ORIGINAL

No. 18-8248

IN THE

SUPREME COURT OF THE UNITED STATES

HERSY JONES, JR.---- PETITIONER

vs. —

LOUISIANA SUPREME COURT, ET AL ---- RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

HERSY JONES, JR.
461 KEMPER STREET
SHREVEPORT, LA 71106
318-564-8431

QUESTIONS PRESENTED FOR REVIEW

(1) Does Rooker Feldman bar a disbarred attorney from seeking damages and equitable relief under Sec. 1983, due to alleged violations of his federal rights during the state proceedings when the order of disbarment was entered by the Louisiana Supreme Court while hearing the case initially, and not on review from a lower court, and not granting the disbarred attorney a predisbarment hearing, and whose rules do not provide for any hearing or appeal of such order?

(2) Because the defendant only filed a 12(b)(1) motion based on the Rooker Feldman doctrine, which such motion was granted by the District Court, did the Appellate Court commit error in dismissing Appellants claims which were not subject to Rooker Feldman?

(3) Was the Honorable District Court Judge Maurice Hicks required to recuse himself due to his prior appointment by the Louisiana Supreme Court to its Committee on Admissions?

(4) Did the Panel err in not addressing the other rulings of District Court such as the Default Judgment and Plaintiff's Motion to file an Amended Complaint?

PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

HERSY JONES, JR.

LOUISIANA STATE SUPREME COURT

LOUISIANA ATTORNEY DISCIPLINARY BOARD

ROBERT S. KENNEDY, DEPUTY DISCIPLINARY COUNSEL

CHARLES PLATTSMIER, CHIEF DISCIPLINARY COUNSEL

HON. BERNADETTE JOHNSON, CHIEF JUSTICE OF LOUISIANA SUPREME COURT

ATTORNEY LESLIE SCHIFF (PROPOSED AMENDED COMPLAINT)

ATTORNEY JOSEPH WOODLEY (PROPOSED AMENDED COMPLAINT)

MARTHA MINNIFIELD ALSTON (PROPOSED AMENDED COMPLAINT)

HON. PASCAL CALOGERO (PROPOSED AMENDED COMPLAINT)

WILLIAM D. AARON (PROPOSED AMENDED COMPLAINT)

CHARLES C. BEARD, JR. (PROPOSED AMENDED COMPLAINT)

MARTIN L. CHECHOTSKY (PROPOSED AMENDED COMPLAINT)

JAMES DAGATE (PROPOSED AMENDED COMPLAINT)

WANDA ANDERSON DAVIS (PROPOSED AMENDED COMPLAINT)

LEV M. DAWSON (PROPOSED AMENDED COMPLAINT)

MICHAEL S. WALSH (PROPOSED AMENDED COMPLAINT)

JOSEPH R. WARD (PROPOSED AMENDED COMPLAINT)

DENNIS HENNEN (PROPOSED AMENDED COMPLAINT)

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is unpublished.

BASIS OF JURISDICTION

The date on which the United States Court of Appeals decided my case was _October 17, 2018.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 26, 2018, and a copy of the order denying rehearing appears at Appendix _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED HEREIN

42 U.S. Code § 1983.Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(R.S. § 1979; Pub. L. 96–170, § 1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104–317, title III, § 309(c), Oct. 19, 1996, 110 Stat. 3853.)

STATEMENT OF CASE

Petitioner filed a 42 U.S.C. Sec. 1983 action seeking damages and injunctive relief with respect to alleged violations of his civil rights occurring during his Louisiana disciplinary proceedings. Petitioner's allegations included that the Office of disciplinary counsel was utilizing the state's attorney disciplinary rules to retaliate against Petitioner. The Office of disciplinary counsel alleged the attorney violated its disciplinary rules against solicitation after receiving a complaint alleging Petitioner asked a grieving mother to meet with him about "white police officers killing our African American males without cause". Petitioner also alleged that disciplinary counsel filed charges without probable cause, as the Hearing Committee found in Petitioner's favor on several of the charges filed, alleged the disciplinary counsel substituted and switched the charges in the middle of the proceedings, alleged the disciplinary counsel continued to prosecute charges which the Hearing committee had rejected, falsely telling the Supreme Court that Petitioner confessed to signing client's name without client's permission when in fact the committee had rejected the charge of conversion. Petitioner alleged that deputy disciplinary counsel deliberately concealed his personal relationship with a former fired employee of Petitioner and falsely instructed the Hearing Committees that Petitioner was obligated to recommend arbitration if a fee dispute arose. Also, petitioner alleged that, after disciplinary counsel prosecuted Petitioner, he failed to similarly charge white lawyers which also having fee disputes. In addition to

damages, Petitioner asked the federal court to enjoin the Louisiana Supreme Court from preventing him from practicing law in the future, enjoin the it from overseeing African American lawyers and enjoin the arbitrary and capricious application of the its disciplinary rules. In neither the original or proposed Amended Complaint did Appellant ask the court to declare the Order of disbarment void or to overturn the Order.

The Louisiana Supreme Court did not answer timely, resulting in Petitioner obtaining a default, which the District Court refused to confirm, arguing that the Rooker Feldman doctrine deprived it of jurisdiction.

The Fifth Circuit Opinion did not expressly address the District Court's rulings with respect to the following matters: (1) The Default by the Louisiana Supreme Court, (2) The Amended Complaint, and (3) Whether All of Appellant's issues were "independent claims", and (4) Appellant's request for equitable relief.

REASONS FOR GRANTING THE WRIT

Petitioner ask this Honorable to Grant Writs to make clear that a Louisiana law has constitutional protection against a Disciplinary system that prosecutes attorneys in a arbitrary and capricious fashion without fear of federal court intervention.

In upholding the dismissal the Petitioner' s lawsuit based on the Rooker-Feldman doctrine, the Fifth Circuit without elaboration cited its prior opinion in Liedtke v. State Bar of Tex., 18 F.3d 315, 317-318 (5th Cir. 1994)(cert. denied. 1994 U.S. LEXIS 6821(October 3, 1994). The Liedtke court stated the following:

> "Liedtke understandably contends that his disbarment violated due process in that he was not afforded a full and fair opportunity to be heard. He vigorously argues that the judgment of the state district court should be deemed void and unenforceable. ....We have no alternative but to affirm the decision of the federal district court dismissing Liedtke's claims for lack of jurisdiction. ... We do as we must."

Id., at 317-318.

Liedtke appears to justify its view that a Sec. 1983 lawsuit was an impermissable collateral attack on the state court judgement pursuant to the Rooker Feldman doctrine, as well as, the silence of Congress.

However, a scrutiny of Liedtke, and cases on which it relies, reveals that it actually based on Fifth Circuit precedent which predates this Court's 1986 holding in Feldman. See, Hale v. Harney, 786 F.2d 688 (5th Cir. 1986)("A lengthy line of decisions in our court, commencing with Sawyer v. Overton, 595 F.2d 252 (1979)

and Kimball v. The Florida Bar, 632 F.2d 1283 (1980), holds that litigants may not obtain review of state court actions by filing complaints about those actions in lower federal courts cast in the form of civil rights suits.")(Emphasis added.) Also, see, Julia McCain Lampkin-Asam v. The Supreme Court of Florida, 601 F.2d 760 (5th Cir. 1979):

> "This Court has held on numerous occasions that federal district courts do not have jurisdiction under 42 U.S.C. § 1983 or any other theory to reverse or modify the judgments of state courts. Cheramie v. Tucker, 493 F.2d 586, 589 (5th Cir.), Cert. denied, 419 U.S. 868, 95 S. Ct. 126, 42 L. Ed. 2d 107 (1974); Hill v. McClellan,...)."

Notwithstanding the Fifth Circuit's citation to Rooker Feldman in Liedtke, Julia McCain Lampkin-Asam reveals that the Fifth Circuit is really relying on its incorrect interpretation of Sec. 1983 as not reaching the acts of state court judges. But see, Supreme Court v. Consumers Union of United States, 446 U.S. 719 (June 2, 1980):

> "[W]e have held that judges defending against § 1983 actions enjoy absolute immunity from damage liability for acts performed in their judicial capacities. Pierson v. Ray, 386 U. S. 547 (1967); Stump v. Sparkman, 435 U. S. 349 (1978). However, we have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts."

Id, at 734-735.

The Fifth Circuit in relying on Liedtke disregards the dire warning issued by this Court that Rooker Feldman doctrine and rational must not be contaminated with preclusion principles, otherwise it will create an unintended, unrecognizable and

uncontrollable Frankinstein! See, Lance v. Dennis, 546 U.S. 459 (2006)("Incorporation of preclusion principles into Rooker-Feldman risks turning that limited doctrine into a uniform federal rule governing the preclusive effect of state-court judgments, contrary to the Full Faith and Credit Act.") A review of Liedtke's application in the Fifth Circuit reveals such an uncontrollable "jurisdictional rule" that, not only overrides Supreme Court precedent but also overrides the intent of Congress.

This Court has not wavered from its understanding about the intent of Congress as to the broad reach of Sec. 1983. See, Allen v. McCurry, 449 U.S. 90, 173-174, 176(1980)("In reviewing the legislative history of § 1983 in Monroe v. Pape, supra, the Court inferred that Congress had intended a federal remedy in three circumstances: where state substantive law was facially unconstitutional, where state procedural law was inadequate to allow full litigation of a constitutional claim, and where state procedural law, though adequate in theory, was inadequate in practice. In short, the federal courts could step in where the state courts were unable or unwilling to protect federal rights.")

Concerns about sec. 1983 being used as a tool for collateral attack against state court judgments were address by this court in Pulliam v. Allen, 466 U.S. 522, 539 (1984)("The other concern raised by collateral injunctive relief against a judge, particularly when that injunctive relief is available through § 1983, relates to the proper functioning of federal-state relations. Federal judges, it is urged, should not

sit in constant supervision of the actions of state judicial officers, whatever the scope of authority under § 1983 for issuing an injunction against a judge.")

"Subsequent interpretations of the Civil Rights Acts by this Court acknowledge Congress' intent to reach unconstitutional actions by all state actors, including judges." Id., at 540.

Hence, arguably the foundation on which Liedtke rests is not Rooker Feldman but a flawed interpretation of Sec. 1983, namely that Congress, via Sec. 1983, did not grant federal district courts the power to hear any case involving allegations against a state judge, and thus the doors of federal courts are closed to any allegation involving a state judge, even if the state official has utilized a state's attorney disciplinary rules to retaliate against an attorney, alleging the attorney violated its disciplinary rules because he asked to meet with a grieving mother about "white police officers killing our African American males without cause", or allegations that disciplinary counsel filed charges without probable cause, allegations that disciplinary counsel substituted and switched the charges in the middle of the proceedings, or allegations that disciplinary counsel deliberately concealed his personal relationship with one of the complainants, feigning as if he did not know her, or misleading the Hearing Committees that the rules required the attorney to recommend arbitration, when in fact it did not.

This Court has clearly established that disbarment procedures due to potential damage to the good name of a person clearly requires due process protection. Hence,

it cannot be asserted that plaintiff has failed to state a constitutional violation in his Sec. 1983 lawsuit, which alleged he was disbarred without a hearing and even without state constitutional right not to lose his license prior to receiving judicial review.

The Court articulated this principle most clearly in *Wisconsin v. Constantineau,* 400 U.S. 433, 91 S.Ct. 507, 27 L.Ed.2d 515 (1971), by asserting that "[w]here a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential". *Id.* at 437, 91 S.Ct. at 510.

The Fifth Circuit's ruling, though consistent with other circuits, nevertheless conflicts with others. Namely the Fourth, Seventh and Eleven Circuits of Appeal.

The 5th Cir. Approach directly contradicts the 4th Cir.'s application of Rooker Feldman to a Sec. 1983 lawsuit.

> " Rather, the district court's concern that it could not rule in Thai Palace's favor without attributing error to the state court amounted to the application of traditional preclusion principles. At bottom, we conclude that this federal action, commenced by Thai Palace under 42 U.S.C. § 1983 and alleging injury inflicted by actions of a state administrative agency, qualifies as an independent, concurrent action that does not undermine the Supreme Court's appellate jurisdiction over state court judgments, and accordingly the Rooker-Feldman doctrine does not apply. Of course, this is not to say that this action can continue if it is barred under state preclusion principles. Nonetheless, in this posture at this time, we must reverse the district court's Rooker-Feldman ruling and remand for further proceedings."

THANA v. BD. OF LICENSE COM. FOR CHARLES COUNTY 827 F.3d 314, 322-323 (4th Cir. 2016).

THANA v. BD. OF LICENSE COM. FOR CHARLES COUNTY 827 F.3d 314 (4th Cir. 2016)(Holding that Thai Palace has, with this action, commenced an independent, concurrent action challenging actions by a state administrative agency. Because Thai Palace did not request the district court to conduct appellate review of the state court judgment itself, the Rooker-Feldman doctrine does not apply. Id, at 321("State administrative decisions, even those that are subject to judicial review by state courts, are beyond doubt subject to challenge in an independent federal action commenced under jurisdiction explicitly conferred by Congress.") Id., at 321("Nowhere in its complaint did Thai Palace seek review of the judgment of the Circuit Court for Charles Country. Instead, as the district court acknowledged, its claims are premised on injuries allegedly caused by the Board. Because Thai Palace's federal action does not seek redress for an injury allegedly caused by a judgment of a state court, the Rooker-Feldman doctrine does not apply."

Id, at 321-322

The Fourth Cir. Also stated that the differences between the two proceedings demonstrate that this federal action must be seen as an independent, concurrent

action that does not undermine the Supreme Court's jurisdiction over any state court judgment. ... The state proceeding in this case was an agency-initiated proceeding, in which limited and deferential judicial review was afforded. The agency's authority extended only to issuing, modifying, and revoking Thai Palace's alcoholic beverage license, and judicial review was limited to determining whether the Board's decision was "supported by substantial evidence" and whether the Board "committed [an] error of law."

Other Circuits have applied Rooker Feldman similar to the Fifth Circuit, and contrary to the Fourth Circuit.

See, Wilson v. Shumway, 264 F.3d 120(1st Cir. Sept. 10, 2001)

"Wilson claims that the Rooker-Feldman doctrine should not be applied to cases brought under 42 U.S.C. § 1983. While acknowledging that this circuit has dismissed § 1983 suits pursuant to Rooker-Feldman, Wang, c 55 F.3d at 703, Wilson urges us to overrule this precedent for the reason that § 1983 has its own jurisdictional provision granting original jurisdiction to the federal district courts. 28 U.S.C. § 1343(a)(3). We are not persuaded by this argument and decline to reverse our prior determination that the Rooker-Feldman doctrine is applicable to cases brought under 42 U.S.C. § 1983.)"

Also see, Wang v. New Hampshire Bd. of Registration in Medicine, 55 F.3d 698,703(1st Cir.1995) (Ruling Rooker Feldman prevented court from hearing his due process claim, which was also argued in his appeal from the New Hampshire Board's license revocation order to the New Hampshire Supreme Court, that the procedure by which his medical license was revoked failed to afford him due process of law.)

Like the Fifth Cir., the 2nd Cir. has interpreted Rooker Feldman as to exempt the unconstitutional acts of judges if it finds that federal claims based on acts of a 3rd party are nevertheless "inextricably intertwined" with the state court judgment. See, Hoblock v. Albany County Bd. of Elections, 422 F.3d 77 (2nd Cir. 2005)("Are the voters' federal constitutional claims independent of the state-court judgment, or does the voters' federal suit assert injury based on a state judgment and seek review and reversal of that judgment (i.e., are the voters' federal claims 'inextricably intertwined' with the state judgment)?")

Contrary to this Court's holding in Skinner, recognizing the properly pled sec. 1983 claims as "independent" of state court judgment, the 2nd Cir. has continued to require the Sec. 1983 claims involving state cout judges differently from those involving other state officials. **See, Sung Cho v. City of New York, 910 F.3d 639, 647(2nd Cir 2018)(** " Defendants point us towards Fraccola, 670 F. App'x at 34, and Niles v. Wilshire Investment Group, LLC, 859 F. Supp. 2d 308 (E.D.N.Y. 2012), as persuasive precedent to the contrary. However, both of those cases involved alleged

judicial misconduct and/or named the judges as defendants, and thus are easily distinguishable. ")

However, the 2nd Cir has made clear that it is still in need of further guidance from this court. " Exxon Mobil declares these requirements but scarcely elaborates on what they might mean. The Court does, however, give some negative guidance as to what cases are not captured by the requirements." See, Hoblock, supra, at 86.

See, Sibley v. Lando, 437 F.3d 1067, 1070 (11th Cir. 2005)("We reject, from the outset, the use of § 1983 as a device for collateral review of state court judgments. Cf. Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 125 S. Ct. 1517, 1521-22, 161 L. Ed. 2d 454 (2005)). Moreover, the Sibley court further stated: "With regard to Sibley's § 1983 claims against Judge Lando, the district court properly concluded that Judge Lando had judicial immunity from Sibley's claims, because, by issuing the writ of bodily attachment, Judge Lando was committing a judicial act." Sibley, supra, at 1071. **In,** Fraccola v. Grow, 670 Fed. Appx. 34 (2nd Cir. 2016), the 2nd Cir. Affirmed the dismissal on Rooker Feldman grounds of claims alleging a state court judge violated plaintiff's rights by ordering a stipulated settlement that resolved a business dispute between Fraccola and Fraccola's ex-wife.], and sought damages, injunctive relief, and declaratory relief.

See, Hall v. Callahan, 2013 U.S. App. LEXIS 14520(6th Circuit . 2013)(Refusing to recognize state court judge as third party injury independent of Rooker Feldman based on purported holding of McCormick v. Braverman., supra)

However, the Sixth Cir. does not follow the "inextricably intertwined" analysis. See, Kovacic v. Cuyahoga County Dep't of Children & Family Servs., 606 F.3d 301, 309 (2010)("[T]he pertinent inquiry after Exxon is whether the 'source of the injury' upon which plaintiff bases his federal claim is the state court judgment, not simply whether the injury complained of is 'inextricably intertwined' with the state court judgment: The inquiry [focuses on] the source of the injury the plaintiff alleges in the federal complaint. If the source of the injury is the state court decision, then the RookerFeldman doctrine would prevent the district court from asserting jurisdiction. If there is some other source of injury, such as a third party's actions, then the plaintiff asserts an independent claim. Id. (emphasis in original). Here, Plaintiff alleges that the source of their injury is the constitutional violations allegedly perpetrated by Defendant, not the dismissal of the foreign support order by the state court (Docket No. 20, p. 26 of 28).

See, McCormick v. Braverman, 451 F.3d 382, 393, 399 (6th Cir. 2006)(Refusing to apply Rooker Feldman to plaintiff that lost in state proceeding because a third party perpetuated fraud and misrepresentation, which caused an adverse judgment against the plaintiff, and dismissing the claims against the state judge only on basis of failure to state a claim.)

Additionally, the Seventh Circuit addresses Sec. 1983 claims differently from 5th, 2nd, 1st and 11th'. See, Edwards v. Ill. Bd. of Admissions to Bar, 261 F.3d 723, 729 (7th Cir. 2001)(An alleged injury is "independent" if the state court was acting in a non-judicial capacity when it affected the plaintiff—for example, if the state court was "promulgating rules regulating the bar.")

Moreover, the Fifth Circuit's ruling has applied Rooker Feldman in a way that conflicts with a decision by a state court of last resort, namely that a petitioner is not precluded from seeking damages after being disciplined by a state administrative body having exclusive and original jurisdiction

The Fifth Circuit opinion herein, in applying the Rooker Feldman doctrine to the Order by the Louisiana Supreme Court necessarily implied that the Order or Judgment issued by the Louisiana Supreme Court covered Petition's claim for damages with respect to violations of his federal rights arising during such administrative proceedings, contradicts with two opinions issued by the Louisiana Supreme Court that state administrative agencies, such as the Louisiana Supreme Court, exclusively responsible for overseeing and disciplining certain professions do not have the power to hear damage claims. See, Huval v. State, 222 So. 3d 665, 671-672(La. May 3, 2017):

> "Certainly plaintiffs' terminations from the State Police, even if due to alleged violations of employment policy and state law, are at the heart

> of their civil suit. This would seem to indicate that La.Const. art. X, § 50 provides for the State Police Commission to have jurisdiction over such a matter. The State Police Commission can hear claims related to removals based on alleged violations of employment policy and state law; however, it is powerless to award damages for the type of tort damages sought by plaintiffs. Plaintiffs specifically allege tortious conduct occurred when the State Police twice took its 'fabricated' investigative findings to the Lafayette Parish District Attorney and requested a grand jury hearing on the matter."

Also, see Louisiana Department of Agriculture & Forestry v. Sumrall, 728 So.2d 1254, 1264(La. 3/2/99) (Holding damage claims outside the scope of the Civil Service commission could be brought in a state district court, and a rule issued by Louisiana Civil Service restricting such was unconstitutional, even though the Louisiana Constitution Article X, § 12(A) provides, in pertinent part that "[t]he State Civil Service Commission shall have the exclusive power and authority to hear and decide all removal and disciplinary cases.")

Hence, under Louisiana law, a grant of "exclusive jurisdiction" to the state entity such as the Louisiana Supreme Court, as in Louisiana Constitution Article V, Sec. 5(B) providing that "[t]he supreme court has exclusive original jurisdiction of disciplinary proceedings against a member of the bar" should not be interpreted as stripping the Appellant of his right to pursue damages for torts occurring during the disciplinary proceedings.

Each case makes clear that under Louisiana law only the district courts have power to hear claims for damages due to the alleged violation of a complainant's rights, and thus make clear that Petitioner could not have raised his claim for damages in the Louisiana disciplinary proceedings, as is implied by the Fifth Circuit's decision.

Moreover, the Fifth Circuit's disregard of this Court's precedent as expressed in Liedtke is consistent with other cases involving 42 U.S.C. Sec. 1983. See, Elzy v. Roberson 868 F.2d 793 (1989), decided March 30, 1989, which directly contradicts the Court's ruling in Owens vs Okure, 488 U.S. 235(1989) which held New York's one-year statute of limitations for filing personal injury actions violated federal policy. The court in Elzy, three months after this Court's ruling in Owens vs. Okure, disregarded its holding that a one (1) year statute of limitations violated public policy and as such could never be the appropriate state statute. IN reaffirming its selection of Louisiana's 1 year statute of limitations, it overlooked Louisiana's general and residual personal injury statute containing a 10 year term.

As it now stands, unlike the remainder of the country, Sec. 1983 plaintiffs whose cause of action arise in Louisiana face a 1 year filing deadline.

Petitioner asserts that an important question of federal law has not been expressly settled by this Court, namely can the Rooker Feldman doctrine be utilized to override the explicit unrefutable intent of Congress to shut the doors of federal district courts on Sec. 1983 plaintiffs seeking redress for unconstitutional acts by state court judges in state court proceedings.

Petitioner asserts that this Court in 2011 overruled the Fifth Circuit's application of the Rooker Feldman doctrine to uphold the dismissal of a Sec. 1983 lawsuit. See, Skinner v. Switzer, 562 U.S. 521, 131 S. Ct. 1289, 1297-98, 179 L. Ed. 2d 233 (2011)

However, the Fifth Circuit's continued to cite Liedtke for the proposition that federal district courts did not have jurisdiction over suits mounting a collateral attach against state court judgments even if such suits were properly pled Sec. 1983 suits, reflecting its view that Liedtke had not been overruled by the Court or Congress.

In Weaver v. Tex. Capital Bank N.A., 660 F.3d 900 (5th Cir. 2011):
"Under the Rooker-Feldman doctrine, "federal district courts lack jurisdiction to entertain collateral attacks on state court judgments." Liedtke v. State Bar of Tex., 18 F.3d 315, 317 (5th Cir. 1994). A state court judgment is attacked for purposes of Rooker-Feldman "when the [federal] claims are `inextricably intertwined' with a challenged state court judgment," Richard v. Hoechst Celanese Chem. Grp., Inc., 355 F.3d 345, 350 (5th Cir. 2003), or where the losing party in a state court action seeks "what in substance would be appellate review of the state judgment." Johnson v. De Grandy, 512 U.S. 997, 1005-06, 114 S. Ct. 2647, 129 L. Ed. 2d 775 (1994). The doctrine, however, does not preclude federal jurisdiction over an "independent claim," even "one that denies a legal conclusion that a state court has reached." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 293, 125 S. Ct. 1517, 161 L. Ed. 2d 454 (2005). "

This citation in Weaver, which was not a Sec. 1983 case, reflects that to the Fifth Circuit neither this Court or Congress has resolved the issue, namely does the Rooker Feldman doctrine trump a Sec. 1983 case involving allegations about a state court judge.

The Fifth Circuit's opinion contradicts with this Court's Opinion in Skinner v. Switzer recognizing the petitioner's well pled Sec. 1983 claim as independent claim independent from the state judgment, and thus not barred by the Rooker Feldman doctrine.

See, Skinner v. Switzer, 562 U.S. 521, 131 S. Ct. 1289, 1297-98, 179 L. Ed. 2d 233 (2011)(Overruling the Fifth Circuit's affirmance of the Rooker Feldman doctrine to uphold the dismissal of a Sec. 1983 lawsuit against Texas state officials.)

SKINNER is the most recent Supreme Court case in which the Court had to address a Sec. 1983 claim being confronted with a motion to dismiss based on the Rooker Feldman jurisdictional bar. After quoting its ruling in Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 U.S. 280, 125 S. Ct. 1517, 161 L. Ed. 2d 454 (2005), referencing the "narrow ground" which the doctrine rightly occupied, the Skinner court stated "If a federal plaintiff 'present[s] [an] independent claim,' " it is not an impediment to the exercise of federal jurisdiction that the "same or a related question" was earlier aired between the parties in state court. "Skinner does not challenge the adverse decisions themselves; instead he targets as unconstitutional the Texas statue they authoritatively construted." Id. At 533.

Skinner permitted the prisoner plaintiff to bring his Sec. 1983 lawsuit, ruling it constituted "an independent claim" as it had "explained in Feldman, 460 U.S., at 487, 103 S. Ct. 1303, 75 L. Ed. 2d 206, and reiterated in Exxon, 544 U.S., at 286, 125 S. Ct. 1517, 161 L. Ed. 2d 454," Id. At 1298.

Notwithstanding this Court's ruling in Skinner which involved a Sec. 1983 plaintiff, as well as the Court's ruling in Exxon which expressed cautioned federal courts of the narrow role which the Rooker Feldman doctrine expressly occupied within the federalism framework, as well as Verizon, emphasizing that the Rooker Feldman doctrine was not applicable to administrative rulings, the Fifth Circuit herein held fast to its ruling in Liedtke

The Fifth Circuit also conflicts with this Court's ruling in Supreme Court v. Consumers Union of United States, that state judges were subject to the reach of Sec. 1983.

Liedtke by employing the Rooker Feldman doctrine, which is a jurisdictional doctrine, it in effect gives state court judges absolute immunity,---not just immunity from damages-- from a Sec. 1983 lawsuit.

In Supreme Court v. Consumers Union of United States, 446 U.S. 719 (June 2, 1980) the Court made clear that state judges, including state supreme court judges, were proper defendants in a Sec. 1983 lawsuit, albeit they might be immune from damages and other relief otherwise available under Sec. 1983 suit, just as other enforcement officers and agencies.

"[W]e have held that judges defending against § 1983 actions enjoy absolute immunity from damage liability for acts performed in their judicial capacities. Pierson v. Ray, 386 U. S. 547 (1967); Stump v. Sparkman, 435 U. S. 349 (1978). However, we have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts." Id, at 734-735.

The Fifth Circuit's opinion moreover conflicts with the intent of Congress that Sec. 1983 was applicable to unconstitutional acts of state judges.

Not only has this Court held that state judges were immune from a Sec. 1983 lawsuit, but, even after 100 years of Sec. 1983 litigation, Congress has not expressed any intent to exempt state court judges from the "any person" language in Sec. 1983. In October of 1996, Congress amended Section 1983 to bar injunctive relief "in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity ... unless a declaratory decree was violated or declaratory relief was unavailable." 42 U.S.C. § 1983; Federal Courts Improvement Act of 1996, Pub. L. No. 104-317, § 309(c), 110 Stat. 3847, 3853. The Legislation also made clear that under certain circumstances, state court judges could be held liable for costs, including attorney fees.

Rather than prohibiting the filing of civil rights lawsuit against judicial officers, Congress specifically overruled any law immunizing judicial officers from costs, including attorney fees. See, id., at Sec. 309(a)("Notwithstanding any other provision or law,...")

This provision effectively overruled Feldman as well as Liedtke, to the extent they held a civil rights suit could not be brought against a state court judge seeking vindication for the state judge's violation of the federal plaintiff's federal rights in a state court action. This amendment is consistent with Congress' intent for sec. 1983 to be a vehicle to seek vindication against "any person", including state court judges and state bar disciplinary officials.

The Fifth Circuit's opinion contradicts with this Court's Opinion that Rooker Feldman was inapplicable to determinations by state administrative agency, and even judicial review of such.

In Verizon Md., Inc. v. PSC, 535 U.S. 635(2012) this Court made clear that the Rooker Feldman doctrine was inapplicable to not only determinations made by a state administrative agency but even judicial review of such executive action.

The only judgment or order involved herein is the Order issued by the Louisiana Supreme Court striking Jones name from the Louisiana Roll of attorneys, and, because the court was not hearing the case in its adjudicative capacity, this Court has deemed such state supreme courts to be acting in their administrative capacity. See, Supreme Court v. Consumers Union of United States, 446 U.S. 719 (June 2, 1980) the Court made clear that state judges, including state supreme court judges, can be held accountable under Sec. 1983:

"[W]e have held that judges defending against § 1983 actions enjoy absolute immunity from damage liability for acts performed in their judicial capacities. Pierson v. Ray, 386 U. S. 547 (1967); Stump v. Sparkman, 435 U. S. 349 (1978). However, we have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts." Id, at 734-735.

Also, see Leaf v. Supreme Court of the State of Wisconsin

979 F.2d 589, **597** (7th Cir. 1992)(Noting Rooker Feldman applicable only to adjudicative proceedings but not to administrative proceeding.)

Verizon makes clear that Feldman is not applicable to Judges acting in their administrative capacity. Virginia Consumers Union makes clear that when a state supreme court judge is disciplining a lawyer on the initial instance and not on review, then such court, albeit the highest court in the state, is not acting in its judicial capacity but is in essence a state administrative agency. Id, at 736("As already indicated, § 54-74 gives the Virginia Court independent authority of its own to initiate proceedings against attorneys. For this reason, the Virginia Court and its members were proper defendants in a suit for declaratory and injunctive relief, just as other enforcement officers and agencies were. ")

Liedtke , and the primary cases on which it relied, involved a Texas lawyer being disciplined by the Texas Supreme Court in its adjudicative capacity, namely hearing the case on review from a lower court.

II. The 5th Circuit erred in utilizing Texas law, rather than Louisiana law to decide what preclusive effect to give Jones Louisiana judgment, thus conflicting with Lance v. Dennis, 546 U.S. 459 Court: Supreme Court Date: February 21, 2006

The case sub judice only involved a Louisiana Judgment. In disposing of Jones' claims which were not disposed of by the Fifth Circuit via the Rooker Feldman Doctrine, the court only cited Musslewhite v. State Bar of Tex., 32 F.3d 942, 94 5th Cir. 1994, which is Texas case involving a Texas judgment.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 6/28/11