

18A106

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IN THE

SUPREME COURT OF THE UNITED STATES

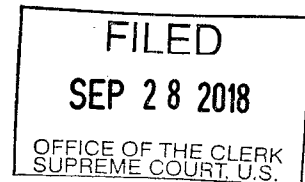
Marguerite Dutton,

Petitioner,

v.

Nikkisa P McCrea, M.D.

Respondent,

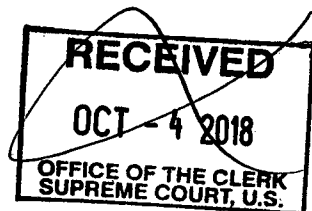


Appeal No. 555 EDA. 2017
Trail Court No. 160900014
Application No. 18A106

On Petition For Writ of Certiorari for
to the United States Court of Appeals for the
Superior Court of Pennsylvania

PETITION FOR WRIT CERTIORARI

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QUESTION PRESENTED

Pa Title 231.- Rule Civil Procedure.

Do rule 231.1 (frivolous litigation) violates Article 1

Section 26 of Pennsylvania Constitution

(No discrimination by commonwealth and

its Political subdivision) and U.S. Constitution

14th Amendment Section 1?

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PETITION FOR WRIT OF CERTIORARI

Petitioner Marguerite Dutton Respectfully petition this court for Writ of Certiorari to review the Order of Superior Court of Pennsylvania Eastern District affirming the Court of Common Pleas Philadelphia County Order.

OPINION BELOW

The opinion from the court of common pleas First Judicial District of Pennsylvania disposing of preliminary objection, A motion to dismiss, a motion to extend time for Filing Certificate of merit and a amended complaint that ended the Proceedings against Appellee

JURISDICTION

The 10/30/2018 Supreme Court of Pennsylvania Affirmed Order entered 01/20/17 in the court of common pleas of Philadelphia, County for Pa. R.C.P. to 233.1

CONSTITUTIONAL AND STATUTORY

PROVISION AT ISSUE

Pa. Title 231. Rules civil procedure (frivolous litigation)
Article 1 Section 26 and U.S. Constitution 14th. Amendment
section 1.

INTRODUCTION

The issue raised by this Petition, Pa. R.C.P 233.1 1042.1 is unconstitutional because its violates Article 1 Section 26 of Pennsylvania Constitution and section 1 14th. amendment of U.S. Constitutional. For these reasons, more fully explained below, the Petition for Writ of Certiorari Should be granted.

STATEMENT OF THE CASE

Appellant filed her first action against Appellee on 05/15/2015 related to medical treatment. 07/17/2015 the Court docketed Judgment against Dutton failure to file a Certificate of merit.

Appellant filed her second action 02/29/2016. Appellant entered a default judgment against Appellee.

On 08/23/2016 the courts granted Appellee motion to Dismiss pursuant to rule 233.1. Appellant appealed to the superior court.

Appellant filed the third instant action against Appellee on 09/04/2016.

REASON FOR GRANTING THE WRIT

CERTIORARI SHOULD BE GRANTED BECAUSE THE RULE ADOPTED BY THE PA. COURTS WILL HAVE A SIGNIFICATION NATIONWIDE IMPACT

I Certiorari should be granted because the rules adopted by Pa. Supreme Court, and other courts will have a signification nationwide impact. The Pennsylvania Supreme Court Order Denying petitioner Petition for Allowance of appeal was an error of law.

Under Article I Section 26 of Pennsylvania Constitution (No Discrimination by Commonwealth and its Political subdivision) and section 1 U.S. constitution 14th. Amendment Privileges and Immunities citizenship due process and equal protection.

The order of the court should not be based on how many times appellant sued Appellee without considering the court Decision that ended the cases improperly.

This court 01/20/2017 order improperly sustained Appellee preliminary objection for legal insufficiency of the complaint pursuant to Pa. R.C.P. 233.1 raised in the prior two actions against appellee.

Appellee MCcrea remaining preliminary objection presented.

Under Rule 1028 (a)(1) and (a)(3) were also improperly sustained, The Pa. court wrongfully denied appellant motion to extend time for filing a certificate of Merit and motion for extension of time to file an amended complaint Because the instant proceeding.

**CERTIORARI SHOULD BE GRANTED TO RESOLVE
A CONFLICT BETWEEN THE PENNSYLVANIA COURT**

II Appellant case is not frivolous, Federal Rule 8(A)(2) requires that pleading contain a "short and plain statement of the claim showing that the pleader is entitled to "relief", the court order also states (Bell Atl. Corp.v. Twombly,550 U.S.544,547 (2007).

A claim has facial plausibility when the plaintiff plead factual contents that allow the court to draw the reasonable inference that the defendant is liable for the misconduct alleged ,

Appellant stated defendants gave negligence treatment and conducted medical malpractice.

The Pennsylvania court interpretation of Pa. rule 233.1 directly Conflicts with U.S. 14th.Amendment section 1 and Pa. constitution Article 1 section 26. The court listed several issues Of concern.

Appellant should have been given the opportunity to file the Supporting documents raised in the court order. This clear conflict between the Pennsylvania Constitution and Philadelphia court of common Pleas of Pennsylvania decision merit this court review.

CONCLUSION

The court listed several issues that appellant could have Addressed, but wasn't given the opportunity.

Appellant have evidence of negligence by all Appellees.

This case originated in the court of common pleas of Philadelphia, Pa.

Appellant complaint against appellee originated from a complaint filed in the Philadelphia, Court of common Pleas of Pennsylvania on 09/04/16 (Dutton v MCcrea).

In the case filed by appellant, while similar the cases are different and the outcome are different.

1st case (Dutton v Hosp of University of Pennsylvania and MCcra) ended because a certificate of merit was not filed, the court Dismiss the case with out prejudice.

2nd case which involve (Dutton v McCrea) was with drawn by appellant.

3rd case which involve (Dutton v MCcra) was filed in Arbitration Court, City of Philadelphia, Pa . which bring this Case to the U.S. Supreme Court.

On or about 03/08/10 Pa. civil procedural rules committee, Adopted order Pa. rule 231.1 which took effect 04/08/10.

The only purpose for this rule was to deny pro-se plaintiff from taking legal action in the court system . The Pa. court has made It known, that pro-se are not lawyers and do not have good standing To bring their case to the court. This is a form of discrimination.

Plaintiff who represent themselves should have the same legal rights as an plaintiff being represented by counsel.

Appellant should have been given every opportunity to address Pa. court concerns before dismissing the case with prejudice.

If appellant is not given the opportunity for a full Judicial review To determine if Pa. court discriminated against appellant, Appellant due process right will be violated. The Court review is needed.

The Petition for writ of certiorari should be granted.

Date: 09/27/2018

Respectfully submitted

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