

CASE NO. 10-10582

**IN THE
SUPREME COURT OF THE UNITED STATES**

BERNARD TOCHOLKE ---PETITIONER
VS.
STATE OF WISCONSIN ---RESPONDENT

**ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

BERNARD TOCHOLKE
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BRUNO, MINNESOTA 55712

QUESTIONS PRESENTED

1. **THE VIOLATION:** Can State Court Judges intentionally refuse to abide by the laws and statutes, and even the United States Constitution, and then also commit Intentional and Constitutional Torts against the citizens of United States, without being accountable to anyone?
2. **THE HANDICAP DISCRIMINATION:** Is the judicial misconduct acceptable if it is done against the “judicially handicapped”?, which means;
 - a. They are not an attorney and are judicially ignorant
 - b. They are too broke to even think about hiring an attorney
 - c. They also get denied a Public Defender because their case derives from a Family case and has turned into a Civil Case which both types have been restricted from using counsel.

***Does lack of counsel give permission or license for State Circuit Court judges to victimize the financially poor victims that they despise?**

3. **THE DEFENSE:** The defense that the Respondent has used so far successfully in the U.S. lower court’s, was that Judges have absolute immunity. However, they claim that the

State, which is the employer of the judges, they too have complete immunity.

*The **Question**; If both the judge and the State has complete immunity, **where can a victim of theirs find any escape, hope, relief, or remedy** if the judge insists on tormenting them with Constitutional Torts?

4. **THE PROBLEM:** If the plaintiff's routes for escape, relief, or remedy have all been blocked because of the immunity clauses, will he simply be **destined to spend the rest of his life in jail** and to endure the torments of a judge that is retaliating against him? Could that not be classified as a judicial dictatorship which is accountable to nobody? How is he ever supposed to get a remedy without an attorney?

Has the landmark case, *Gideon v. Wainwright*, 372 U.S. 335 (1965), grown old and has been discarded? Are the words of Justice Hugo L. Black no longer true when he said that, "lawyers in ... courts are not luxuries, but necessities? When the petitioner has been wrongfully incarcerated already for a year and is destined to spend many more years in jail or prison, is that not "criminal" in nature, especially when the victim is innocent?

LIST OF PARTIES

Because the Petitioner is not an attorney, is too broke to hire an attorney, and is restricted from acquiring a Public Defender, he is confused at who the parties should be. He has tried twice at bringing the judicial misconduct to justice. On January 31, 2008, he had a hearing in the United States District Court for the Eastern Jurisdiction of Wisconsin, and was reprovved by the Chief Judge Charles N. Cleverts, for listing Wisconsin's District Court judge as a defendant. He threatened that if Bernard would ever list a judge again who has absolute immunity, that Cleverts would personally see to it that Bernard would get penalized with the court costs and attorney fees. Therefore;

The Petitioner, Bernard, has listed only **The State of Wisconsin** as the Respondent, and has each time served the documents to the **Attorney General's Office – Wisconsin Department of Justice, PO Box 7857, Madison, Wisconsin 53707-7857**

The defense (of Wisconsin/Attorney General) has been that Wisconsin has total immunity too, the same as the judges.

This case reflects the impossibilities that Gideon (Gideon v. Wainwright) faced. Justice Hugo L. Black made the landmark statement about how an attorney in a case like this is not a luxury, but a necessity. Deprived from an attorney, **how was he (Bernard) supposed to know at who to list as the party or who would be responsible for the judge's actions of, ...**

1. Changing transcripts
2. Slandering him with false information
3. Refusing to look at the facts and using their own bias assumptions instead
4. Run out of the courtroom as he enters it for his scheduled hearing
5. Incarcerating him wrongfully for an entire year so far
6. Denying him the Due Process of Law
7. Rejecting laws, statutes, rules, and U.S. Constitutional provisions
8. Being the direct cause of getting vehicles confiscated from him

9. Etc.

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APPENDIX **C** – A Book authored by the Petitioner which goes into detail of what happened in the Kenosha, Wisconsin District court. “The Black Robe Conspiracy”.
**Petitioner can only afford to supply (2) books for this appendix or case. It is available on E-Books and Kindle. Links to it from www.sksstory.com

TABLE OF AUTHORITIES CITED

(This is one of the federal violations which gave jurisdiction for this court to try this case)

*****Amendment XIV** –

*“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State **deprive any person of life, liberty, or property, without due process of law**; nor deny to any person within its jurisdiction **the equal protection of the laws.**”*

(The Petitioner (Bernard) and the Respondent see the following U.S.C. from a directly opposite understanding. The Respondent only focuses on the first two words and dismisses this case because of it. Bernard looks at the complete context of it – especially the last few words typed..)

*** **42 U.S.C. § 1983** –

*“Every person who under color of any statute, ordinance, regulation, custom, usage, of any State or Territory or the District of Columbia, subjects, or causes to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, Suit in equity, or other proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted **unless a declaratory decree was violated or declaratory relief was unavailable** ...”*

(There is no benefit to list any more cases. If Circuit Court judges of a State have absolute immunity regardless what they do or say, and the State has absolute immunity too because they are not “a person”, then listing another 1000 case laws and statutes would be a waste of time.)

OPINION BELOW

Judicially ignorant, Bernard the Petitioner, thinks the following is where it is published.

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with
Fed. R. App. P. 32.1

JURISDICTION

The Intentional and Constitutional Torts committed in this case derived from a Family Court case. Bernard, the petitioner, is not an attorney but knows that Family Law cases or issues are NOT Federal court jurisdiction. However, when the conduct of State employees commit the Torts against American citizens which deprive them of the freedom and provisions allowed in the United States Constitution, that type of violation becomes a Constitutional Tort and Civil Case which gives this United States Supreme Court full jurisdiction over the case.

The other issue over jurisdiction is if the parties timely filed the papers (writ) within the 90 days provided. Bernard declares that he only used a little over 60 days to respond. Most of that time, his energy was used to gather the \$300 for the filing fee. The United States Court of Appeals for the Seventh Circuit made their decision on January 20, 2011 which allows the Petitioner until about April 20, 2011 to file. This filing is well before that time.

He believes indigence is when someone makes absolutely nothing. He does not regard himself at that level. However, he lives below the poverty standard and struggled to acquire the \$300 required to file this Writ of Certiorari.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The entire case revolves around if the United States Amendment XIV, has any power or merit.

Amendment XIV-“*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State **deprive any person of life, liberty, or property, without due process of law**; nor deny to any person within its jurisdiction **the equal protection of the laws.**”*

The issue: What value does that amendment have if State Circuit Court Judges have absolute immunity and the State cannot be held responsible for the judge’s actions because they are NOT “a person”? If the victim is not an attorney, too broke to hire an attorney, and is barred from a Public Defender, he then has absolutely no way to redeem the promise of the Amendments. The

Amendments, laws, statutes, and Constitution would become absolutely WORTHLESS (if the Respondent's defense is true).

According to the Case Law of *Gideon v. Wainwright, 372 U.S. 335 (1965)*, it gave victims like Bernard the needed power of a Public Defender to utilize the promises of the freedoms of the Constitution provides. However, Bernard has been barred from using the help that the Federal Laws have allowed him. He does NOT have the knowledge at how to defend himself.

STATEMENT OF THE CASE

Constitutional Torts were committed: The Due Process of Law was grossly violated to the Petitioner of this case. Wisconsin Circuit Court judges have stated things that were untrue and slanderous. If they did not like what they had said they would destroy or alter the transcripts. At every hearing when the "errors in calculation" was brought up they aggressively silenced the topic or threatened the petitioner with jail if he did not remain quiet. They constantly insisted on ruling on their bias assumptions which was double of the IRS acceptance. At one of the scheduled hearings the judge ran out of the courtroom as he entered it. He was simply arrested and has already spent an entire year incarcerated wrongfully. He was not even allowed to move his vehicle off the street and therefore it was discarded while he was incarcerated.

If the Petitioner tried bringing up any statutes that applied to the situation, the judge rejected it or again silenced him. The petitioner is concerned about child abuse done to his children and brought it up to the judge. The judge elaborated at how children could be beat with sawed-off golf clubs by the principal and he would not even consider that as child abuse. The petitioner has not seen his children since June 2008, but the Kenosha judges refuse to give him even a hearing to address the alienation and simply wrote that he does not have grounds for a hearing.

No State Remedies or Escape available: Bernard, the petitioner, filed a complaint with the Wisconsin Judicial Commission but they constantly stuck up for the judge. They stated that they could not investigate into a judge's decision, but only in judicial misconduct. He replied immediately and asked if the judge running out of the room which deprived him of his scheduled hearing was not misconduct? They never responded back.

He tried appealing his case to the Wisconsin Court of Appeals. He was denied a Public Defender and his case was also thrown out the first time because of technical details. If the type is not mono-spaced, with just the right line and margin spacing, along with many other details,... they simply reject the appeal. Of course he could not get approved since he did not even know how to operate a computer at the time. The next time he was in jail, when he tried again to appeal. The Court of Appeals "sat" on his case that time over an entire year before they responded that they agreed with the Circuit Court judge.

When he appealed to the Wisconsin Supreme Court, he again found no remedy since they simply did not pick up his case. All of the State options of relief had been exhausted.

Federal Court decisions blocking escape or relief (so far): Bernard learned that the Federal Judicial system does not have jurisdiction over Family Court matters. Therefore, he filed this Civil Case because his rights had been violated of getting a fair and impartial hearing. The Due Process of Law had been violated without a remedy in sight.

However, the federal court avenue has also been blocked because the Wisconsin's Attorney General has successfully convinced the two Federal lower courts that Bernard could not sue the judge or the State that hired the judge. He is not capable at getting a

lawyer since he is too poor and gets denied a Public Defender, even though jail is lurking again in his near future. His last chance at justice is this United States Supreme Court.

The Present Despair of Hopelessness without Escape: If the mental trauma and financial loss of the past would just wash away with time, it would be difficult but endurable. However, the judges refused to stop the accumulating child support after they threw him in jail. Also when he was finished with his sentence he had lost everything, homeless, and without a job. Even today he is mostly unemployed with a few short lived temporary part time jobs.

He is hindered from getting any ordinary job because on top of the normal deductions of taxes, Minnesota is required to take another 60% of his gross paycheck for child support. With taxes and the 60% deduction there is not enough left over to buy the gas to go to work! His only option that he has for supporting himself is to get direct temporary employment from individuals. He could cut grass, rake lawns, and shovel snow. With that being his only option he is living in poverty.

However, poverty is not an excuse to the judicial system and they keep applying more pressure. Minnesota is ordered to enforce the Wisconsin's unchangeable orders. Kenosha's judges refuse to change anything and are deliberately retaliating against him. Minnesota does not have the jurisdiction to change anything, but only to enforce the orders.

The near future for Bernard (the petitioner) is that Minnesota will soon take his Driver's License from him. When that happens, he will not even be able to support himself. It is a matter of time before he will be sentenced again to jail and possibly prison for several more years.

The reason he got into that position in the first place is because the judges framed him with a false income of twice of what the accountants and the IRS calibrated him at. The judges then refused to address the issue of the "error in calculation". Never did he get a fair and impartial hearing.

BERNARD IS DESTINED TO SPEND A LARGE PORTION OF THE REST OF HIS LIFE INCARCERATED – UNLESS THIS COURT ACCEPTS THIS CASE. COULD THIS COURT PLEASE HELP ME!!!! PLEASE DO NOT DISCARD ME.

He is like Gideon in the *Gideon v. Wainwright, 372 U.S. 335 (1965)* case who was unable to defend himself. Are the words of Justice Hugo L. Black still applicable today? Insidious and malicious Torts were done. Will Bernard just remain a victim because he has no way to defend himself?

REASONS FOR GRANTING THE PETITION

The American People are waiting to hear the assurance that there is a judicial remedy for them in case they fall prey to a malicious Circuit Court judge. Should they ever fall victim like Bernard has, where they become like a dog chained to the abusive and tyrant owner who abuses them, can they find hope at the United State Supreme Court?

What can they do if the "owner" continues to abuse them by committing Intentional and Constitutional Torts against them? They get denied every escape possible. The judge refuses to let them go to another court and refuses to change anything within their court. They are framed

with a doubled income and cannot escape or change that. Their entire future is threatened with more abuse and many more years of incarceration. Basically, they cannot live with the demands, they cannot change them, nor leave the scene! Will they always be held hostage by this tyrant or is there hope at this Court of Last Resort?

The purpose of this case to the American people is if the poor citizens of this country who cannot hire or acquire an attorney, if they must live under a Judicial Dictatorship that has no escape for them. Can Circuit Court judges say and do whatever they want, with extreme bias and retaliation toward their victims that they despise?

This case is personal to Bernard since it is his life that is in the gallows now waiting for the decision of this court. However, if this case gets rejected, malicious abuse of power will increase knowing that they are untouchable. Is that what the American people will hear when this court makes their decision?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Bernard Tocholke

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Signed this 24th day of March, 2011_____