

2/5/19

No. 18-1051

IN THE
Supreme Court of the United States

CITY OF BOSTON INSPECTIONAL
SERVICES DEPARTMENT,

Respondent

v.

JAMES DICKEY,

Petitioner

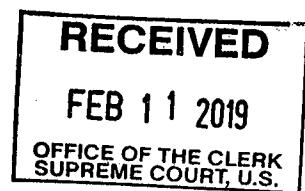
EAST FOURTH STREET, LLC

Defendant.

On Petition For A Writ Of
Certiorari To The Court of Appeals
For The First Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Court of Appeals for the First Circuit erred when it concluded that removal was inappropriate under the Civil Rights Removal Act, 28 U.S.C. §1443 and 42 U.S.C. §3617; and whether a detailed analysis was required before the case was remanded to the state court.

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Perez v. Boston Housing Authority, 3
379 Mass 703 (1980), 400 N.E.2d 1231

Constitutional and Statutory Provisions

42 U.S. Code § 3617 *passim*

28 U.S. Code §1443 *passim*

Mass General Laws,
Chapter 111, § 127I *passim*

Petition for a writ of Certiorari

James Dickey respectfully petitions for a Writ of Certiorari to the United States Court of Appeals for the First Circuit in this case.

Opinions Below

The judgement and order of the Court of Appeals for the First Circuit, (App. 1a), is unpublished. The order of the United States District Court, District of Massachusetts, (App. 2a) is unpublished.

Jurisdiction

The United States Court of Appeals for the First Circuit entered its final judgement on November 7, 2018. App. 1a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Constitutional and Statutory Provisions Involved

The Fifth Amendment to the United States Constitution protects the right to own private property.

The Fair Housing Act of 1968 prohibits discrimination due to race; 42 U.S. Code § 3617 makes it unlawful to interfere with any person who aids a person protected by the Fair Housing Act.

Statement of the Case

This action arose in response to a receivership action filed, pursuant to Mass. General Laws ch. 111 sec. 127I (the “Statute”), in the Eastern Division of the Housing Court (the “Housing Court”); the Petitioner alleges that the receivership action was filed for the purpose of selling the Petitioner’s real property to a friend of the court. The Petitioner further contends that the Statute, as being interpreted by Housing Court, violates the Fair Housing Act; as such, the receivership action was removable pursuant to 28 U.S.C. §1443 and 42 U.S.C. §3617.

Reason for Granting the Petition

The First Circuit’s decision is in Conflict with Georgia v. Rachel, 384 U.S. 780 (1966).

This Honorable Court should reverse the lower court’s remand order as the defendants cannot enforce in the Housing Court a right as the Housing Court has interpreted the Statute as to allow that court to seize and sell real property owned in the African-American section of the City of Boston to friends of the court for pennies on the dollar, (in violation of 42 U.S. Code § 3617). As fully explained in the defendant’s notice of removal and opposition to remand, the Statute allows a court to hire a contractor to repair a tenant

occupied building; the Housing Court has concluded that the Statute allows a court to implement a general receivership, which in turn allows a court appointed receiver to step into the shoes of the owner and sell the subject property to an associate, (please note that the receiver is executing a deed to sell the property within the receivership action, as opposed to foreclosing on his lien which would occur after the receivership action is complete and dismissed).

In *Perez v. Boston Housing Authority*, 379 Mass 703 (1980), 400 N.E.2d 1231, the Massachusetts Supreme Judicial Court concluded that the Statute allows the Housing Court to implement general receiverships; in response to the *Perez* ruling the Massachusetts Legislative amended the Statute to stop the implementation of general receiverships, and further inserted into the Statute that the receiver's "rights, duties and powers shall be specified by the court in accordance with the provisions of this section". *Mass. Gen. Law chapter 111, section 127I*. The Statute, as amended, does not allow the Housing Court's receivers to seize and sell the property of African-Americans to their friends.

To date, the Housing Court has ignored the amendments to the Statute and continues to target property located in the African-American section of

the City of Boston,¹ seizing property (mostly) owned by African-Americans for the purpose of selling the property to friends of the court for pennies on the dollar.²

As in Georgia v. Rachel, 384 U.S. 780 (1966), the Federal District Court remanded this case without hearing, the defendants have had no opportunity to establish that the anticipated seizure and sale of their real property is due solely to racial reasons. If the Federal District Court finds this allegation true, the defendants'

¹ The area targeted by the above mentioned interpretation of the Statute, being the African-American section of the City of Boston, (in which the Petitioner's property is located), was established by the Massachusetts Attorney General as part of the Attorney General's office Safe Neighborhood Initiative, as more fully described in the 1998 Attorney General's Report.

² As the Statute provides the receiver with the ability to obtain a first place lien on the subject property, no bank will finance the property during the receivership action, which enables the receiver to sell the property to a friend. While the court appointed receiver might go thru the motions of attempting to sell the property, as any legitimate buyer cannot obtain financing, he then sells the property to a friend. As further proof of these transactions, the Petitioner submitted twelve deeds to the lower court executed by Housing Court appointed receivers within the African-American section of the City of Boston: Suffolk County Registry of Deed book 53604.37, 25738.105, 25803.224, 25803.230, 25836.210, 36160.050, 36717.104, 44843.7, 51429.223, 53286.282, 58299.47, and 30208.207.

right to removal under 1443 (1) will be clear. The Strauder-Rives doctrine requires no more, the decisions of the lower courts clearly are without detailed analysis of the likely behavior of the state court.³ If upon such a finding that it will be apparent that the racially motivated sale of the defendants' real property is not allowed by the Statute in any court, then the Federal District Court must sustain the removal and dismiss the prosecutions. *Georgia v. Rachel*, 384 U.S. 780, 805-806 (1966).

Conclusion

As the lower courts failed to conduct further fact finding, the Petitioner now requests that the petition for writ of certiorari be granted.

Respectfully submitted,

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February 4 2019 978 443 2504

³ On remand, the Housing Court ordered that the Petitioner's real property be listed for sale, (MLS #72440637), the court appointed receiver is currently reviewing offers.