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Clerk
U.S. District Court
Hon. Judge Michael A. Shipp,
402 E. State Street
Trenton, New Jersey 08608

August 19, 2015

Re. PURPURA v. Christie et al; Case No. 15-3534
TO BE MADE PART OF THE OFFICIAL RECORD

On August 17, 2015 Petitioner received notification Docket Text [11]:

> "MOTION for Default Judgment is set for September 8, 2015 before Judge Michael A. Shipp. The motion will be decided on papers. No appearances required unless notified by the court. (mmh)."

Respectfully, the SUMMONS clearly requires a judgment by default be entered. Rule 55(a) requires the Clerk of the Court, who has apparently failed to enter a default judgment in recognition that the party is in default. Petitioner is well aware that Your Honor will decide finality on September 8, 2015. This brings me to the important and compelling reason for Your Honor to grant oral arguments.

It is absolute fact that the Defendants who are being represented by the *Deputy Attorney General* Susan Scott, Esq., are without a defense on this issue since no papers were filed, nor can they legally be submitted after the court ordered time period had expired.

That being said, the law firm of *Dorsey & Semrau* representing Defendants Cook and Tagliatella did answer the Petition in a timely fashion. Though their answer totally conflicts with the *FRCP* rules.

Astonishingly Defendants counsel failed to address a single claim for relief other than a general denial which is in conflict with the required rules that mandate specificity in a RICO action as well as a Civil Rights action. Nor did Defendants counsel cite a single case study in refutation of Petitioners 60 plus Supreme Court legal precedents, four (4) violations of Articles of the Constitution and five (5) Amendments as well of U.S. Codes as chronicled in the Petition.

Therefore, Petitioner will be filing a Motion for Summary Judgment against Defendants who will then, most assuredly reply. In the interest of substantial justice Petitioner must be allowed to dispute any answer to Petitioner's Motion. The Petitioner will certainly be prejudiced, if he is

denied an opportunity to address, at an oral argument hearing, relevant controversial legal arguments that will no doubt be presented by Defendants.

Unquestionably a "Notice for Appeal" will be forthcoming by the losing party. Therefore, justice mandates a record be established for the higher courts. A denial of this request for oral argument and/or a hearing would be patently unfair and most certainly conflict with the 5th Amendment "*Due Process Clause*"

The Requirement of "Due Process"

Procedural "*due process*" rules are meant to protect persons not from the deprivation, but from mistakes or unjustified deprivation of life, **liberty**, or property. *Cary v. Piphus*, 435 U.S. 247 259, (1978). The rules minimize substantively unfair or mistaken deprivations" **by enabling persons to contest the basis upon which a State proposes to deprive them of a protected interest**. *Fuentes v Shevin*, 407 U.S. 67, 81 (1972). At all times, **the court has also stressed the dignity importance of procedural rights, of being able to defend one's interests** even if one cannot change the results. *Cary v Piphus*, 435 U.S. 247, 266-67 (1978) also, see *Marshall v. Jerrico Inc.*, 446 U.S. 238, 242 (1980).

"*Parties whose rights are to be affected are entitled to be heard*," *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863). "*The notice of hearing and opportunity to be heard" must be granted at a meaningful time and in a meaningful manner*.' *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)

As this Honorable Court is aware the fundamental requisite of "*due process*' of law is the opportunity to be heard. See, *Grannis v. Ordean*, 234 U.S. 385, 394. The United States Supreme Court, in *Monroe v. Pope*,

*"*that *an action under "color of law" even when authorized by the state and is indeed prohibited by the state; see, Section 1983 reaches those "who carry a badge of authority of the State and represent it in capacity, whether they act in accordance with their authority or misuse it" The S. Ct. refers to Lugar v Edmondson Oil Co., 1982, 102 S. Ct. 2753, _, _, 73 L.Ed2 482*."

Also, case law is legion, the fundamental requisite of "*due process of law***" is an opportunity to be heard**, see, *Milliken v Meyer*, 311 U.S. 467; *Priest v Las Vegas*, 232 U.S. 604; *Roller v. Holly*, 176 U.S. 398:

"An elementary and fundamental requirement of due process in any proceeding which is accorded finality is notice reasonably calculated under all circumstances, to apprise interested parties of pendency of the action ***and afford them an opportunity to present their objections****."*

Petitioner prays that this Court will apply the "*clear and convincing evidence standard*" concerning the wrongdoings of these Defendants as stipulated and detailed in this civil action[1]. The proper and legal application of that standard will surely prevent violations initiated by

[1] The issue before this Honorable Court effects more than the citizens of just New Jersey, this matter goes to the heart of federalism.

individual government officials and in their official capacity that; "***threaten the individual involved with 'a significant deprivation of liberty***" see, Santosky, 102 S. Ct. 1396, quoting adding, 441 U.S. 425, 426, 99 S\.Ct 1808, 1809.

Preposterously, Defendants counsel claimed this Court lacks "*subject-matter jurisdiction*" to adjudicate this matter. A statement which conforms to no coherent theory of law or precedent. As a matter of law, the issue of fact must be resolved in order to determine whether the behavior of Defendants violated federal law. See, *Hunter v Bryant*, 502 U.S. 1991) also, *Anderson v Creighton*, 483 US 635, 646, n.6 (1986).

Concerning federal questions of law, it is inarguable, any citizen not being given a hearing in a Civil Rights suit such as this, would be deprived of his/her Constitutional rights, in that any decision to deny that hearing would abrogate Amendments 5 and 14.

Citizens must not be denied the opportunity to present to the Court the identity and the source of unconstitutional legislation by a State, or by state officials and as well, present the identity of those who have enforced unconstitutional legislation and administrative action. That prevention, if it were to occur, would affect the lives of all citizens not just those who have dared to challenge legislative wrongdoing. It would allow to prevail, not just unconstitutional laws but would render those who have placed their ideology above the Constitution and laws of our nation to likewise, continue their unconstitutional ways. Officials who believe and then are permitted to wield power without accountability or having to defend their actions represent the precursor of a republic no longer governed by the rule of law. If in fact, heretofore, that has been permitted, this Petition can stand as the beginning of the return of Constitutional values and legalities.

"The Constitutional right to be heard is basic aspect of duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose, more particularly, is to protect his use and possession of property [(In the case at bar Constitutional Civil Right) my emphasis] from arbitrary encroachment…" Fuentes v. Shevin, 407 U.S. 67, 81 (1972). Also see, *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 170-71 (1951) ((Justice Frankfurter concurring). [I ask; what possession is more precious than liberty]?

It is incontrovertible; Defendants utterly failed to present any cogent argument. Instead they have chosen to play the odds, anticipating that this court will turn a blind eye and ignore fiduciary duty as set forth in FRCP. It is Petitioner's expectation that this Court will not validate nor condone such abridgement of Court regulations and the audacity of expectation, for it to do so.

Petitioner is aware he is in a difficult position. Revealing nefarious behavior of powerful political figures has had some uncomfortable outcomes for many who have taken on endeavors such as this in the past. Whether a single individual *pro se* would have the effrontery to challenge the

leviathan of a government that has been legislating, regulating and enforcing unconstitutional restrictions on the people, is not the question. The question, is will there finally be a court that will demand legislators work within the confines of the Bill of Rights and cease awarding ideologues the authority to become law unto themselves.

If Defendants are permitted to answer Petitioners Summary Judgment, without oral arguments addressing their submission, the Court will be adjudicating on possibly and quite likely duplicitous or unsubstantiated statements.

The entreaties before Your Honor; will the Court be coerced into abrogation of duty or enforce the separation of powers as required by our Constitution? Will there be sanctions for an administrative system that concentrates power to enforce an administrative apparatus that finds no home in our Constitutional structure?

Petitioner prays, in the "interest of substantial justice," he be permitted to present to the Court arguments contrasting the positions of the Defense, many of which can be proven to be of no moment. It was the duty of Defendants' counsel to plead an "affirmative defense" in separate paragraphs and label each as an affirmative defense with specificity and clarity. Clearly, no "Factual Basis" for any refutation of the claims, has been presented to this Honorable Court. This breach in the requirements of the Court's order, as set forth, mandates a Summary Judgment. Let a record be established at oral argument before this Honorable Court on September 8, 2015.

Finally, petitioner wishes to respectfully reaffirm a belief that a denial of this request would be a miscarriage of justice.

Respectfully submitted,

Nicholas E. Purpura

cc: Deputy Attorney General, Susan M. Scott and Dawn M Sullivan, Dorsey & Semrau