

Supreme Court, U.S.
FILED
MAY - 4 2023
OFFICE OF THE CLERK

22 A978

No. 23

IN THE SUPREME COURT OF THE UNITED STATES

In re: Ronald Boyajian
Petitioner

On Petition for a Writ of Mandamus and or Prohibition to the
United States Court of Appeals for the
Ninth Circuit

Ninth Circuit case no. 16-50327

Individual Respondents to be identified at later time
(see text of Application for details)

APPLICATION FOR EMERGENCY STAY

Court action needed before: May 10, 2023

Ronald Boyajian

Ronald Gerard Boyajian
Register no. 33900-112
United States Penitentiary
USP Terre Haute
P.O. Box 33
Terre Haute, Indiana 47808

Petitioner, Pro Se

RECEIVED
MAY - 9 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Application for Emergency Stay

Dear Justice Kagan:

I am pressed by last minute developments, not of my making, cementing permanently the abrogation of my pro se rights in my first appeal of right. I am denied to proceed without counsel [Dkt. __ and several subsequent rulings] and denied while represented by appointed CJA counsel to directly access the court to file a pro se brief of additional issues for review []. I just now learned what I had for months believed and was misled to believe was my *pending* Petition for Rehearing en Banc has been irrevocably pigeonholed. Unless a stay is imposed first, my case will be argued and submitted on May 10 at 1:30 pm.

This application request he Court to intervene and enforce my previously and amply asserted pro se rights. I was in Faretta status for 1.5 years in arguably the most complicated single defendant case in recent memory due to the extraterritorial origin—the case was transferred for a foreign country criminal court for trial in the United States. I built into the case certain issues intended for appeal. The powers that be don't want those issues raised. For example the government strongly support my being granted Faretta status pretrial, but when I asked the court of appeals to enable continuity of counsel by allowing me to proceeding without counsel [self-representation] the government strenuously and successfully opposed [Dkt. __, __, __]. Later, I was denied leave to file a pro se supplemental brief to raise additional issues for review [Dkt. 171, 173, 186]. I have no voice in the objectives or issues that should be brought out including presenting bases for factual innocence which appointed counsel have not attended to and refuse to discuss with me.

This is a very well founded record on pro se rights issues. If the Court does not intervene before May 10, those rights will have been lost forever, and with them the chance of useful development of law supporting criminal justice reform.

You Honor, oral argument is days away, Yet I have had emergency motions filed seeking emergency stay since March 13. But two days ago, assigned counsel who refuses to speak with me informed me by letter that she will not advocate for me on these case impactful pro se rights issues. Previously, there was no requirement to lean on a hostile appointed counsel but very recently I discovered that from March 13 forward the court surreptitiously to me no longer 'filed' but instead lodged my submissions 'received'. Apparently, what broke the camel's back is a **Petition For Rehearing En Banc** re pro se rights [Dkt. 205¹], attached

¹ The clerk's text at docket entry 205 mislabels the Petition as "pro se motion to reconsider". The motion's panel had earlier instructed it would not entertain motion to reconsider when it denied leave to submit pro se supplemental briefing Dkt. __, ____]. The Court can confirm the Petition for Rehearing En Banc is a de novo

Appendix B] and or my accompanying **Emergency Motion For Stay** [Dkt. 204]. When there was no indication of court action I 'filed' a **Motion To Expedite The Emergency Motion For Stay** [Dkt. ___] but this too was lodged as 'received' again without notice to me. During this time the court has ignored my requests (accompanying each submission) for a conformed copy of my filings, and for a copy of my docket sheet. Appointed counsel ignored my similar request for a copy of my docket sheet.

Therefore, it was sometime in April, after belated service with the clerk's March 30 order. [Dkt. 209, 3/30/23, attached at Appendix A] that I learned of the court's change in posture and that is retroactive it seems and likely already in force. The Order states, "because Mr. Boyajian is represented by counsel, no action will be taken on his pro se letters and documents. Mr. Boyajian's communications to the court shall be through counsel." However, it does not specify which documents are being suppressed from court action.

Without a copy of the docket and or the conformed copies of my submissions it is impossible to decipher the scope of the clerk's order. Nonetheless, due to the urgency of timing I asked counsel to refile several pending items, identified by Dkt no. and included the above referenced items. As I alluded above, about two days ago, in a letter dated April 25 counsel rejected my requests that counsel refile on my behalf the above referred to pleadings and counsel went further to inform counsel will not file these matters as counsel's own.

Accordingly, days before oral argument I find that between the clerk and appointed counsel I have been squeezed out of any ability to seek review of the denials of my right to proceed without counsel (*Faretta*, ___) and my right of access to file directly to the court an uncounseled pro se brief raising appellate claims not presented by counsel (*Jones v. Barnes*, _____).

It is relevant to this application that when the court shifted without notice to forcing me to submit matters through counsel it knew well, from the record, that counsel utterly refused and disallowed all forms of direct timely contact with me notwithstanding that I was the pro se litigant below and the only person very familiar with the extensive complicated case and record. Crucially, the court was also aware that appointed counsel repeatedly caused the Postal Service to return to BOP my Certified Mail letters as "non-deliverable, no forwarding address" because they were not picked up for a month at a time [Dkts. __, __, __]

There are well over 200 entries in my 7 year appeal docket. The majority of

litigation (App. B) not combined with a request for motion panel to reconsider. The clerk's mislabel has precluded circulation of the Petition to poll all eligible judges for their vote whether to accept this case for review en banc.

entries implicate pro se rights. None are yet vindicated. Meanwhile, I am the one serving the wrongfully imposed 70 years de facto life sentence. With an exhaustive record available on pro se issues, this case can support useful development of the law at a moment of great public concern about the need to implement criminal justice reforms. Meanwhile the Ninth Circuit mishandles pro se rights. The Court's expression of interest to consider this situation would help refine public and jurist appreciation of pro se rights on federal criminal appeal of right.

Its now two days since I first learned my Petition for Rehearing En Banc is walled off and that counsel will not lend a hand to revive it. Given the stay must be imposed before by May 10 1:30 pm, I must place this Application in the mail to the Court without a formal Petition for issuance of writ of mandamus which under my conditions of confinement would take weeks to prepare and file. At USP Terre Haute, there are perpetual lockdowns. Please feel free to review my several serial requests for extending time to file the above mentioned Petition for Rehearing En Banc [Dkts. __, __, __, __]. They all point to ongoing ever-present adversities within my immediate BOP confines.

That said, I do believe relief under mandamus is appropriate because government actors are depriving my well established pro se rights under *Faretta* and *Jones*. At some future point I could sift through records to identify individual respondents. Meanwhile as a proffer for the direction and scope of my rights assertions underpinning this application for stay, and future formal Petition for issuance of writ of mandamus I refer you to and I incorporate by reference the contents of said attached Petition for rehearing en banc as if set forth fully here.

If the court finds the matter would be better suited for briefing under a petition for certiorari I can do so though the arguments would be somewhat distinguishable from what I envision for the formal mandamus petition.

If the Court stays the proceedings I could submit a formal petition or proceed to invited briefing within 30 days.

Dated: May 4, 2023

Respectfully Submitted,



Ronald Boyajian
Register no. 33900-112
United States Penitentiary
USP Terre Haute
P.O. Box 33
Terre Haute, Indiana 47808

Pro Se

United States Supreme Court case no. 23-_____

Motion to Proceed *In Forma Pauperis*

I, Ronald Boyajian, appearing in pro per as the Applicant / Petitioner, move to proceed *in forma pauperis* before this Court.

I am the defendant-appellant in Ninth Circuit Court of Appeals case 16-50327, in which federal criminal appeal case I am *in forma pauperis* and represented by court-appointed CJA panel attorney Karen Landau. See Dkt. Entry Nos. 131-2 court appointment, 133 Criminal Justice Act voucher created for Karen Landau, Esq.

I have been designated *in forma pauperis* with attendant provision of Criminal Justice Act (18 U.S.C. § 3006A) services in the Central District of California, Western District, case 2:09-CR-00933-CAS, from 2013 through 2016 followed in Ninth Circuit Court of Appeals from 2016 to present.

I have been held incarcerated under maximum restrictive federal detention and prison continuously for over 14 years, from February 2009 to present.

Dated: May 4, 2023

Respectfully submitted,



Ronald Boyajian⁴

Proof of Service

I, Ronald Boyajian, declare that the foregoing Emergency Application for Stay and any attachments was placed in U.S. Mail for delivery to:

Justice Elena Kagan
c/o OFFICE OF THE CLERK
1 FIRST STREET NE
SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C. 20543

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Martin Estrada, U.S. Attorney
Central District of California
312 North Spring Street
Suite 1200
Los Angeles, California 90012

Karen Landau, Esq.
Law Office of Karen L. Landau P.C.
460 Center St, #6935
Moraga, CA 94570-6935

Dated: May 4, 2023



Ronald Boyajian