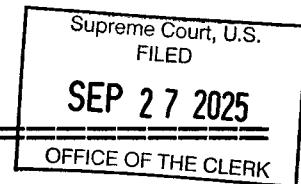


NO. _____

ORIGINAL

25-5873



IN THE
SUPREME COURT OF THE UNITED STATES

IN RE: DONALD BOWERS

Petitioner,

ON PETITION FOR A WRIT OF MANDAMUS AND/OR PROHIBITION

PETITION FOR WRIT OF MANDAMUS AND/OR PROHBTION

DONALD BOWERS, Pro Se
448 Bartram Trail Club Drive
Evans, GA 30809
Telephone: 706-631-6174

QUESTION(S) PRESENTED

ISSUE ONE

Whether, in a “Misconduct Petition” can the Chief Judge, and subsequent Judicial Counsel, “Dismiss” a “Complaint” regarding a violation of Petitioner’s Constitutional Civil Rights without providing any supporting facts, supporting law, and/or investigative facts to support a “Dismissal”, where the subject matter resulted in unconstitutional imprisonment, as well as other substantial harm caused by unconstitutional and unlawful acts.

ISSUE TWO

Whether, in a private civil case in Utah, Case No. 2:07-cv-037, where the Petitioner [a Georgia resident with “no ties” to Utah], and who was not a litigant in the underlying Utah Civil Matter, can be taken into custody in his home town in Georgia, by U.S. Marshalls from Utah, and transported directly to Utah, with no Hearing in Georgia, by the Utah U.S. Marshalls [and incarcerated for months] for “alleged” civil contempt while that subject “civil contempt matter” was under appeal in the Tenth Circuit Court of Appeals.

ISSUE THREE

Whether the Dismissal of Petitioner’s Complaint constituted a violation of the Petitioner’s Rights pursuant to 18 U.S.C. § 242.

ISSUE FOUR

Whether Judge Holmes and the Judicial Counsel violated Petitioner’s Constitutional Rights when they ignored the substantial number of “jurisdictional” violations, to include a violation of the doctrine of res judicata, [re: civil--Failure to Appear] by the underlying District Court in “Denying” Petitioner’s Complaint and Petitioner’s “Petition for Review”.

ISSUE FIVE

Whether the Petitioner’s Fifth Amendment Rights were violated.

ISSUE SIX

Whether the Petitioner’s Sixth Amendment Rights were violated.

ISSUE SEVEN

Whether the Petitioner’s Fourteenth Amendment Rights were violated.

IDENTITY OF PARTIES

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:

Petitioner

Donald Bowers

Respondent

Honorable Jerome A. Holmes
Chief Circuit Judge

Judicial Counsel of the Tenth Circuit

Honorable Tena Campbell
Utah District Court

Honorable David Nuffer
Utah District Court

RELATED CASES

United States District Court (D. Utah)
ClearOne v. Chiang, Case No. 2:07-cv- 037

Tenth Circuit Court of Appeals
Misconduct Complaint Nos. 10-09-900012 & 10-09-900017

TABLE OF CONTENTS

Questions Presented.....	2
Identity of Parties.....	3
Related Cases.....	3
Table of Contents	4
Index to Appendices.....	5
Table of Authorities.....	6
Statutes and Rules.....	7-9
Statement of Facts.....	10
Relief Sought.....	10
Opinions.....	11
Jurisdiction	12
Statement of the Case.....	12
Argument.....	13-15
Reason for Granting Petition.....	15, 16
Conclusion.....	16
Certificate of Service.....	17

INDEX TO APPENDICES

Judicial Complaints filed in the Tenth Circuit Court of Appeals

APPENDIX A	Complaint No. 10-22-90009.....	10, 11, 16
APPENDIX B	Complaint No. 10-22-90010.....	10, 11, 16

Tenth Circuit Court of Appeals

APPENDIX C	Order Dismissing Complaints Nos. 10-22-90009 & 10-22-90010....	7, 10, 11
APPENDIX D	Petition for Rehearing.....	10, 11
APPENDIX E	Order Denying Petition for Rehearing.....	7, 10, 11, 12

Utah District Court

APPENDIX F	Bench Warrant.....	11
-------------------	--------------------	----

Personal Reference

APPENDIX G	Major General Bobby L. Christine.....	14
-------------------	---------------------------------------	----

TABLE OF AUTHORITIES CITED

CASES

5 th Amendment.....	2, 12, 14
6 th Amendment.....	2, 12, 15
14 th Amendment.....	2, 12, 15
18 U.S.C. § 242.....	2, 12
U.S. CONST. art. III, § 2.....	12
28 U.S.C. § 1651(a).....	8, 12
Turner V. Rogers, 131 S. Ct. 2507.....	8
Gideon v. Wainwright (1963).....	8
<u>Cheney v. U.S. Dist. Court</u> , 542 U.S. 367, 124 S.Ct. 2576, 2586, 159 L.Ed.2d 459 (2004).....	7
<u>Bauman v. U.S. Dist. Court</u> , 557 F.2d 650, 654-55 (9th Cir.1977).....	7
<u>Admiral Ins. Co. v. U.S. Dist. Court</u> , 881 F.2d 1486, 1490-91 (9th Cir.1989).....	7
28 U.S.C. § 1651(a) and F.R.A.P. 21.....	10
<u>Will v. Calvert Fire Ins. Co.</u> , 437 U.S. 655, 662, 98 S.Ct. 2552, 57 L.Ed.2d 504 (1978).....	8
<u>State Farm Mutual Automobile Ins. Co. v. Scholes</u> , 601 F.2d 1151, 1154 (10th Cir. 1979).....	8
<u>Paramount Film Distributing Corp. v. Civic Center Theater, Inc.</u> , 333 F.2d 358, 361 (10th Cir. 1964).....	8
<u>La Buy v. Howes Leather Co.</u> , 352 U.S. 249, 77 S.Ct. 309, 1 L.Ed.2d 290 (1957).....	8
28 U.S.C. § 1292(b).....	8, 9
<u>Grace Lines, Inc. v. Motley</u> , 439 F.2d 1028 (2d Cir. 1971).....	9
439 F.2d at 1031 n. 2.....	9
Fed. R. Civ. P. 8(b).....	9
28 U.S.C. § 1254(1).....	12

STATUES AND RULES

I. Standard of Review

The writ of mandamus is an "extraordinary" remedy limited to "extraordinary" causes. Cheney v. U.S. Dist. Court, 542 U.S. 367, 124 S.Ct. 2576, 2586, 159 L.Ed.2d 459 (2004). In order to gain the benefit of the writ, the party must have no other recourse; the right to the writ must be "clear and indisputable"; and the appellate court must be satisfied that the writ is appropriate under the circumstances. *Id.* at 2587.

The Ninth Circuit has articulated this standard in terms of a five-factor test, asking whether: (1) there are no other adequate means, such as direct appeal, to secure relief; (2) failure to grant the writ would result in damage to petitioner that is "not correctable on appeal"; (3) the district court's order is "clearly erroneous as a matter of law"; (4) the order represents an "oft-repeated" error or patent "disregard of the federal rules"; and (5) the order raises "new and important problems" or legal issues of first impression. Bauman v. U.S. Dist. Court, 557 F.2d 650, 654-55 (9th Cir. 1977); *see also* Admiral Ins. Co. v. U.S. Dist. Court, 881 F.2d 1486, 1490-91 (9th Cir. 1989) (applying the *Bauman* factors). Not every factor need be present at once; indeed, the fourth and fifth will rarely be present at the same time, *Id.* at 1491, but are present in the instant matter.

All five factors are met in the instant matter: (1) The February 26, 2025 Order of Dismissal and the August 18, 2025 Order denying Petition for Review are not appealable as an interlocutory order; (2) the Petitioner does not have a cure for the violation of his civil rights in an appeal; (3) the District Court and the Tenth Circuit Court ignore the relief clearly cited in the Petitioner's motion; (4) The District Court's ruling[s] in regard to the Petitioner were in total disregard of all Constitutional Rights; and (5) the Tenth Circuit Court of Appeals failure to

provide any authority on its denial of Petitioner's Petition for Review raises the issue of how to proceed in litigation.

II. Writ is Appropriate to Enforce the Federal Rules of Civil Procedure

The extraordinary remedy [writ] here sought is pursuant to, 28 U.S.C. § 1651(a) and F.R.A.P. 21. To obtain relief Petitioner must demonstrate that his right is clear and indisputable. *See Will v. Calvert Fire Ins. Co.*, 437 U.S. 655, 662, 98 S.Ct. 2552, 57 L.Ed.2d 504 (1978); *State Farm Mutual Automobile Ins. Co. v. Scholes*, 601 F.2d 1151, 1154 (10th Cir. 1979). Petitioner is required to show that the Appellate Court's denial of his Judicial Complaint was not only erroneous under normal standards of law, but also that the numerous, and very specific, Constitutional violations are so extraordinary as to evidence arbitrariness and clear abuse of discretion.

A writ may be issued on the showing of "a clear abuse of discretion, an abdication of the judicial function, or the usurpation of judicial power." *Paramount Film Distributing Corp. v. Civic Center Theater, Inc.*, 333 F.2d 358, 361 (10th Cir. 1964), Citing *La Buy v. Howes Leather Co.*, 352 U.S. 249, 77 S.Ct. 309, 1 L.Ed.2d 290 (1957). Petitioner notes that the extraordinary remedy route is limited, but it cannot be said to be nonexistent. There has been no certification of the interlocutory decision pursuant to 28 U.S.C. § 1292(b). An orthodox appeal pursuant to § 1291 of the Judicial Code is not a possibility because there is no final order which could support an appeal.

Of course, there must be no adequate means at law for gaining review. The Petitioner has the burden of showing that his right to the writ is "clear and indisputable".¹ In this matter, the Tenth Circuit Court of Appeals' decision to ignore the numerous Constitutional violations, and

¹ *Will v. Calvert Fire Ins. Co.*, 437 U.S. 655, 662, 98 S.Ct. 2552, 57 L.Ed.2d 504 (1978)

its failure to provide any authority for so doing, leaves the Petitioner with no final order, and therefore, it is not appealable pursuant to 28 U.S.C. § 1292(b).

In Grace Lines, Inc. v. Motley, 439 F.2d 1028 (2d Cir. 1971), the court concluded that "Mandamus will lie, in the sound discretion of an appellate court, where the District Court and/or the Judicial Counsel has exceeded or wrongfully refused to exercise its judicial power or has committed a clear abuse of discretion * * * * (I)n such cases the desirability of present review outweighs the policies which confine appeals to the review of final orders." 439 F.2d at 1031 n. 2

III. The Posture of this Case Requires a Writ to be Issued.

Stated differently, the record clearly establishes that the Constitutional violations in the District Court and the failure in the Tenth Circuit Court of Appeals to provide any authority denying Petitioner of his constitutional rights was erroneous, but indeed it served to demonstrate such a clear abuse of discretion and that statutory appeal is not available as a remedy under the circumstances.

IV. Violation of Petitioner's Civil Due Process Rights

The Tenth Circuit Court of Appeals' refusal to recognize the violation of res judicata and its refusal to ensure Petitioner's constitutional rights represents an abuse of discretion which must be considered in refusing to provide Petitioner with any legal authority in the violation of Petitioner's due process rights; including Fed. R. Civ. P. 8(b).

STATEMENT OF FACTS

March 31, 2022 Petitioner filed a Judicial Complaint against District Court Judge David Nuffer in the Tenth Circuit Court of Appeals alleging judicial misconduct to include jurisdictional violations and violations of Petitioner's Constitutional Rights.

April 22, 2022 Petitioner filed a Judicial Complaint against District Court Judge Tena Campbell in the Tenth Circuit Court of Appeals alleging judicial misconduct by retaliation, jurisdictional violations, providing "direction and legal strategy" to Petitioner's opposing party, and violations of Petitioner's Constitutional Rights.

February 26, 2025 Chief Judge Jerome A. Holmes dismisses Petitioner's Complaints against District Judge David Nuffer and District Court Judge Tena Campbell adding that, pursuant to JCD Rule 18(b), Petitioner has 42 days after the date of this Order to file a Petition for Review.

March 30, 2025 Pursuant to Rule 18(b), Petitioner petitioned the Judicial Counsel for Review of Misconduct Nos. 10-22-90009 and 10-22-90010.

August 18, 2025 Leslee Fathallah, Circuit Executive and Secretary to the Judicial Counsel of the Tenth Circuit issued an "Order" affirming Judge Holmes' February 26, 2025, Order and Denied Petitioner's "Petition for Review".

RELIEF SOUGHT

Petitioner is seeking reversal of the 10th Circuit's denial of his Petition for Rehearing and a remand for further proceedings on his judicial complaint, which was replete with violations of Petitioner's Constitutional Rights, and/or be provided with the specific legal grounds that were relied upon to deny those constitutional rights, which included prolonged false imprisonment, violation of res judicata, coercion to withdraw Petitioner's appeal that was pending in the 10th Circuit Court of Appeals, among other constitutional violations. In the alternative, this Court should issue findings on the subject Judicial Complaints No. 10-22-90009 & 10-22-90010.

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of mandamus issue.

OPINIONS

Cases from federal courts:

1. The opinion of the United States court of appeals appears at **Appendix A** to the petition and is reported at the Tenth Circuit Court of Appeals, Complaint No. 10-22-90009.
2. The opinion of the United States court of appeals appears at **Appendix B** to the petition and is reported at the Tenth Circuit Court of Appeals, Complaint No. 10-22-90010.
3. The opinion of the United States court of appeals, Order Dismissing Complaints, appears at **Appendix C** to the petition and is unpublished.
4. The opinion of the Tenth Circuit court of appeals, Petition for Rehearing, appears at **Appendix D** to the petition and is unpublished.
5. The opinion of the Tenth Circuit court of appeals, Order Denying Petition for Rehearing, appears at **Appendix E** to the petition and is unpublished.
6. The opinion of the United States district court, Bench Warrant, appears at **Appendix F** to the petition and is reported at the United States District Court, Case No. 2:07-cv-037, Dkt. No. 3154.

JURISDICTION

The date on which the United States Court of Appeals decided Petitioner's case was February 26, 2025. A timely petition for rehearing was denied by the United States Court of Appeals on August 18, 2025, and a copy denying rehearing appears at Appendix E. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), U.S. CONST. art. III, § 2 and 28 U.S.C. § 1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Violations of Constitution Rights under the Fifth Amendment, Sixth Amendment, Fourteenth Amendment, 18 U.S.C. § 242, res judicata, and jurisdictional violations.

STATEMENT OF THE CASE

Nature of the Underlying Proceedings: JUDICIAL MISCONDUCT COMPLAINT regarding constitutional issues, false imprisonment, and violation of civil rights.

Identity of Respondent: The Honorable Jerome A. Holmes, and the Judicial Counsel of the Tenth Circuit.

Action from which relief sought: The judicial complaint pertained to alleged violations of Petitioner's Constitutional Rights under the 5th Amendment, 6th Amendment, 14th Amendment, 18 U.S.C. § 242, res judicata, and jurisdictional violations that occurred in the Utah District Court and were not addressed by Chief Circuit Judge Holmes, or by the Judicial Counsel in the 10th Circuit's denial of Petition for Rehearing.

ARGUMENT

This request for a Writ of Mandamus is being filed to obtain a “Mandate” from the U.S. Supreme Court regarding the dismissal by the Tenth Circuit Court of Appeals of Petitioner’s Judicial Complaint[s] relating to substantial violations of Petitioner’s Constitutional Rights. Petitioner acknowledges that a Writ of Mandamus is a drastic remedy and will only be granted when there is a showing that the District Court, and thereby, Tenth Circuit Court of Appeals, has clearly abused its discretion as to constitute usurpation of power.

To that end, the Petitioner submits that he has no other adequate means to obtain relief; that his “right to the writ is clear and indisputable;” and that the writ is appropriate under the circumstances.

In this matter, the underlying District Court Record is replete with documentation [evidence] of specific constitutional rights violations, jurisdictional violations, violation of the doctrine of res judicata, coercion, and judicial misconduct. However, instead of focusing on the many constitutional violations, Judge Holmes chose, throughout his February 26, 2025, MEMORANDUM & ORDER, to artfully demean the Petitioner.

In his Order, Judge Holmes states that Petitioner ***“filed numerous other pro se misconduct complaints against the same judges regarding the same underlying matters.”*** He goes on to state that those prior matters [complaints] ***“have been reviewed and dismissed.”*** These statements by Judge Holmes are **TOTALLY FALSE**. Petitioner filed a complaint in 2008 which was found to have “Merit” in Order Nos. 10-09-90012 &10-09-90017. The subject judge was required to take corrective action—which is when the retaliation against the Petitioner began.

Judge Holmes goes on to state in his Order, which appears to be an attempt to dissuade

the Petitioner, that “[a] complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints.” He further states that “*Complainant files these complaints pro se*,” as if so doing constitutes the filings as irrelevant. Judge Holmes then concedes that “*a limited inquiry was conducted regarding Complainant’s allegations*.” It should be noted that the *limited inquiry* took just shy of three [3] years and resulted in nothing more than a few pages of negative rhetoric with no factual findings. It is obvious from the record in the underlying matter, and from the numerous misstatements in Judge Holmes’ Order, that the Petitioner’s judicial complaint is being viewed as coming from an individual of dubious character, and thus, being discredited, demeaned, and that he is not worthy of having his Constitutional Rights ruminated.

Accordingly, for the record, the Petitioner is 78 years old, has never had as much as an outstanding parking ticket, is a Vietnam Era war veteran, married to a multi-talented schoolteacher with whom they have twin-boys attending the University of Georgia. Additionally, the Petitioner is attaching a personal reference, **Appendix G**, from the newly appointed **Judge Advocate General of the Army**, Major General Bobby L. Christine. This personal reference is one of many that is part of the court record in Utah---the reference speaks for itself and is contrary to the negative implications being disseminated by Judge Holmes and by the subject judges in the Utah District Court.

Judge Holmes and the Judicial Circuit failed to address the abjuration of Petitioner’s constitutional rights when the District Judge openly stated in court that “*All due process and Fifth Amendment barriers to this proceeding are gone.*,” effectively denying Petitioner of his Constitutional Rights. In that same Hearing, the judge stated, on the record, that Petitioner’s

request for legal counsel is denied, which constitutes a Fourteenth Amendment violation, see *Turner V. Rogers*, 131 S. Ct. 2507, and a Sixth Amendment violation, see *Gideon v. Wainwright* (1963), where the Supreme Court established that a Sixth Amendment right to counsel applies to cases...”*involving contempt where incarceration is a possibility.*”

The Utah District Judge then found Petitioner in contempt of court and then stated that he would remain incarcerated until he got “*Mr. Yang to comply with the orders of the court.*” Mr. Yang, who was in China, was one of the litigants in the underlying matter. Petitioner had no business or personal relationship with Mr. Yang, yet he was to remain incarcerated until he could locate, apprehend, and bring Mr. Yang back from China and before the Utah Court—which clearly was an impossible task. That is the contempt matter that the Petitioner appealed in the Tenth Circuit Court of Appeals, and those are the “Appeals” that the Petitioner was required to “Withdraw” to get released from his incarceration in Utah, and be allowed to go back home to his family in Georgia. Petitioner had no other choice, and accordingly, withdrew his “Appeals”.

REASONS FOR GRANTING THE PETITION

The Petition should be GRANTED to amend the numerous violations of Petitioner’s Constitutional Rights, which were clearly trampled upon by both the Utah District Court, and subsequently, by the Tenth Circuit Court of Appeals.

Petitioner is seeking reversal of the 10th Circuit’s denial of his “Petition for Rehearing” and a remand for further proceedings on his judicial complaint[s]. Petitioner’s Complaint[s] clearly outlined and exposed the proceedings in the Utah District Court, which were replete with violations of Petitioner’s Constitutional Rights. The Dismissal of Petitioner’s Complaint[s] by the Tenth Circuit Court of Appeals was done without providing Petitioner with any legal grounds in which the Court relied upon. The arbitrary denial of Petitioner’s Constitutional Rights

resulted in condoning prolonged false imprisonment, violation of res judicata, coercion to withdraw Petitioner's appeal that was pending in the 10th Circuit Court of Appeals, jurisdictional violations, among other constitutional violations.

As a result of the actions of the Utah District Court, which were upheld by the Tenth Circuit Court of Appeals, the petitioner remained deprived of all Constitutional Rights, which further instigated financial adversities and family hardships.

CONCLUSION

This Court is the final bastion for the succession of individual liberties. The extent and dimension of the “personal liberty” violations by the Utah District Court are insurmountable, and the overt lack of any condemnation by the Tenth Circuit Court of Appeals of those abuses should likely be comprehended as embarrassing and discomfiting for this Court.

This Court should issue a writ of mandamus to the Tenth Circuit Court of Appeals, ordering it to provide further deliberation regarding the numerous constitutional violations that are apparent in the District Court proceedings. In the alternative, the Court should treat this Petition as the “Petition for Review” of Chief Judge Holmes’ denial of Petitioner’s Judicial Complaint, and/or issue findings on the subject Judicial Complaints Nos. 10-22-90009 & 10-22-90010.

WHEREFORE, Petitioner moves this Court for the issuance of a Writ of Mandamus directing the Tenth Circuit Court of Appeals, Judicial Counsel, to provide further deliberation of Petitioner’s “Request for Review”, with an actual investigation of the facts, and provide Petitioner with the appropriate and comprehensible legal authority to support its ruling and/or, in the alternative, and preferably, this Court issue findings on the subject judicial complaints.

RESPECTFULLY SUBMITTED

This 26th day of September 2025.



Donald Bowers, *Pro Se*
448 Bartram Trail Club Drive
Evans, GA 30809

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the within and foregoing **PETITION FOR WRIT OF MANDAMUS** was mailed via U.S. Postal Service, and/or sent electronically, on September 27, 2025, to the following attorneys or parties:

Chief Circuit Judge Jerome A. Holmes
United States Court for the Tenth Circuit
1823 Stout Street
Denver, Colorado 80257

Honorable David Nuffer
U.S. District Court
351 S.W. Temple
Salt Lake City, Utah 84101

Chief District Judge Robert J. Shelby
United States Court for the Tenth Circuit
1823 Stout Street
Denver, Colorado 80257

Honorable Tena Campbell
U.S. District Court
351 S.W. Temple
Salt Lake City, Utah 84101


Donald Bowers, *Pro Se*
P.O. Box 1790
Evans, GA 30809