In a published opinion, the *Bennett* appeal passes upon the question of whether, or not, the doctrine of equitable mootness conflicts "with the Supreme Court's reaffirmation of the principle that federal courts have a "virtually unflagging" obligation to hear and decide cases within their jurisdiction"; and if applying the doctrine would avert "*both* state and federal Article III courts from deciding...constitutional issues and would prevent any review of a federal court bankruptcy court's assumption of jurisdiction to enforce its unreviewed action." App B. at 7-8 (citations omitted) (emphasis original).

3. Upon information, and belief, *Anthony Bennett, et al* will be filing a Petition for a Writ of Certiorari presenting questions of law nearly identical to those raised in Mr. Tuttle's recently denied petition. Pursuant to Rule 13 of This Court, the forthcoming petition is due no later than January 30th 2019.

4. The Petitioner respectfully requests this Court hold this Petition until the disposition of the *Bennett* case. Doing so would "advance the interests of justice" *Ohio Power, 353 U.S. at 99*, as Mr. Tuttle's *pro se* petition

raised questions of constitutional importance the forthcoming *Bennett* case may ultimately decide.²

For the foregoing reasons, this petition for rehearing should be granted.

Respectfully submitted,



Brian Tuttle *pro se*

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December 2018

² Allied Nevada emerged from bankruptcy nearly two years after Jefferson County. That two cases proceeded through the judicial system at different rates often has nothing to do with litigants, or their entitlements to relief. Cases outcomes should not turn on arbitrary matters of timing. See for example: *Straight v. Wainwright*, 476 U.S. 1132, 1135 (1986) (Brennan, Marshal & Blackmen, JJ., dissenting); *U.S v Johnson*, 457 U.S. 537,555-56 (1982); see also January 24, 2005, order list, 543 U.S. 1097-1117 (2005) (granting rehearing of fourteen denied certioraris in light of *Booker* 543 U.S. 220,226 (2005)); see also *Fla. V. Rodriquez*, 461 U.S. 940 (1983) (granting rehearing, on May 23, 1983, of a denial of certiorari dated May 26, 1981); *Place v. Weinberger*, 426 U.S. 932 (1976) (granting rehearing, on June 14, 1976, of a denial of certiorari dated Nov. 25, 1974); See also: *Melson v. Allen U.S.*, 130 S. Ct. 3491 (2010); *Giles v. Cal.*, 554 U.S. 353,357,377 (2008).

CERTIFICATE OF BRIAN TUTTLE *PRO SE* (RULE 44)

I hereby certify that this Petition for Rehearing from the denial of certiorari is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 44.2, namely intervening circumstances of substantial or controlling effect and substantial grounds not presented.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that one original and 10 true and correct copies of the foregoing petition have been hand delivered to Fed Ex addressed to the following location:

Supreme Court of the United States 1 First Street, NE
Washington, DC 20543;

and a copy of this petition was furnished by email to
counsel of record this the day of ,
2018.



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