

July 28, 2016

Filing a petition for certiorari in the Supreme Court or a case in the lower courts is an exercise in rigged gambling and waste, especially for pro ses, whose cases are weighted in the Federal Judiciary as a third of a case[♦]

A realistic alternative that takes advantage of presidential politics to inform the national public about, and outrage it at, judges' wrongdoing and cause the public to demand nationally televised hearings on judicial wrongdoing

A. Barriers to the Supreme Court: the booklet format, the preference given to a few lawyers, the 1 in 100 review chance, and the cost of representation

1. One of the first barriers encountered when filing for certiorari in the Supreme Court is the format of both the brief and the record to be filed. It can cost \$100,000 or more just to pay a specialized company to transcribe and print the record on appeal in the booklet format required by Rule 33(*>jur:47fn77) of the Rules of the Supreme Court because if you do not qualify as indigent to file *in forma pauperis*, you cannot file them on regular 8.5" x 11" paper(jur:47§1). Given that the Court takes cases in its discretion and declines to do so without explanation, if it does not take yours for review, your printing costs together with the filing fee as well as the expense of researching and writing the brief go to waste.

All (blue text references) herein are keyed to my study of judges and their judiciaries, titled and downloadable as follows:

**Exposing Judges' Unaccountability and Consequent Riskless Wrongdoing:
Pioneering the news and publishing field of judicial unaccountability reporting^{*†}**

2. If you cannot download the Rules of the Court(jur:47fn77b) and pay attention to, and comply with, their hundreds of minute details, the Court will not even have the opportunity to decide whether to take your case for review: The clerk will not accept your brief for filing. He will send it back for you to correct the mistakes that he listed. You must do so within the time allowed. If you miss the deadline, subsequently you cannot file your case, due to untimeliness.
3. In the last few years, some 7,250 cases were filed annually in the Court, but it disposed of an average of only 78 cases. So your chances of having your case taken for review are roughly 1 in 100(cf. jur:47fn81a). In the casinos of Las Vegas, your odds of winning are better.
4. Your odds of having your case reviewed by the Court are substantially worse if you are not represented by one of the "superlawyers"¹. Their cases are decidedly preferred by the Supreme Court: 8 superlawyers argued 20% of cases in the nine years between 2004-2012. They command whatever attorney's fee the law of offer and demand allows, which only a few, mostly corporate parties, can afford.

¹ a. The Echo Chamber...At America's court of last resort, a handful of lawyers now dominates the docket; Reporters Joan Biskupic, Janet Roberts, and John Shiffman, Reuters Investigates, Thomson Reuters; 8dec14; <http://www.reuters.com/investigates/special-report/scotus/>

b. Elite circle of lawyers finds repeat success getting cases to the Supreme Court; Gwen Ifill interviews Joan Biskupic, Legal Affairs Editor in Charge, Reuters; PBS NewsHour; 9dec14; <http://www.pbs.org/newshour/bb/elite-circle-lawyers-finds-repeat-success-getting-cases-supreme-court/>

5. Superlawyers deliver what the justices demand: knowledgeable and authoritative arguments based on legal precedent and firmly established or proposed principles of law. The justices want clarification about any contention in the briefs that raised questions in their minds. From the bench, they will ask the kind of question that is the most difficult to answer because it requires a firm command of the law: ‘What are the legal implications of that contention?’
6. The law is a system of rules of conduct developed over time that intends to ensure predictability and prevent surprise and arbitrariness. Points of law in a case have to fit together and with previous ones for the law to make sense and provide a reliable standard of expected or acceptable conduct. A pro se is unlikely to have the depth and breadth of legal knowledge needed to answer ‘the legal implications question’. He or she cannot stand before the justices and wing it.
7. Nor is a pro se likely to have the habit or skill to argue by analogy and distinction, i.e., similar facts should be governed by the same legal principles, which contributes to complying with the overarching requirement of “equal protection of the laws”; and distinguishable ones by different or new ones. A pro se cannot improvise the application of that method of reasoning.
8. Consequently, a pro se cannot reasonably expect the Chief Justice and the eight Associate Justices of the august Supreme Court of the United States, sitting on the high bench to hear oral argument before the national press and a select audience of guests, to let a pro se babble, ramble, and rant about the facts of the case and his or her heartfelt pain at so much injustice visited upon him or her by the adverse party ‘*and this is so unfair!*’...but zero legal arguments. That scenario is not possible, an idea born of ignorance of, or reckless disregard for, the applicable standards of performance and court decorum. Wishful thinking is unrealistic.
9. It can cost more than \$1,000,000([jur:48fn83](#)) to take a case all the way to final adjudication in the Supreme Court. If it remands to the district court for a new trial, you start all over again. Do you have the money to retain a member of the Supreme Court bar to argue your case? If you do not have money to even pay a lawyer to review your brief before filing it in the Court, you don’t.
10. Judicial review in the Supreme Court is not only discretionary with the justices, it is also illusory ([jur:48§2](#); cf. [46§3](#)). Worse yet, the barriers to justice are raised at earlier stages.

B. A case filed by a pro se in a federal court is weighted as a third of a case

11. When you file a case in a federal district court, you have to file a Case Information Sheet. It asks, among other things, whether you are represented, that is, a lawyer is appearing on your behalf, or you are pro se, meaning that you are appearing ‘for yourself’. Checking the “pro se” box in that Sheet has consequences at the brief in-take office of the clerk of court that are funereal without the solemnity: Your case was dead on arrival and is sent right away to potter’s field.
12. In the Federal Judiciary, pro se cases are weighted as a third of a case([jur:43fn65a](#) >page 40). By comparison, “a death-penalty habeas corpus case is assigned a weight of 12.89”(jur:43¶81). As a result of such weighting, a pro se case is given some 39 times less attention than a death penalty case regardless of the pro se case’s nature, what is at stake in it, and whether the complaint was written by joe the plumber or a law professor.
13. Your brief is likely not to be read at all...that is the whole purpose of the Case Information Sheet: to tell the court on half of one side of one page what the case is all about and what relief the party is requesting so that if the court does not want to grant it, why bother reading the brief? But you still had to pay the filing fee of \$400, while a party that filed an application for a writ of habeas corpus only had to pay \$5. Is this why it is said “Justice is blind”?

C. Justice is blind, but the judge sees the incompetence of pro se pleadings

14. A federal district judge has hundreds of weighted cases. In fact, “a judicial emergency [is not declared until there is a] vacancy in a district court where weighted filings are in excess of 600 per judgeship”(jur36fn57). The judge is expected not to waste her time with a pro se case, which is most likely poorly writ-ten by an emotional plaintiff who ran to court to complain without a clue whether the law gave him a cause of action against the defendant and, if it did, without any notion of the elements of the action that he must prove and the admissible evidence that he must introduce to prove each.
15. If you did not understand a word of the above, why would you expect the judge to think that you understood, never mind complied with, the rules and their subrules in the hundreds of pages of the Federal Rules of Civil Procedure(FRCP; ol:5a/fn15e), the Federal Rules of Evidence(id.), and the applicable law contained somewhere in the hundreds of volumes of the U.S. Code(ol:5a/fn15a) as interpreted by court decisions among millions written by judges?

1. A pro se is likely not to have a clue of what subject matter jurisdiction is and how its absence can doom his case

16. Worse yet, you have to show something of which you, as a non-lawyer pro se, are presumed not to have the faintest idea: subject matter jurisdiction(FRCivP 12(b)(1); ol:5b/fn15e). This means that you have to show that the federal court has the authority conferred upon it by statute as interpreted by case law to entertain your type of case and use its judicial power to adjudicate the controversy that opposes you to the defendant. You cannot run to federal court and ask it to intervene in a matter governed only by state law, such as family, wills, real estate, and zoning.
17. Nor is it enough for you to allege that the state judge and a host of other state officials engaged in what you, in your law-untrained opinion and your emotional state of mind as a party, a parent, an heir, or a resident in the neighborhood, consider to be corruption(jur:86§4).
18. The issue of subject matter jurisdiction is so important that it cannot be waived: The defendant cannot confer upon the court authority to hear and decide your type of case by merely failing to raise an objection to it in its answer or by motion to dismiss. At any time, even in the middle of trial, the defendant can move to dismiss the case, thus terminating it, due to the court’s lack of subject matter jurisdiction. What is more, the court can do so on its own motion upon realizing that it does not have authority to deal with the type of matter presented to it. In fact, when judges do not feel like dealing with a case, they take the easy way out by simply claiming that they do not have subject matter jurisdiction. Cf. Of the 4,990 appeals terminated in the 2015 Fiscal Year –1oct14-30sep15 (FY15)– by federal circuit judges 69% (3,423) were terminated due to “jurisdictional defects”(jur:22fn10c >Table B-5A).
19. Plaintiff’s only remedy is to go up on appeal to argue a highly technical issue of law. Do you have any idea how to argue that the court has subject matter jurisdiction based on common law, a statutory provision, notions of federalism, and the 14th Amendment clause on “the equal protection of the laws” after analogizing your type of case to another type that was held to fall within the court’s jurisdiction?
20. You may hate lawyers as a pack of deceitful, uncaring, money grabbers. Yet, it is logically sound to assume that people who went to college for four years and then to law school for three years know something about the law that people who did not go there ignore. The same applies to those who successfully conducted doctoral research, analysis, and writing. How do you think the judge will react if you tell her that you consider the above statement arrogant and elitist?

2. From the outset, a pro se brief is likely to reveal itself as a soap

opera's sob story with no awareness of the other side of the story

21. Just because paper holds everything one writes on it, the writing on it by a pro se does not produce a brief of law. To begin with, a pro se is likely to have failed to number his paragraphs and neglected to group them under headings strictly corresponding to the required 'parts of the brief'.
22. Ignoring how to state a case, the pro se is likely to plunge in his opening paragraph into a rambling rant full of legally irrelevant allegations and assumptions passed off as facts. He is unlikely to have identified the legal arguments of the adverse party, let alone argued against them, because 'since they are wrong, they don't exist and can't be discussed no way!' Have you noticed that although this article is critical of judges from its title, it also takes their point of view to present their arguments fairly and convincingly?
23. Why would the judge expect the rest of the complaint or other pleading to be any better? She knows from experience that pro ses hardly ever cite cases as precedential support for what they say and do not lay out arguments of law, but instead intone articles of faith and cries of pain caused by an intuitive sense of justice denied. He is likely to have stated a case so inadequately that it will be considered incapable of surviving a Rule 12(b)(6) motion for dismissal for "failure to state a claim upon which relief can be granted" by a court(FRCPP, [ol:5a/fn15e](#)).

3. The court commits fraud by charging a pro se the filing fee without disclosing that it is a burial fee to dump the case

24. Your pro se brief reaches the judge tainted by the presumption of irrelevancy, inadmissibility, and incompetence. She will give it the perfunctory attention that the official weighting of the case enables her to give it. The weighting works as a self-fulfilling expectation: Because your pro se case is weighted as merely a third of a case, the judge will presume it to be worthless and do a quick job of disposing of it, a chore most likely relegated to her law clerk. So it is highly probable that the judge will not even read your brief. Cf. Of the 18,969 appeals terminated in FY15 on procedural grounds, 73% (13,814) were terminated by the staff([jur:22fn10c](#) >Table B-5A). It follows that as a pro se, you do not stand a chance of getting a due process fair hearing or reading. You are DoA.
25. But you are treated "equal" to a represented party in that you had to pay the same \$400 filing fee in the district court. The court failed to disclose on the Case Information Sheet before demanding and receiving from you that fee that by you checking the "pro se" box, the court would unduly process your case into a coffin and send it to the potter's field for those who had committed pro se status. Instead, it put up the pretense that if you paid the fee, a judge would be assigned to your case who would fairly and impartially handle it on the merits according to law. Since the district courts knew that they would handle a pro se case, not as equal, but rather as inferior, to a represented case, those courts commit fraud on the public, in general, and the district court where you filed your case defrauded you, in particular.

D. The federal courts of appeals defraud appellants by disposing of 93% of appeals on procedural grounds, in unsigned, unpublished, and "without comment" opinions, or through consolidation, including summary orders

26. Every year, the Administrative Office of the U.S. Courts publishes the Annual Report of the Director. It contains those courts' official statistics on their caseload and their management of it by the judges and staff([jur:21fn10](#)). A return on investment analysis of Table B-12 points to whether a rational human being, a homo economicus, should file in the court or gamble in Las

Vegas.

27. In the FY15, 52,698 cases were filed in the 12 regional federal courts of appeals. Of them only 65% (34,244) were disposed of on the merits rather than on procedural grounds. Only 7.2% (3,794) of all appeals were disposed of in opinions of quality high enough for the judges to dare sign and publish them. The rest 92.8% was so intrinsically defective that they wanted to negate even the implication that they knew anything about it. You have 1 chance in 14 of getting a written opinion that means anything so that none of the three circuit judges on the appellate panel would be embarrassed by giving the public access to it with her name as the author or as one who joined in it.
28. Indeed, 87% (27,507) of the 31,622 written opinions were so meaningless and “perfunctory” ([jur:44fn68](#)) that they were not even published. Even among the opinions classified as “reasoned” but whose reasoning was so sloppy that none of the three judges on the respective appellate panels would sign them, 98.4% (17,794) were also not published, scribbles that put ‘reason’ to shame so that they should not be seen by anybody but the respective parties.
29. Yet, you could have done worse than getting one of these opinions that pretended to be “reasoned”, for 13% (4,099) were not only unsigned and unpublished, they were also “without comment”. Those opinions are the ultimate means for reasonless, arbitrary([jur:44fn67](#)) disposition by fiat of star chamber judges who do not deign explain themselves. To issue an “unsigned without comment” opinion there is no need to even take a look at your brief. It suffices to rubberstamp it “affirmed!” so that the whole responsibility for what happened in your case is laid on the name of the judge appealed from.
30. But you could still have done worse, because 7.7% of the appeals allegedly disposed of “on the merits” were “disposed by consolidation”. Since no judge deemed that the identity of your appeal, with its unique set of parties, amount in controversy, aggravating and attenuating circumstances, etc., merited disposition in an individual opinion, your appeal was most likely unceremoniously thrown with those of other appellants into a mass grave distributed among the 88% (27,827) of “unsigned, unpublished, and without comment” opinions. What an undignified and unsatisfactory way of ending your journey for justice in a court of appeals!
31. That figure of 88% means that such fate was not reserved for the uneducated pro ses with horrible briefs. Pro ses filed 51% of appeals([jur:22fn10c](#) >Table B-9). Even if that were the case, that would leave 37% of appeals by parties who spent a lot of money on attorneys, but got treated just as perfunctorily and in defiance of their reasonable expectations.

1. “Not precedential” is in the definition summary orders and on the face of any opinion so marked to shake free from the strictures of due process

32. Circa 75% of all opinions are summary orders([jur:44§66](#)). They are not-precedential. As such, they are vehicles for arbitrary, ad-hoc disposition. They have no value to influence the decision in future cases and, by the same token, need not have respected the precedent set by previous ones. By definition, they make a mockery of “equal protection of the law” since their function is to be unequal to the rule of law as already applied or to be applied. They are anathema to a common law system based precisely on precedent to ensure predictability, prevent surprise, and curb abuse by judges making decisions on the spur of the moment or to serve any expedient, even unlawful interest in the case at hand.
33. By marking any opinion, even a “reasoned” one, “not precedential”, the judges can use it for the

same purpose as a summary order: to trample on due process and get away with wielding absolute, unaccountable power.

2. Fraud by judges offering honest appellate services in exchange of a fee which they knowingly will not render; and breach of contract

34. The courts of appeals knew that before you filed your appeal you had spent \$10,000s in legal fees or the equivalent in the effort and time that you invested in writing your brief and the pain and suffering that you had to endure to figure out whatever it was that you had to do to represent yourself. The courts offered appellate services, that implicitly were to be rendered honestly, if you paid their \$505 filing fee. Your payment of the fee was your acceptance. A contract was formed, even if it was one of adhesion.
35. But they failed to perform. What they delivered to dispose of your appeal and that of the rest 93% of appellants was “unsigned, unpublished, without comment, by consolidation opinions”, which were so defective or wrongful that they overwhelmingly deprived them of any precedential value.
36. By so doing, the courts made it all go to waste. They defrauded you of the filing fee. They frustrated your reasonable expectation for disposition of your appeal in a written and reasoned opinion that recognized that “Justice should not only be done, but should manifestly and undoubtedly be seen to be done”(jur:44fn71). And they did all of it knowingly and intentionally, for a settled principle of torts provides that “a person is deemed to intend the reasonable consequences of his or her acts”. They intended a fraud and a breach of contract.
37. Obtaining justice from the judges of the Federal Judiciary, the model for their state counterparts, is not only illusory, with worse odds than gambling and near certain waste; it is wrongdoing so coordinated as to be a scheme(ol:85¶2, 91§E). Judges know that they are unaccountable and that in the end they will wield their power to dispose of their caseload so as to advance their interests, without regard for due process, equal protection of the law, reasonable expectations, and their end of the bargain of a contract in fact. On their way to final disposition, they engage(jur:88§§a-c) risklessly in wrongdoing(jur:5§3; ol:154¶3) so widespread, routine, and grave that wrongdoing has become their institutionalized modus operandi(jur:49§4). Throughout it all, they fail to abide by their own injunction to “avoid even the appearance of impropriety”(jur:68fn123a).
38. The full outrageousness of their wrongdoing must be exposed as the indispensable prerequisite for reforming the federal and state judiciaries to ensure that judges are held accountable for the justice that they administer and liable for the wrong that they cause others.

E. A realistic strategy for judicial wrongdoing exposure and reform that takes advantage of presidential politics

39. Presidential politics offers the opportunity to reach out to Establishment-outsider Donald Trump, who has already dare criticize a federal judge, and through him the national media that cover him so that we, victims of wrongdoing judges and advocates of honest judiciaries, may implement a realistic judicial wrongdoing exposure and reform strategy.
40. That strategy rests firmly on two foundations:
 - a. the strategic thinking(ol2:416; Lsch:14§3; ol:8§E; jur:xliv¶C) principle “The enemy of my enemy is my friend...and by helping him I help myself”; and

b. the first law of interpersonal dynamics, i.e., *horsetrading!*...because social life is a give and take (cf. dynamic analysis of harmonious and conflicting interest; [Lsch:14§2](#); [ol:52§C](#); [dcc:8¶11](#); [dcc:17¶1](#)).

41. The inform and outrage strategy is concrete, reasonable, and feasible: Mr. Trump and the media, each acting in their own electoral or commercial interest([†][ol2:416§B](#)), can *inform* the national public at his press conference and through their investigation of two unique national stories([ol2:440](#)) about judges' wrongdoing and so *outrage* the public at it as to stir the public up to demand that politicians, lest they be voted out of, or not into, office, call for, and conduct, nationally televised hearings, akin to those held by the 9/11 Commission, on such wrongdoing as the first step toward judicial reform([jur:158§§6-8](#)) that the ever intensifying outrage will render unavoidable.

42. You can contribute to implementing that strategy. To that end, I respectfully invite you to:

a. share the below letter to Mr. Trump([‡][ol2:437](#)) as widely as possible by sending it to your emailing list and posting it to yahoo- and googlegroups and blogs; see a list of yahoogroups([†][ol2:433](#));

b. subscribe and encourage all others to subscribe to the website at www.Judicial-Discipline-Reform.org;

c. network([ol:231](#)) with colleagues, friends, and acquaintances of yours who can network with theirs so as to reach out to Trump campaign officers[#] to persuade them to invite me to present to them how it is in their own([ol:317¶28](#)) electoral interest for Mr. Trump to denounce judges' wrongdoing and thereby draw the attention of the media and The Dissatisfied With The Establishment, especially its huge([ol:311¶1](#)) untapped voting bloc of the dissatisfied with the judicial and legal systems, including victims of wrongdoing judges and advocates of honest judiciaries;

- | | |
|---|--------------------------|
| 1) Campaign Chairman and Chief Strategist Paul Manafort | 4) Mrs. Ivanka Trump |
| 2) General Counsel Michael Cohen, Esq. | 5) Mr. Donald Trump, Jr. |
| 3) Running Mate Gov. Mike Pence | 6) Mr. Eric Trump |

d. download and print the letter([‡][ol2:437](#)) to distribute it at political rallies to the attendees, in general, and to each member of the campaign staff and officers, in particular; and

e. organize a presentation to professors, students, and officers at journalism, law, business, and IT schools and similar entities([ol:197§G](#)) so that I may present to them:

- 1) the give and take letter to Mr. Trump;
- 2) the evidence of judges' unaccountability and wrongdoing([jur:21§§A,B](#)); and
- 3) the way for them to participate in a multidisciplinary academic([ol:60](#); [112-120](#); [255](#)) and business([jur:119§1](#); [ol:271-273](#)) venture to pioneer the field of judicial unaccountability reporting and reform advocacy.

43. So that you may feel confident in networking me with others, I offer to first make a presentation at a video conference or in person to you, your colleagues, friends, and acquaintances.

44. Let's not miss this window of opportunity to make of judicial wrongdoing exposure and reform a decisive campaign issue([ol2:422](#)).

45. Time is of the essence. Therefore, I look forward to hearing from you soon.

Dare trigger history!([jur:7§5](#))...and you may enter it.

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