

In The Supreme Court of the United States

Olandio Ray Workman, Petitioner

v.

Robert Perry, Respondent

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Fourth Circuit

**RESPONDENT'S BRIEF IN OPPOSITION
TO THE PETITION FOR
WRIT OF CERTIORARI AND
MOTION TO PROCEED IN FORMA PAUPERIS**

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INTRODUCTION

The Respondent files this Brief in Opposition to Mr. Workman's Petition for Writ of Certiorari as required by Rule 15 of the *Rules of the Supreme Court of the United States* to address misstatements of fact and law set forth in Mr. Workman's Petition. The Respondent contends that the United States District Court for the District of South Carolina and the Fourth Circuit Court of Appeals reached correct decisions and that Mr. Workman's Petition should not be granted in this case. *See Workman v. Perry*, No. 6:17-CV-02136-RBH, 2018 WL 3322972 (D.S.C. July 6, 2018), *aff'd*, No. 18-6933, 2018 WL 6787465 (4th Cir. Dec. 26, 2018). The Respondent also contends that Mr. Workman's Motion to Proceed In Forma Pauperis should be denied due to Mr. Workman's multiple federal court filings that have been dismissed and due to the fact that the Fourth Circuit Court of Appeals ordered the payment of fees by installments in the underlying case on which Mr. Workman's Petition is based. *See Workman v. Perry*, No. 6:18-CV-1331-AMQ-KFM, 2018 WL 4501092, at *1, footnote 2 (D.S.C. May 25, 2018), *report and recommendation adopted*, No. CV 6:18-1331-HMH-KFM, 2018 WL 4489709 (D.S.C. Sept. 19, 2018) (noting Mr. Workman has filed 18 separate cases in the District Court since his incarceration at the GCDC, *citing* C.A. Nos. 16-4002, 17-355, 17-765, 17-766, 17-767, 17-972, 17-1208, 17-1229, 17-2136, 17-2190, 17-2387, 17-2388, 17-2832, 17-2846, 17-3046, 17-3416, 18-355, 18-1244); *see also* No. 18-6933 (Doc No. 6, Order on payment of fees); 28 U.S.C.A § 1915(g). More than three of these cases have been summarily dismissed for failure to

state a claim. *See, e.g., Workman v. Vandermosten*, No. 617CV00766RBHKFM, 2017 WL 4776717 (D.S.C. Oct. 23, 2017), *appeal dismissed*, 717 F. App'x 338 (4th Cir. 2018), *reh'g denied* (May 23, 2018); *Workman v. Greenville Cty. Council*, No. 6:17-CV-02846-RBH, 2018 WL 1912769 (D.S.C. Apr. 23, 2018); *Workman v. Gorton*, No. 6:17-CV-02190-RBH, 2017 WL 4968605 (D.S.C. Nov. 1, 2017), *aff'd*, 717 F. App'x 343 (4th Cir. 2018).

Mr. Workman is currently incarcerated with the South Carolina Department of Corrections after being sentenced to 15 years for kidnapping and related charges. During his incarceration in the Greenville County Detention Center and while his charges were pending, Mr. Workman filed a 42 U.S.C. § 1983 complaint alleging Mr. Perry, who is a deputy employed by the Greenville County Sheriff's Office, looked inside the mailbox at Mr. Workman's house in Piedmont, South Carolina, without a search warrant. *See Workman, supra*, 2018 WL 3322972, at p. 2.

Mr. Perry filed a motion for summary judgment with several exhibits, including an affidavit in which he avers, "I have never opened Olandio Workman's mailbox" *Id.* at p. 4. Mr. Workman did not submit any evidence in support of his allegations or in opposition to the Respondents' Motion for Summary Judgment. *Id.* Mr. Workman takes issue with the unpublished opinion issued by the Fourth Circuit Court of Appeals on October 26, 2018. *Workman v. Perry*, No. 18-6933, --- Fed.Appx. ----, 2018 WL 6787465 (4th Cir. Dec. 26, 2018).

ARGUMENT

The Respondent objects to the Petition on the grounds that it contains misstatements of fact. Additionally, the Respondent contends that the Petition does not set forth a compelling reason for the Petition to be granted as required by Rule 14 of the *Rules of the Supreme Court of the United States*. Mr. Workman has not set forth any conflicts among decisions of the United States Courts of Appeals. *Id.* The Petition also does not involve any decision by a state court. *Id.*

The Respondent specifically disagrees with the Questions Presented in Mr. Workman's Petition. The Respondent and/or his attorney did not "knowingly and willfully with corruptly (sic) intent deliberately file false documentation in the United States Supreme Court...." Further, the Respondent contends that Mr. Workman's constitutional rights and/or civil rights were not violated.

In his Statement of the Case, Mr. Workman alleges that Robert Perry and his lawyer, James P. Walsh, knowingly and willfully filed a deliberately reckless false affidavit with the Court. Mr. Workman also alleges that Robert Perry went through his mailbox, reading his mail without a search warrant. Mr. Workman also alleges misuse of power and alleged constitutional violations.

The Respondent specifically refutes these allegations. Further, the Respondent points out that Mr. Workman does not allege that the alleged search of his mailbox led to the discovery of evidence which resulted in any criminal charges. None of the charges filed against Mr. Workman arose out of the discovery of evidence in the

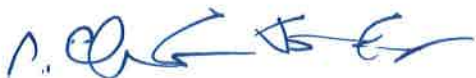
mailbox. The Respondent also disagrees with the monetary relief Mr. Workman seeks from the Respondent and his attorney in the amount of \$18,000,000.00 each, for total relief in the amount of \$36,000,000.00.

As indicated in the decision issued by the District Court, the Eleventh Amendment bars Mr. Workman from suing Mr. Perry for monetary damages in his official capacity. *See Workman, supra*, at pp. 4-5. Further, Mr. Workman's individual capacity claims failed because he failed to present any actual evidence contradicting the sworn statement in Mr. Perry's affidavit that he never opened Mr. Workman's mailbox. *Id.*

CONCLUSION

As set forth above, Mr. Workman does not set forth a compelling reason why his Petition should be granted as required by Rule 14 of the *Rules of the Supreme Court of the United States*. The Respondent respectfully requests that the Petition be denied.

Respectfully submitted,



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