

Conversation with Clerk Jacob Levitan

Recording Name:

[E23 US SUPREME COURT- CLERK JACOB
LEVITAN.m4a]

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1 Levitan: (Inaudible - 00:00:00) explain, you're -- you are
2 welcome, within the body of your petition, to specify
3 and explain to the court that you are seeking the
4 issuance of the writ of habeas corpus in aid of the
5 court's original jurisdiction and not the appellate
6 jurisdiction. Regardless, it will be filed by the
7 clerk and docketed as a petition for a writ of habeas
8 corpus. It will not say petition for a writ of habeas
9 corpus in aid of the court's appellate jurisdiction
10 and will not say or- -- p- -- petition for an original
11 writ of habeas corpus, it won't even say petition for
12 an extraordinary writ of habeas corpus. It will just
13 be a petition for a writ of habeas corpus, and there's
14 only one rule which governs that finding, which is
15 Rule 20.4. So, if -- if you only get past the clerk
16 and onto the justices, it needs to be filed in
17 accordance with -- with Rule 20 and, you know, the
18 justices then will act on the petition, uh (inaudible
19 - 00:00:49). That make sense?

20 Bereki: It -- it totally does. I'm so glad you clarified
21 that, and I really appreciate it. So, you said -- w-
22 -- wait. Uh, you said it needs to be filed in
23 compliance with, uh, Rule 20.

24 Levitan: Correct.

25 Bereki: Well, that's -- m- -- my concern there is, that's a



1 petition for an extraordinary writ and it involves,
2 um, st- -- their statutory discretionary writs. So, I
3 filed that petition only under what I perceive to be
4 the rules of -- I think it's rule 19 -- no, not -- uh,
5 whatever the procedures were for an original action,
6 and there is no limit to a word page count in an
7 original action.

8 Levitan: There is. Uh, a procedure in an original action is --
9 is literally only for the filing of a motion for
10 (inaudible - 00:01:38) bill of complaint. So, if --
11 if you are seeking a writ of habeas corpus, whether
12 original or appellate, it needs to be done in the form
13 of a petition under Rule 20, period.

14 Bereki: Okay. So -- okay. So -- um, so, then, you're not
15 going to ma- -- make it and turn it into a statutory
16 writ, correct? That's -- that's m- -- that's what --

17 Levitan: I can't make it anything. It will -- it will be
18 docketed as a petition for a writ of habeas corpus.

19 Bereki: Okay.

20 Levitan: And --

21 Bereki: Okay. So, th- -- that was my concern, is that it's
22 gonna get filed under something that I don't want it
23 to, and that, essentially -- uh, maybe I misunderstood
24 you, uh, that I was being forced to file a statutory
25 discretionary writ when what I'm actually filing is



1 something that's not discretionary and in the court's
2 original jurisdiction. So --

3 Levitan: Sir, I -- I u- -- un- -- I understand your concern.
4 You -- you've now articulated that. I -- I -- I
5 believe that I have answered your question.

6 Bereki: Okay. So -- so, I just want to make sure that I
7 understand. I have to file it under the rules of Rule
8 20, which basically means that it has to be filed
9 almost as a pe- -- like, the -- the petition for writ
10 of certiorari, which is what you said in your letter,
11 correct? Mm, yes.

12 Levitan: Uh-huh. Uh, I -- I mean, right, yes. I mean, it --
13 it needs to follow the form of a petition for a writ
14 of certiorari prescribed by Rule 14. So, you need to
15 have all the same sections, the questions presented,
16 et cetera, but -- but it is a petition for a writ of
17 habeas corpus.

18 Bereki: Okay. And there's -- there's no other way to get
19 around f- -- uh, filing this unless I follow these f-
20 -- this format, even though, um -- yeah. Uh, I mean -
21 -

22 Levitan: That's right. There is no other way to get around it.
23 I- i- -- if you want to present to the justices of
24 this court and petition for a writ of habeas corpus,
25 it needs to be filed in accordance with Rule 20.



1 Berekı: Okay.

2 Levitan: Whether it's an original writ of habeas corpus, or a
3 writ of habeas corpus in any of the court's appellate
4 jurisdiction, doesn't matter. There's -- there's only
5 one way to file a petition for a writ of habeas
6 corpus.

7 Berekı: Okay. And --

8 Levitan: So --

9 Berekı: -- and just again, to make sure that I understand, um,
10 I -- I forget which rule it is, but the rule governing
11 an -- uh, an action in the -- the court's original
12 jurisdiction only applies to, uh, the filing of a
13 motion for leave to file, which, in this case, I don't
14 need to. So, that rule doesn't even apply here,
15 essentially.

16 Levitan: Right. And, I mean, that's really for a motion to
17 release the file of bill of complaint.

18 Berekı: O- -- okay. So, actually, what --

19 Levitan: (Inaudible - 00:04:01) totally different things. So
20 (inaudible - 00:04:03) --

21 Berekı: No -- no -- no --

22 Levitan: -- you're seeking a writ of habeas corpus, it's under
23 Rule 20.

24 Berekı: Okay. Here -- here's another thing that -- that I
25 needed to clarify, is that the petition I sent you was



1 in the form of, as I said, a writ of habeas corpus and
2 a writ of err, but it was also a suit against 16 state
3 and federal judges in the court's equity juris- --
4 original equity jurisdiction. It's a bill of
5 complaint for treason. I know that sounds crazy to
6 you, but if you -- that's the problem with using all
7 these rules, is, there's no actual procedure to do
8 what I'm trying to do, that I'm aware of, other than
9 filing a bill of complaint in the court's original
10 jurisdiction, which is what I did, and that's --
11 that's the issue. So, um, yeah, the -- the lower
12 courts, the state and federal courts in my case, as
13 crazy it m- -- as it may sound, are committing
14 treason, and this is why I'm in this court's original
15 jurisdiction, trying to file this complaint. And so,
16 if --

17 Levitan: Sir, if I could -- uh, I could be misremembering, I
18 mean, this was more than a week ago, I -- I do not
19 recall it being filed as a motion for leave to file a
20 bill of complaint.

21 Berekhi: Uh --

22 Levitan: You know, you -- you're -- you're welcome to correct
23 me if -- if -- if I'm misremembering, and then go
24 ahead and resubmit it, you know, that -- that --

25 Berekhi: Uh -- uh -- uh --



1 Levitan: -- (inaudible - 00:05:14) I -- I would not review
2 that, but it -- and, uh, you know, a- a- -- as it was
3 construed, when -- when -- when I looked at it, you
4 were -- you were trying to file a petition for a writ
5 of habeas corpus, and then, you know, al- -- you also
6 mentioned writ of err, for which there -- there is no
7 procedure.

8 Bereki: Okay. So -- so --

9 Levitan: So -- so, I mean, these -- these are distinct things.
10 Now, I mean, gen- -- uh, generally, a motion for leave
11 to file a bill of complaint is filed only by states,
12 so, you know, I'm not -- I'm not -- I'm not gonna get
13 too deep into the weeds on that with you right now,
14 you know, with -- without somebody looking at it, but
15 --

16 Bereki: W- w- --

17 Levitan: -- um, you know, it just --

18 Bereki: -- w- w- -- what --

19 Levitan: -- it sort of depends what you're trying to do. But -
20 -

21 Bereki: I -- I -- I --

22 Levitan: -- it -- they're not the same thing.

23 Bereki: I -- I -- Jake, I totally understand you, and -- and I
24 hope you -- you're able to feel that I'm not trying to
25 -- to cause any problems with the clerk, or you, or to



1 be argumentative in any way. What -- what I want more
2 than anything is to be able to work with you so that
3 we can find a solution to this, but this is -- the
4 problem with this is that these rules of court are
5 acting as -- as a blockade to actually submitting the
6 complaint that I'm trying to file, and there aren't
7 any clear rules for doing this. Do you see the
8 problem that could be there with that? So -- so --

9 Levitan: Mr. Bereki, uh, I -- uh -- uh, so, I very sincerely
10 appreciate that you -- you -- you have been polite,
11 you know, you have not been unprofessional, but I hope
12 that you can appreciate that, frankly, the rules of
13 the court are -- are not flexible. So, I mean, you
14 know, you -- you must -- if you are trying to present
15 a filing to this court, you must file in accordance
16 with the rules of the court.

17 Bereki: Okay.

18 Levitan: Okay?

19 Bereki: I -- uh, I understand that. So -- so, what I'm trying
20 to find out how to do is how to -- I shared with you -
21 - so, there's a couple of things m- -- I put the --
22 the complaint in the form of writ of err or a habeas
23 corpus, but within that, within the -- the writ of err
24 is a suit for restitution against 16 state and federal
25 judges, so that's a bill of complaint in and of



1 itself. I know it isn't -- it -- it's styled that
2 way, but it's not styled that way. When you read the
3 -- h- -- what the actual -- when you read the actual
4 complaint, itself, that's what it is in there, and
5 there is a prayer for relief with that -- with that,
6 uh, requested relief in there, but i- i- -- it -- it -
7 - um, so, uh, it's actually a bill of complaint, which
8 is why I sent you the, uh, motion for leave to file.
9 And I understand why you looked at it and you read the
10 caption on the front that said motion for leave to
11 file an emergency petition for writs of err and/or non
12 st- -- statutory habeas corpus, and you said whoa,
13 whoa, whoa, this isn't within the rules of the court
14 and sent it back, which -- but that's why I -- I b- --
15 uh, I thought what was going to happen was, the court
16 would say oh my gosh, what -- what -- what's going on
17 here, let's read into this a little bit and find out
18 what it is before we refuse to file it. But, um, that
19 apparently is not -- not what happened. So, it never,
20 in my understanding, correct me if I'm wrong, it never
21 made it to the justices, to look at it, to find out
22 what -- what should actually be done with it. Is that
23 correct?

24 Levitan: Yes, that's correct. I mean, yeah. Filings -- n- n-
25 -- filings that are in accordance with the rules of



1 the court are -- are -- are fairly cut and dry. So, I
2 mean, if -- if you're t- -- if you're filing a
3 petition for writ of habeas corpus, then you do so
4 under Rule 20. If you are filing a motion for leave
5 to file a bill of complaint, it needs to be styled as
6 such and -- and is in accordance with Rule 17.

7 Bereki: Okay.

8 Levitan: So, I mean, uh, yeah, I -- I -- there -- there's some
9 completion -- you know, I mean, you -- you cannot
10 combine those filings. I mean, if -- if -- if you
11 want to resubmit them, uh, as distinct filings, one in
12 accordance with Rule 20 and -- and the other in
13 accordance with Rule 17, I mean, we -- we -- we are
14 more than happy to take another look.

15 Bereki: Okay. Procedure -- okay. So, under the rule of --
16 uh, under Rule 17, though, if I file it as a bill of
17 complaint, there is no page limit, correct, and there
18 is no other -- uh, there would be no requirement for
19 me to file it under the procedures that are in Rule
20 20, correct?

21 Levitan: Um, as -- as I understand it, yes.

22 Bereki: Okay.

23 Levitan: That is correct.

24 Bereki: So, basically, in an original action, then, which is
25 what I intended to file, because, uh -- uh, um, I did



1 put on the second page, there, this is an or- -- uh,
2 original action, original writ, um, that --

3 Levitan: And sir, merely using the word original does not
4 constitute a -- a proper motion for leave to file a
5 bill of complaint.

6 Bereki: O- -- okay. I -- uh, I understand that. Um, but in -
7 - in the instance of -- that's the case, if I file a -
8 - a -- uh, a bill of complaint in the court's original
9 jurisdiction, there are essentially no rules
10 governing, uh, the -- the page limit or the format
11 style that I have to present this in, correct?

12 Levitan: Of that, I am honestly not certain. Um, I -- I -- I
13 would need to place you on hold, um, or -- or -- or
14 transfer you. So, wou- -- would -- would you mind
15 holding for a moment?

16 Bereki: Sure. Sure. Absolutely.

17 Levitan: Okay. Thanks. Mr. Bereki?

18 Bereki: Yes, sir.

19 Levitan: Thank you for holding. I -- I sincerely apologize for
20 the hold.

21 Bereki: No, no problem. I'm -- I'm -- I'm -- I'm happy to be
22 part of the solution.

23 Levitan: So, I was able to determine -- so, a motion for leave
24 to file a bill of complaint does need to be formatted
25 in accordance with Rule 33.1. And I found, uh, the



1 docket number for one that you can, uh, look at on our
2 public docket and use as an example if you'd like.

3 Bereki: Thank you so much. Okay. Which is that?

4 Levitan: That is 220150.

5 Bereki: Mm, O- -- 220150. Okay. What's the --

6 Levitan: O as in original, not zero.

7 Bereki: Oh, okay.

8 Levitan: 22- -- yeah. 220150. Just want --

9 Bereki: Okay. And what's the name of the case? Do you -- if
10 you --

11 Levitan: Uh, that is Arizona v. California.

12 Bereki: Okay, v. California. Okay.

13 Levitan: You'll see. So, you know, there -- there's their
14 motion for leave to file a bill of complaint, there's
15 the bill of complaint, and then they did, uh, include
16 a certificate of word count and a proof of service.
17 And then, if you look at, um, Rule 33.1G, there's, uh,
18 a chart in the rulebook, and you see the -- the very
19 first -- that's a motion for leave to file a bill of
20 complaint and breach of support is, uh, included under
21 the first type of document. So, there's a 9,000 word
22 limit, and the c- -- color of the cover is white.

23 Bereki: Okay. All right. I -- I -- I see the chart that
24 you're talking about, and I'll do that. Um, so, uh, I
25 just wanted to share something really quickly with



1 you, and -- and why I'm -- I'm having a little bit of
2 trouble with this. I -- you don't need to reply, or
3 anything, I just want to share two things really
4 quickly. O- -- one of them is, i- -- it's a quote
5 from this case, Nashville v. -- v. Wallace. It says
6 the Constitution does not require that the case or
7 controversy should be presented by traditional forms
8 of procedure invoking only traditional remedies. The
9 judiciary clause of the Constitution defined in
10 limited judicial power not the particular method by
11 which that power might be invoked. And the other one,
12 that was what the court said in Nashville v. Wallace,
13 and the other one is what the court said in Miranda v.
14 Arizona. They said where rights secured by the
15 Constitution are involved, there can be no rulemaking
16 or legislation that would abrogate them. So, do you
17 see th- -- the major conflict that the -- the court's
18 actual rulings are coming into conflict with having,
19 uh, petitions for rights secured under the
20 constitutions re- -- revoked because -- uh, or refused
21 to file because they're not in perfect compliance with
22 the -- the rules?

23 Levitan: Well, so, look, uh, and a- -- as you said, I -- I'm
24 not going to address that specifically. I would
25 encourage you, if -- if you're so inclined, to put



1 that in writing and include that along with your --
2 your filing.

3 Berekhi: Oh. Well, that's -- that's --

4 Levitan: (inaudible - 00:21:20) -- and --

5 Berekhi: -- that's -- that's --

6 Levitan: -- then -- and that'll -- that'll be reviewed by the
7 clerk.

8 Berekhi: Th- -- that's -- that's what's in my complaint, um,
9 Jake. That's -- these are the issues that I'm
10 addressing in the complaint. So, you can see why I'm
11 having so much trouble, because I'm addressing these
12 issues in the complaint, and then these rules that I'm
13 trying to challenge are being used to even forbid me
14 from challenging them. That -- th- -- that --

15 Levitan: Sir, look. I mean, if -- uh --

16 Berekhi: So -- so --

17 Levitan: -- if you think that you've identified a fundamental
18 contradiction, like, y- -- th- -- uh -- uh, I can only
19 speak to you in my official capacity as -- as an
20 employee of -- of the Clerk of this court, and the --
21 the -- the justices have devised and -- and revised
22 their own rules. You know, the -- the rules of the
23 court are approved by -- by all of the justices,
24 including the Chief Justice, and as I -- I -- uh, I
25 think I said to you yesterday, or the other day,



1 whenever we spoke, that the clerk receives documents
2 for filing with the court and has authority to reject
3 any submitted filing that does not comply with these
4 rules. So --

5 Bereki: And --

6 Levitan: -- I understand that you're -- that you're arguing
7 that it should be more flexible than that, and that
8 you think you n- -- you know, you've identified a way
9 to -- to sort of circumvent that, but, uh, I'm -- I'm
10 afraid that there's -- there's nothing that -- there's
11 nothing that I can do to -- uh --

12 Bereki: O- -- okay.

13 Levitan: -- to assuage that concern.

14 Bereki: A- a- -- and -- and -- and --

15 Levitan: So, I mean, if -- uh --

16 Bereki: And I appreciate what you're saying, totally. I
17 understand that -- that you -- the court gets
18 thousands upon -- tens of thousands of petitions, and
19 that there has to be some basic format for them. I
20 appreciate all of that. So -- so, let me ask you
21 this. Here -- here's what my -- my plan was gonna be,
22 and maybe you can facilitate this with me. I
23 absolutely, you know, want to do my best to follow the
24 procedures and -- and whatever, so that it makes it so
25 we can get my petition in there, so that the justices



1 can hear it, but I also had two other things that I
2 was gonna do. One is, I've already written a letter
3 to -- to Justice Thomas that I was going to send
4 restricted delivery today about this issue. Is there
5 a way that if I email that to you, you could get h- --
6 it to him or any of the justices for that matter?

7 Levitan: No. Absolutely cannot do that.

8 Bereki: Okay. And, um, how about --

9 Levitan: And, Adam, just -- j- -- just so that you're not
10 surprised by this, I -- I -- I suspect, you know,
11 typically, if -- if -- if a justice receives
12 correspondence that appears to pertain to filings
13 before the court, they typically just forward it down
14 to the clerk. Now, I mean, you know the -- Ju- -- uh,
15 Justice Thomas, or -- or, you know, who -- who --
16 whomever you address it to, um, is -- i- -- is
17 absolutely e- -- entitled to, you know, handle their
18 own incoming mail and correspondence as they see fit.
19 But I -- I would just -- I -- uh, I -- I --

20 Bereki: W- w- w- w- --

21 Levitan: -- want to let you know not to be surprised if that's
22 how it is (inaudible - 00:23:52).

23 Bereki: O- o- -- okay. But -- so -- so, my issue is, I'm
24 trying to save time, because I filed an emergency
25 petition and there are emergency issues in that



1 petition that I filed that's now been revoked. So,
2 I'm asking if, rather than going through the
3 restricted delivery process, if I emailed you that
4 letter and a copy of this petition that -- that got
5 refused, if you could have someone l- -- one of the
6 justices look at it to see that these are the issues
7 that are being challenged and to not --

8 Levitan: Yeah.

9 Bereki: -- refuse to file it.

10 Levitan: Mr. Bereki, I'm -- I'm -- I'm afraid the answer is
11 no. We -- we do not correspond via email, we do not
12 receive any filings via email, and we certainly do not
13 forward anything to chambers, uh, that -- that -- that
14 is email.

15 Bereki: Okay. So, even if I ordered you to do that, you would
16 not do it?

17 Levitan: Correct. I'm not sure what you mean by ordered, but
18 yeah, no, that -- that's --

19 Bereki: Well -- well --

20 Levitan: -- not -- it's not gonna happen.

21 Bereki: Wh- -- what -- what I mean by ordered is that I'm one
22 of the people of the United States and you're the
23 agent of this government. So, I'm ordering you to --
24 to file the petition that I'm sending in there that --
25 that is for deprivation of my rights, and I want you -



1 -

2 Levitan: Yeah. That's not gonna happen, sir.

3 Bereki: Okay. Okay. Well, thank you. Okay. So, um, thank
4 you for your help, Jake. I sure appreciate it.

5 Levitan: You're very welcome.

6 Bereki: Okay.

7 Levitan: Take care.

8 Bereki: Bye.

9 Levitan: Bye.

10 Bereki: Ooh. Holy shit. Oh my gosh.

11 Speaker: Was that the Clerk of the Supreme Court?

12 Bereki: Yes.

13 Speaker: Are you kidding me --

14

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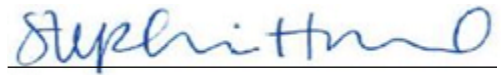
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