

18-9095

No. _____

Supreme Court, U.S.
FILED

APR 18 2019

OFFICE OF THE CLERK

Motion for Leave to Proceed *In Forma Pauperis*

IN THE

SUPREME COURT OF THE UNITED STATES

Michael Hall — PETITIONER

vs.

Brookdale University Hospital "et al" — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

"United States Court of Appeals for the Second Circuit"

PETITION FOR WRIT OF CERTIORARI

Michael Hall

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Brooklyn, New York 11208

ORIGINAL

QUESTION(S) PRESENTED

- 1) Clarification of the factual, exact and/or precise status of Brookdale University Hospital and Medical Center as a "Private Hospital"? As insisted from United States District Court Judge Pamela K. Chen and United States Magistrate Judge Peggy Kuo.
- 2) Is Brookdale University Hospital and Medical Center in "Violation" of performing New York State Laws?
- 3) Is Brookdale University Hospital and Medical Center a New York State empowered operator in factual, precise and/or exact reference to New York State Office of Mental Health, Mental Hygiene Law?
- 4) Is it "True" that all Defendants/Respondents are in responsible communication?
- 5) Is Brookdale University Hospital and Medical Center a "Qualified" New York State Office of Mental Health, Catchment Hospital?
- 6) What part of the 28 U.S.C. Section 1915 (e), was relevant to the United States Court of Appeals of the Second Circuit decision for both denial and dismissal?
- 7) Are Respondents/Defendants admitting negligence without deserved remedy for failings to the injured Petitioner/Plaintiff?
- 8) Are Respondents/Defendants guilty of conspiracy, collusion and/or intent "AGAINST" both United States and New York State Constitutional Rights?
- 9) May the Supreme Court order my advisory to New York State Legislature for revision of The Mental Hygiene Law?

LIST OF PARTIES

☐ All parties appear in the caption of the case on the cover page.

☒ 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:

Brookdale University Hospital and Medical Center

Doctor Tahisha Tolbert

.....
Doctor Stephan Carlson

New York State

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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

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 1/20/2019.

☐ No petition for rehearing was timely filed in my case.

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

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Statutes

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STATEMENT OF THE CASE

Judges,

On the evening of March 29, 2018 a argument of a public nature occurred between myself and neighbors within the New York City Housing development Pink Houses. No one was injured, I wasn't placed under arrest and no charges were filed! The police were called; by someone other than myself. The responding police arrived as four in number, and one of them carried a large plastic shield; minutes later EMS arrived. Due to my annoyance with neighbors and now police; the threat of force was being communicated from the police if not cooperative to their request! (*Audio evidence reveals first contact with responding police.*) Their request was for me to go to the hospital; after all that transpired I went with EMS accompanied by one uniform police. Why; so to prevent the police from braking in my door as they threatened to do.

Upon arrival at Brookdale University Hospital and Medical Center, I was interviewed by a female (*The name Doctor Tahisha Tolbert and the female who interviewed me is not identical, meaning the name and the face don't match. The documents state Doctor Tahisha Tolbert, however when served Appeals Court papers the female wasn't the same that interviewed me on March 29, 2018.*)

After a brief interview of basic questions; while not dressed as my best, I was escorted to the Emergency Psychiatric Area of Brookdale University Hospital and Medical Center. A Brookdale University Hospital and Medical Center nurse requested I remove my clothing and place my items in a clear plastic bag; all with Brookdale University Hospital and Medical Center security present and the talk of needles if not cooperative. I was given hospital scrubs as a change of clothing.

Sometime later that same night; I was interviewed by a very thin feather weight male named Doctor Sundeep. I described his characteristics "Doctor Sundeep", to a Doctor Ansari; who I asked about my discharge. Doctor Ansari, identified the East Indian skinny guy with the short Bob/Bowl hair style that I described as Doctor Sundeep.

That same night, now March 30, 2018 early morning I was told by a nurse that I'll be FREE to exit in the 6am hour of the morning. That statement changed to; I needed to wait for the lead doctor of Emergency Psychiatric, Doctor Stephan Carlson. I was drug screened; both urine and blood. I was given a nasty sandwich, a cup of imitation orange juice and a bag of cookies.

I waited and Doctor Stephan Carlson never interviewed me; however I was labeled as a "Schizophrenic" (Appendix H, Page 12) and informed that I needed to stay at Brookdale University Hospital and Medical Center for a UNKNOWN length of time. I questioned, interrogated and asked Doctor Stephan Carlson about the decision to extend my time at Brookdale University Hospital and Medical Center without conducting his own examination!

I confronted him in front of his staff and on camera; while he sat down on the other side of the ballistic glass.

Hours later, I was wheel-chaired to a mysterious thirteenth floor. Accompanied by a nurse and security. I was told where to sleep in the presence of strangers, given questionable food and plenty of wasted time. I was interviewed again; by both Doctor Singh and Doctor Shukle. Met a annoying Social Worker; with the name Eric Fine and given ice packs that "I" requested for my purple eyes that I received from a fist fight I had with the same neighbors, weeks earlier, which I was out numbered. That was also one of the reasons I accompanied the police to the hospital; they said I should see a doctor!

After too much foolishness from "The Jail" at Brookdale University Hospital and Medical Center; I met a lawyer. She accelerated my unrestricted exit from Brookdale University Hospital and Medical Center. The day of discharge from Brookdale University Hospital and Medical Center came with additional foolishness; the documentation didn't list three (Doctor Sundeep, Doctor Singh and Doctor Shukle) of the five doctors that interviewed me? The paperwork stated I smoke and I don't. Also, I scratched out all errors on that document and placed my initial next to scratched out errors; I also didn't sign Brookdale University Hospital and Medical Center discharge paperwork. The discharge paperwork didn't detail medication, revisits or anything regarding mental illness? The only document I signed, was the document to retrieve my personal items that was placed in the clear plastic bag.

Weeks later I filed "*Violation of Civil Rights (Non-Prisoner)*" with both a "*Subpoena to Produce Documents, Information, Objects or to Permit Inspection of Premises in a Civil Action*" and "*Application to Proceed in District Court without Prepaying Fees or Costs (Long Form)*" to the Eastern District Court.

The responding Judge was, United States District Judge Pamela K. Chen. (Appendix A, Page 3)

Please note the clarity communicated to Judge Pamela K. Chen in (Appendix E, Page 9).

The "Motion for Reconsideration" was filed August 24, 2018 (Appendix E, Page 9); originally the motion was labeled "Motion before Judgment". However, my "Motion for Reconsideration" (Appendix E, Page 9) and the District Court Closing Judgment (Appendix D, Page 8) of the case was filed the same day. Judge Pamela K. Chen responding argument was:

(Appendix F, Page 10) "*For the reasons stated in the courts July 12 and August 16, 2018 orders. Plaintiff does not raise any new arguments that the court did not consider in its initial decision.*"

Judge Pamela K. Chen also labeled evident facts, as "Theories"!

Judge Pamela K. Chen perplexingly must not having comprehend; what a "New York State, Office of Mental Health Catchment Area" is? The reference to "New York State, Office of Mental Health Catchment Area" is FACTUALLY, a new argument not stated in previous communications to the court until August 24, 2018 (*Appendix E, Page 9*) which is before Judge Pamela K. Chen refusal for Reconsideration. (*Appendix F, Page 10*)

Also, please note the usage of The New York State Office of Mental Health Admission Form OMH 474 (*Appendix H, Page 12*); with the conflicting statements of "Schizophrenic" because of "Cannabis Use Disorder", whilst drug screening resulted in "Negative Cannabinoid" findings? Such details are qualifying of Medical Malpractice of both Stephan Carlson and Allegedly Tahisha Tolbert!

Lastly, The New York State Office of Mental Health Admission Form OMH 474 (*Appendix H, Page 12*) mentioned the statement "provocation from neighbors". Which is illogical of mental illness; and is logical of combative response!

REASONS FOR GRANTING THE PETITION

The Violation of *"The United States Constitutional Bill of Rights, Fourteen Amendment, Section 1"* and *"New York State Constitutional Rights, Amendment 11"* was violated by a plausible covert New York State agent; operating as a "Allegedly Private Hospital" (Brookdale University Hospital and Medical Center) with the assistance of negligence or intent from New York State. That "Allegedly Private Hospital" according to The Eastern District Court (Brookdale University Hospital and Medical Center) through operating personnel (Stephan Carlson and Allegedly Tahisha Tolbert) activated New York State Office of Mental Health empowered abilities, with The New York State Mental Hygiene Law, Section 9.39 Emergency Admission Form OMH 474 (Appendix H, Page 12). The failure of legal and medical protocol with the addition of United States District Court Judge Pamela K. Chen and United States Magistrate Judge Peggy Kuo dismissal of the case and disregard for evidence and facts is relevant for The United States Supreme Courts awareness.

One of the reliefs to this case is prevention through revision of the New York State Mental Hygiene Law.

Note, (*United States Code, Title 42, Chapter 21, Subchapter 1, Section 1986 – Action for Neglect to Prevent*) *"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representative, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action"*

Prevention through revision of the New York State Mental Hygiene Law is necessary; to prevent further circumstances similar to this case!

Therefore, New York State is accountable for the agents, institutions and/or operators that New York State empowers to preform New York State Laws.

Please note, (*United States Code, Title 42, Chapter 32, Section 2652 C – Third Party Liability for Hospitals and Medical Care*) *"No action taken by the United States in connection with the rights afforded under this legislation shall operate to deny to the injured person the recovery for that portion of this damage not covered hereunder."*

Also, (*United States Code, Title 42, Chapter 21, Subchapter 1, Section 1988 A – Proceedings in Vindication of Civil Rights*) *"The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of Titles 13, 24 and 70 of the Revised Statutes for the protection of all persons in the United States in their Civil Rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty."* All medical records from Brookdale University Hospital and Medical Center is liable for vindication because of false data; all reference to my name (Michael Hall/Petitioner) and dates (March 29, 2018 to April 10, 2018) attached to this case is valid for vindication.

The misuse of law; is definitive of corruption, conspiracy and/or negligence!

The Constitution of New York State, Amendment 11: *"Equal protection of laws; discrimination in civil rights prohibited."* The Constitution of New York State, Amendment 11 is one of the many factors that validates my argument; in reference to New York State and The Office of Mental Health liability.

Please realize the relevance of [Federal Rule of Civil Procedure; Title 5: Disclosure and Discovery, Rule 35: Physical and Mental Examination, (B) Examiner Report, (6) Scope {"This subdivision (b) *applies also to an examination made by the parties' agreement, UNLESS the agreement states otherwise. This subdivision does not preclude obtaining an examiner's report or deposing an examiner under other rules."*}]

My admission to Brookdale University Hospital and Medical Center was not a agreement!

Judge Pamela K. Chen citations in (Appendix B, Page 4) - *White v. St. Joseph Hospital* 369 F. App'x 225, 226 (2d Circuit 2010) *"Private actors and institutions, such as... hospitals... are generally not proper § 1983 defendants because they do not act under color of state law."*

However, the details of this case proves otherwise.

Recognize the perplexities; (Appendix B, Page 4) *"the forcible medication and hospitalization of [a plaintiff] by private health care providers "cannot be "fairly attributed to the state [,]" McGugan v. Aldana- Bernier, 752 F.3d 224, 229 (2d Circuit 2014). One potential exception to this general rule would be if Plaintiff could demonstrate that "state actors requested...[or] compelled [Brookdale] or its staff to involuntarily hospitalize [him]."*

For the accompanying police personnel; that escorted me to the hospital. For those police personnel to have no communication with Brookdale University Hospital and Medical Center

doctors, nurses and/or personnel; would be negligence? Therefore; what was communicated from others is speculation! The FACTS are clear conflicting data on New York State Office of Mental Health Admission Form OMH 474 (Appendix H, Page 12), with evidence of "Involuntary Hospitalization"; factual with illogical claims of mental illness! Also, Brookdale University Hospital and Medical Center personnel usage of New York State Office of Mental Health Admission Form OMH 474 (Appendix H, Page 12) qualifies as fair attribution to New York State.

(Appendix C, Page 7) *"Bryant v. Steele, 93 F. Supp. 3d 80, 91-92 (E.D.N.Y. 2015) ("[M]ere communications... between a private and a state actors, without facts supporting a concerted effort or plan between the parties, are insufficient to make the private party a state actor"*

All defendants are in responsible communication or is admitting negligence without deserved remedy for failings to the injured Petitioner (Michael Hall); conspiracy is also a factor! New York State Office of Mental Health Admission Form OMH 474 (Appendix H, Page 12), is evidence of clear communication between The Hospital, Hospital Personnel and New York State that EMPOWERED such actions on Hospital grounds; performed by Hospital Personnel. Relative court cases is evidence of "Private Hospitals" usages of New York State Office of Mental Health Admission Form OMH 474 (Appendix H, Page 12). New York State "Lack of Prevention of Unauthorized Usage" of Admission Form OMH 474, is clear cause of liability on the part of New York State.

Federal Rule of Civil Procedure;

Title 2: Commencing an Action; Service of Process, Pleadings, Motions and Orders

Rule 5.1: Constitutional Challenge to a Statute (B)

"A state statute is questioned and the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity"

New York State is included, because of failure on the part of New York State to clarify the authority of Brookdale University Hospital and Medical Center and its personnel, to authoritatively utilize the (Appendix H, Page 12) New York State Office of Mental Health, Admission Form OMH 474?

Sadly, The United States Court of Appeals of the Second Circuit failed to realize the gravity, importance and relevance of this case. After reviewing (Appendix G, Page 11) 28 U.S.C. Section 1915 (e) as suggested from The United States Court of Appeals of the Second Circuit. My response is as follows:

- 1) My legal right to represent myself.
- 2) The proof of my residence in New York City Public Housing and usage of S.N.A.P. (Supplemental Nutrition Assistance Program) in addition to a 180 Dollar Sales Tax **Warrant**. Yes, a unpaid One Hundred and Eighty Dollar Sales Tax Warrant.
- 3) The detainment of "Legal Citizens" for over 12 days, whom have not committed any crime is not a "Frivolous" complaint.

- 4) The remedies to my complaint were clearly stated; Revision of The New York State Mental Hygiene Law, Vindication of medical records in reference to this case and 7 Million Dollars for Medical Malpractice and Civil Rights Violation.
- 5) The monetary relief sought is reasonable; and the Defendants/Respondents are not immune, especially if such quagmires are ignored.

In conclusion, Grant this Petition because "The Public Relevance" is clear due to the vague procedure between The State, The Institution and The Personnel involved in the process of detaining a individual suspected of mental illness. Both The Eastern District Court and Appeals Court of The Second Circuit have little to no ability to award such a relief as is deserved.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Hall

Date: 4/18/2019