

No. 25-6685

In the Supreme Court of the United States

RODRIGUE ALAIN NDJE NLEND,
(Petitioner),

v.

SUZANNE PARISIEN, Judge, Superior
Court of Washington, King County,
(Respondent).

On Petition for Writ of Certiorari to the
Supreme Court of Washington State

REPLY TO BRIEF IN OPPOSITION

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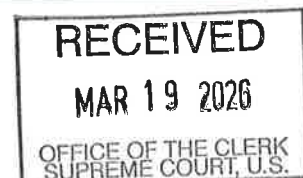


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A. The Washington Supreme Court's rulings rested on independent state-law grounds in appearance only, as they did in fact depend on federal constitutional claims which the Washington Supreme Court failed to address.

Judge Parisien concedes that the Washington Supreme Court did not address Rodrigue's duly raised federal constitutional claims, but argues that "*the Washington Supreme Court was not obligated to*" (Brief-in-Opposition p13-14).

Because Washington Supreme Court was acting as a court of original jurisdiction, its rulings, dismissing Rodrigue's petitions without explicitly addressing Rodrigue's duly raised federal constitutional claims, did implicitly reject them. Those rulings thus in substance depended on federal constitutional question. Washington Supreme Court's failure to explicitly address Rodrigue's duly raised federal constitutional claims does not make the resulting rulings solely dependent on Washington's laws. Washington Supreme Court's rulings rested on independent state-law grounds in appearance only.

B. The necessary and ultimate effect of Washington Supreme Court's rulings is to deny Rodrigue's federal constitutional rights.

Rodrigue cited:

- Hartman v. Greenhow, 102 U.S. 672 (1880) where the Virginia Supreme Court denied the writ of mandamus, and this Court confirmed jurisdiction and reversed (Petition p9-10), and
- Chicago, Burlington & Quincy Railway Co. v. Illinois ex rel. Drainage Commissioners, 200 U.S. 561 (1906) which held that this Court will decide the federal question if the necessary effect of the state court's judgment is to deny a federal right or immunity specially set up or claimed, and which, if recognized and enforced, would require a judgment different from one resting upon some ground of local or general law (Petition p9).

Judge Parisien's refusal to hear Rodrigue's Fraud-Upon-The-Court Motions and other postjudgement pending motions, while on the same token deciding

Valerie's postjudgment motion (Declination Order at Petition 17a), denied Rodrigue's federal constitutional rights to due process and equal protection. Consequently, the necessary effect of Washington Supreme Court's judgments dismissing Rodrigue's petitions for writs of mandamus and prohibition is to deny Rodrigue's federal constitutional rights. Those rights (i.e., Rodrigue's federal constitutional rights to be heard on the Fraud-Upon-The-Court Motions), if recognized and enforced, would require a judgment different from one seemingly resting upon independent state-law grounds.

Judge Parisien entirely ignored the above argument, and thus implicitly and effectively concedes it.

C. Washington Supreme Court was obligated to address the merits of Rodrigue's duly raised federal constitutional claims.

At Brief-in-Opposition p13-14, Judge Parisien argued that:

... Washington Supreme Court was not obligated to and did not address the merit of petitioner's constitutional claims, See *State v. Hall*, 95 Wn.2d 536, 539, 627 P.2d 101 (1981) ("A reviewing court should not pass on constitutional issues unless absolutely necessary to the determination of the case").

First, *State v. Hall* does not apply here: Washington Supreme Court was acting as a court of original jurisdiction, and as such, had the duty to address Rodrigue's duly raised federal constitutional claims. Further, even if Washington Supreme Court was acting as a reviewing court, it should have addressed Rodrigue's federal constitutional claims because absolutely necessary to the determination of the case: whether Judge Parisien's refusal to hear Rodrigue's pending motions violates Rodrigue's federal constitutional rights to due process and equal protection goes hand-in-hand with the question of whether Judge Parisien's has the constitutional and/or statutory obligation to hear Rodrigue's pending motions.

Second, in *Mooney v. Holohan*, 294 U.S. 103, 55 S. Ct. 340 (1935), this Court stated:

We make the same concession concerning the acts or omissions of any one, or of any group of persons; for no matter from what source, whether it be official or otherwise, an act or omission emanates, if it operates to deprive the defendant of notice or of an opportunity to be heard, then there has been a denial of due process of law.

Judge Parisien's refusal to hear Rodrigue's pending motions undeniably operates to deprive Rodrigue of an opportunity to be heard: there has therefore been a denial of due process of law with respect to those pending motions. Consequently, Washington Supreme Court's failure to address Rodrigue's duly raised federal constitutional claims does not preclude review of those claims by this Court.

Third, as this Court held in Chicago, Burlington & Quincy Railway Co. v. Illinois ex rel. Drainage Commissioners, Washington Supreme Court's failure to address Rodrigue's duly raised federal constitutional rights claims is not conclusive: this Court should decide them because the necessary and ultimate effect of the Washington Supreme Court's judgements is to deny Rodrigue's federal constitutional rights to due process and equal protection which, if recognized and enforced, would require a judgment different from one seemingly resting upon Washington's laws.

D. Judge Parisien's cases in support of the dismissal of this instant petition are either inapposite or actually support jurisdiction in this Court.

1. The independent and adequate principle does not apply.

Had Washington Supreme Court explicitly addressed Rodrigue's federal constitutional claims and hypothetically reached the conclusion that Judge Parisien's refusal to hear violates Rodrigue's federal constitutional rights, it would have followed that Judge Parisien had the duty to hear those motions and failed to hear them, that such duty is overdue, and that Rodrigue has no adequate remedy at law. The criteria of RCW 7.16.160 (Brief-in-Opposition 8a) and RCW 7.16.170 (Brief-in-Opposition 9a) would have been met and mandamus would have issued.

Coleman v. Thompson, 501 U.S. 722, 729, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991), and Cruz v. Arizona, 598 U.S. 17, 25-26, 143 S.Ct. 650, 214 L.Ed.2d 391

(2023) (citing Lee v. Kemna, 534 U.S. 362, 376, 122 S.Ct. 877, 151 L.Ed.2d 820 (2002)) (Brief-in-Opposition p10-11) do not apply in this instant case because as previously discussed, Washington Supreme Court's rulings, which failed to explicitly address Rodrigue's duly raised federal constitutional claims and thus implicitly rejected them, did in fact depend on a federal constitutional ruling, that is, whether Judge Parisien's refusal to hear Rodrigue's Fraud-Upon-The-Court Motions and postjudgement pending motions violates Rodrigue's constitutional rights to due process and equal protection.

2. Judge Parisien's cases support jurisdiction in this Court.

In Herb v. Pitcairn, 324 U.S. 117, 125, 65 S.Ct. 459 89 L.Ed. 789 (1945), this Court stated that "*Our only power over state judgments is to correct them to the extent that they incorrectly adjudge federal rights*" (Brief-in-Opposition p10), and in Ake v. Oklahoma, 470 U.S. 68, 75, 105 S.Ct 1087, 84 L.Ed.2d 53 (1985), this Court held that where a resolution of a state procedural law question depends on a federal constitutional ruling, it is not independent of federal law and is subject to the Supreme Court's review jurisdiction (Brief-in-Opposition p11).

Because Washington Supreme Court's failure to address Rodrigue's duly raised federal constitutional claims does not make its resulting rulings independent of federal law, such rulings are subject to the Supreme Court's review jurisdiction. Said differently, because Washington Supreme Court incorrectly adjudged (by failing to adjudge) Rodrigue's duly raised federal constitutional claims, this Court has power over Washington Supreme Court's judgments to correct them, at least to the extent that they incorrectly adjudged (or failed to adjudge) Rodrigue's federal constitutional claims.

E. More than twelve months after Rodrigue duly filed, served, and noted for hearing the first Fraud-Upon-The-Court motion, and more than three months after resolution of all pending appeals by the Washington Court of Appeals, Judge Parisien continues to refuse to hear Rodrigue’s pending motions.

On 01-Dec-2025, the Washington Court of Appeals issued its opinion on all pending appeals, and as anticipated, did not address any of the issues raised in Rodrigue’s Fraud-Upon-The-Court Motions (Appendix P - Reply 78a-94a). More than twelve months after Rodrigue duly filed, served, and noted for hearing the first Fraud-Upon-The-Court motion (Petition 38a-65a) and more than three months after resolution of all pending appeals, Judge Parisien, who unequivocally stated that she could not hear Rodrigue’s postjudgment motions due to pending appeals (Petition 17a and 66a-71a), continues to refuse to hear Rodrigue’s pending motions (Appendix Q - Reply 94a-98a).

This conclusively shows that Judge Parisien’s refusal to hear Rodrigue’s Fraud-Upon-The-Court Motions and other pending postjudgement motions had nothing to do with the then pending appeals or RAP 7.2, but rather serves the improper purpose of ensuring that Rodrigue’s Fraud-Upon-The-Court Motions and other pending/unadjudicated postjudgement motions will never have their day in court, in blatant continuing violation of Rodrigue’s federal constitutional rights to due process and equal protection.

F. The plain language of Washington RAP 7.2(e) does not just grant authority but also imposes on trial courts the obligation to decide postjudgment motions pending appeal.

Judge Parisien argued that “*The language in RAP 7.2(e) does not require a trial court to act on posttrial motions, it is simply a grant of authority.*” (Brief-in-Opposition p15). This interpretation is in direct contradiction with the plain language of RAP 7.2(e) which provides:

The trial court has authority to hear and determine (1) postjudgment motions... and (2) actions to change or modify a decision that is subject to modification by the court

that initially made the decision. The postjudgment motion or action shall first be heard by the trial court, which shall decide the matter. (Appendix R – Reply 99a).

Washington RAP 1.2(b) provides that “*The word ‘shall’ is used when referring to an act that is to be done by an entity other than the appellate court, a party, or counsel for a party*” (Appendix S – Reply 101a). It is clear that the word “*shall*” in RAP 7.2(e) refers to an obligation, and not to an exercise of discretion. Washington case law so confirmed in Alpine Industries, Inc. v. Gohl, 101 Wn.2d 252, 676 P.2d 488 (1984) and Carpenter v. Elway, 97 Wn. App. 977, 988 P.2d 1009 (1999) citing Roberts, 137 Wn.2d at 93.

More importantly, even after the 01-Dec-2025 resolution of all pending appeals (Appendix P – Reply 78a-94a), Judge Parisien still refuses to hear Rodrigue’s Fraud-Upon-The-Court Motions and other pending postjudgement motions; this incontrovertibly shows that contrary to the Declination Order, Judge Parisien’s refusal to hear has nothing to do with RAP 7.2 or the then pending appeals.

G. The Declination Order unambiguously and conclusively shows that Judge Parisien’s refusal to hear was/is on jurisdictional ground.

Judge Parisien’s arguments at Brief-in-Opposition p15-16 are in direct contradiction with the plain language of the Declination Order (Petition 17a) which unambiguously and unequivocally states that the trial court “*HEREBY declines to rule on any motion pursuant to RAP 7.2*”. A declination to hear pursuant to RAP 7.2 (Appendix R - Reply 99a-100a) is strictly jurisdictional as RAP 7.2 sets the authority and the obligation of the trial court pending appeal. Nowhere does the Declination Order show that Judge Parisien exercised some inherent power to stay proceedings pending appeal.

Further, the Second Circuit held in Sierra Rutile Ltd. v. Katz, 937 F.2d 743 (1991): “*We conclude that the grant of the stay is inappropriate in this case and contravenes the district court's obligation to exercise its jurisdiction*”. As in Sierra

Rutile Ltd. v. Katz, a stay would have been inappropriate in this instant and would have contravened King County Superior Court's obligation to exercise its jurisdiction.

H. Contrary to Judge Parisien's assertions, the reasoning and holdings of the cases outside Washington are applicable in this instant case.

Rodrigue relied on cases from this Court, Ex parte Schollenberger, 96 U.S. 374 and Harrington v. Hollow, 111 U.S. 796 (cited in Schintz v. Morris, 89 Tex. 648, 35 S.W. 1041 (1896)) to show that as in those cases, mandamus is the proper remedy where King County Superior Court erroneously refused to hear Rodrigue's pending motions on jurisdictional ground (Petition p14). Judge Parisien failed to challenge the applicability of these cases to this instant case.

Rodrigue also relied on cases from other state appellate courts. Although facts and circumstances in those cases are not identical to those of this instant case (they almost never are), Judge Parisien failed to show why or how the reasoning and holdings of In re Ramirez, Floyd v. Sixth Judicial Dist. Court in and for Humboldt County, Golden Gate Tile Co. v. Superior Court of California, City and County of San Francisco et. al., and Crocker v. Justices of Superior Court are not applicable to this instant case (Brief-in-Opposition p17-18).

Moreover, Judge Parisien failed to challenge the applicability, to this instant case, of the reasoning and holdings of Ex parte Lowe, Herzog v. Bramel, LaGue v. Second Judicial District Court, In Re Horan, Harman v. Cabaniss, State ex rel. W. Va. Dep't of Health Human Res., Child Support Div. v. Cline, Domnin v. Domnina, and Railroad Company v. Wiswall. (Petition p15-22).

I. The reasoning and holdings of the Washington cases are applicable in this instant case.

Judge Parisien's argument, that Rodrigue's Washington cases do not apply because they are certiorari actions, is misguided (Brief-in-Opposition p18-20). First,

all three writs require the absence of an adequate remedy at law for the writ to issue. The legal reasoning and holdings regarding the determination of the adequacy/inadequacy of appeal remedy under one writ are therefore applicable to similar determination under the other two writs.

Second and more importantly, regarding the adequacy/inadequacy of appeal remedy, the Washington Supreme Court has applied its reasoning and holdings under a prior mandamus action to a later certiorari action. That is the case in the certiorari action *Bushman v. New Holland Div. of Sperry Rand Corp.*, 83 Wn.2d 429, 518 P.2d 1078 (1974) where the Washington Supreme Court applied its reasoning and holdings under the mandamus action *State ex rel. Hayashi v. Ronald*, 134 Wn. 152, 235 P. 21 (1925) to determine that appeal remedy was inadequate (Petition p13-14).

Third, the reasoning and holdings from the mandamus action *State ex rel. Hayashi v. Ronald*, as cited in the certiorari action *Bushman v. New Holland Div. of Sperry Rand Corp.*, supports Rodrigue's argument that appeal remedy was woefully inadequate (Petition p13-14).

J. Rodrigue uncovered the fraudulent scheme long after the issuance of the Declination Order and after briefing had closed in the then pending appeals: the issues raised through the Fraud-Upon-The-Court Motions were therefore not before the Washington Court of Appeals, making appeal remedy woefully inadequate.

Judge Parisien argues that appeal remedy was adequate because "*the arguments and requested relief, in Petitioner's appellant brief, Fraud-Upon-The-Court motion to vacate, and his posttrial motions to vacate are essentially the same.*" (Brief-in-Opposition p20); they are not the same, and cannot be the same because Rodrigue uncovered the fraudulent scheme long after the Declination Order was issued and after briefing had closed in the then pending appeals. The issues raised through the Fraud-Upon-The-Court Motions had therefore not been before the Washington Court of Appeals, making appeal remedy woefully inadequate.

More importantly, the facts that (1) the 01-Dec-2025 Washington Court of Appeals' Opinion resolving all pending appeals did not address the issues raised through the Fraud-Upon-The-Court Motions, and (2) more than three months after that opinion Judge Parisien continues to refuse to hear Rodrigue's Fraud-Upon-The-Court Motions conclusively show that appeal remedy was indeed woefully inadequate: only the writ of mandamus compelling adjudication of Rodrigue's Fraud-Upon-The-Court Motions and other pending postjudgment motions or the writ of prohibition prohibiting Judge Parisien's continuing refusal to hear them would move the needle here.

K. The Brief-in-Opposition is littered with inaccurate and/or misleading facts and claims; Rodrigue could only refute a few here due to the 3000-words count limitation.

1. Judge Parisien's statements at Brief-in-Opposition p1 are disingenuous and misleading. Ms. Nlend was never granted permission to serve Rodrigue by email only and the record is devoid of any order authorizing service-by-email only. Ms. Nlend was granted permission to serve summons and petition at Rodrigue's PO Box address and by email (Appendix X – Reply 108a) and so did (Appendix Y – Reply 109a). Rodrigue repeatedly declared under oath that he received the summons and petition at his then PO Box address and appeared in court.
2. Contrary to Brief-in-Opposition p1, the trial court and Valerie served court documents at Rodrigue's Designated Address For Service ("DAFS), whether it was at Rodrigue's PO Box for summons and petition, or at Rodrigue's Private Mailbox (Reply 110a) for pleadings from Valerie and notices/orders from the trial court (Appendix Z – Reply 110a-117a).
3. Contrary to Brief-in-Opposition p1-2, the Order Setting Trial to the week of December 11, 2023 (Appendix W – Reply 107a) is void for vagueness as it does not provide the date, time and location for trial. See *State v. Liden*, 118

Wn. App. 734, 739-740, 77 P.3d 668 (2003): notice setting trial to “*Week of August 6, 2001*” was void for vagueness. It is also void for lack of notice as the record is devoid of any evidence that it was ever served at Rodrigue’s DAFS (Reply 110a) as required by CR 5(b)(1) (Petition 77a), and Rodrigue repeatedly declared under oath that he never received it.

4. Further, the 11-Dec-2023 order/email setting trial to 14-Dec-2023 (Petition 24a) is void:
 - (a) because it was untimely. Trial or motion hearing requires at least nine judicial days’ notice under LCR 7(b)(4)(A) (Appendix V - Reply 106a) and five days’ notice under RCW 4.44.020 and CR 40 (Appendix T and U - Reply 102a-104a), and
 - (b) for lack of notice. The record is devoid of any evidence that any order setting trial to 14-Dec-2023 was ever served at Rodrigue’s DAFS as required by CR 5(b)(1), and Rodrigue repeatedly declared under oath that he never received it.
5. Various quotes from Judge Parisien’s orders and other facts/claims at Brief-in-Opposition p2-6 are unsubstantiated and misleading because Rodrigue declared numerous times under oath that he never received trial notice, and the record is devoid of any evidence to the contrary. In response, Judge Parisien and Attorney Cassady fabricated the Cassady Fictitious Affidavit of Service and the Imaginary Order Authorizing Service-By-email of trial notice and pleadings (Petition p4-5; p28-29). The fact that the entire record is still devoid of these two otherwise crucial documents supports Rodrigue’s Fraud-Upon-The-Court Motions which Judge Parisien refused to hear.

CONCLUSION

Judge Parisien’s continuing refusal to hear Rodrigue’s Fraud-Upon-The-Court Motions and other pending/unadjudicated postjudgement motions, even after the 01-

Dec-2025 resolution of all pending appeals, clearly show that without the intervention of this Court, Rodrigue's Fraud-Upon-The-Court Motions and other pending/unadjudicated postjudgement motions will never have their day in court, in blatant continuing violation of Rodrigue's federal constitutional rights to due process and equal protection.

Respectfully submitted, this March 16, 2026

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