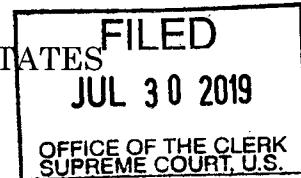


19-5488 ORIGINAL
No. 19-

IN THE
SUPREME COURT OF THE UNITED STATES



LORETTA JACKSON

Petitioner;

v.

JOSEPH BARLA, DELAWARE OFFICE
OF ANIMAL WELFARE, DELAWARE DIVISION OF PUBLIC HEALTH,
DELAWARE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS,
DELAWARE SPCA, DELAWARE ANIMAL SERVICES, and DOES 1-100,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE OF DELAWARE

Petition for a Writ of Certiorari

LORETTA JACKSON
447 BROADWAY
2ND FLOOR, #378
NEW YORK, NY 10013

QUESTIONS PRESENTED FOR REVIEW

- Whether The Supreme Court of the State of Delaware deprived Loretta Jackson of her Due Process rights under the 4th and 14th Amendment of the United States Constitution, when it dismissed her lawsuit against a state actor who entered her property without legal authority and murdered her pet dog.

LIST OF PARTIES

The caption contains the names of all of the parties to the proceedings and they are also listed below:

- 1) LORETTA JACKSON, Petitioner;**
- 2) JOSEPH BARLA, DELAWARE OFFICE OF ANIMAL WELFARE;**
- 3) DELAWARE DIVISION OF PUBLIC HEALTH;**
- 4) DELAWARE SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS;**
- 5) DELAWARE SPCA;**
- 6) DELAWARE ANIMAL SERVICES.**

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PETITION FOR A WRIT OF CERTIORARI**OPINIONS BELOW**

Supreme Court of the State of Delaware Order, dated May 1, 2019.

JURISDICTION

This Petition is timely as pursuant to Supreme Court Rule 13, Review On Certiorari, Time For Petitioning, the time to file a Petition For a Writ of Certiorari runs from the date of entry of the judgment or order sought to be reviewed. This Petition is being filed on July 31, 2019, the 90 day deadline after the May 1, 2019 Order listed above.

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the 4th and 14th Amendment of the U.S. Constitution.

STATEMENT OF THE CASE

1. This case involves a very tragic set of circumstances.
2. On or about June 22, 2016, Joseph Barla ("Mr. Barla"), a purported employee of the Delaware Office of Animal Welfare came to the house of Petitioner to conduct an inspection.
3. Mr. Barla had no legal authority to enter the property of the Petitioner and in violation of the Fourth Amendment rights of the Petitioner tied a rope around the neck of the Petitioner's pet dog and then tied the pet dog to a storm drain.
4. The pet dog died, tied to the storm drain, covered in blood and with a broken toe nail and other injuries and the storm drain had dried blood on it.

5. Petitioner obtained a medical report regarding the death of the pet dog and it confirmed that the pet dog had been murdered by Mr. Barla.

6. When the Petitioner filed a lawsuit, the lawsuit was dismissed.

7. The Supreme Court of the State of Delaware issued an Order on May 1, 2019, which upheld a lower court ruling that the Petitioner's lawsuit should be dismissed.

8. At issue is whether the actions of Mr. Barla are protected by sovereign immunity and the State Tort Claims Act.

9. The Petitioner and her family are Black, African-American and feel that the actions of Mr. Barla may have been based in part on racial animosity as the town that this took place in has a history of racial hostility and discrimination against its minority Black, African-American residents.

REASONS FOR GRANTING THE WRIT

The issue of how we as a society treat animals has evolved greatly over the past years and the question of whether an employee of a state agency can avoid liability for mistreatment of animals by hiding behind a shield of immunity and arguing that his actions were legal, should be of great concern to not just animal lovers, but also to this court.

I. THE ACTIONS OF MR. BARLA ARE NOT PROTECTED UNDER THE DELAWARE TORT CLAIMS ACT AND WERE IN VIOLATION OF THE DUE PROCESS RIGHTS AND RIGHT TO BE FREE FROM ILLEGAL SEARCHES AND SEIZURES OF THE PETITIONER AS SET FORTH IN THE 4TH AND 14TH AMENDMENT OF THE U.S. CONSTITUTION.

The Delaware Tort Claims Act, 10 Del. C. § 4001 et seq. ("DTCA") provides certain immunities to employees of the state of Delaware.

The State of Delaware retains Sovereign Immunity for acts or omissions alleged in connection with official duties, provided the actions were without gross negligence. 10 Del. C. § 4001. There are specific statutory exceptions where the State has waived Sovereign Immunity. For example, the Delaware Transit Authority, has by statute, waived Sovereign Immunity up to \$300,000.00 per occurrence for accidents involving transit vehicles. Generally, counties and municipalities are shielded from liability.

There are, however, three statutory exceptions to municipal and county immunity: 1) liability for negligent acts in connection with the ownership, maintenance, or use of any motor vehicle; 2) liability for the construction, operation, or maintenance of any public building; and, 3) liability for a discharge of toxic substances. 10 Del. C. § 4012. Determining liability of counties or municipalities turns on whether the municipality's or county's acts are discretionary or ministerial. *Sussex County v. Morris*, 610 A.2d 1354 (Del. 1992).

Discretionary acts are subject to immunity; ministerial acts can be subject to liability under one of the exceptions. *Id.* The distinction between ministerial and discretionary acts is always one of degree. *Id.* at 1359.

In Delaware, gross negligence is defined as a higher level of negligence representing an extreme departure from the ordinary standard of care. *Parker v. Wireman*, 2012 WL 1536934, at *3 (Del. Super.) *See also, Smith v. Silver Lake Elementary School*, 2012 WL 2393722 (Del. Super.). It implies a carelessness involving a conscious indifference to consequences in circumstances where probability of harm to another is reasonably apparent. *Id.* It is the functional equivalent to criminal negligence. *Id.* Wanton negligence has been defined as heedless and reckless disregard for another's rights with

consciousness that an act or omission may result in injury to another. *Id.* Pleading gross negligence requires particularity to alert the defendant of potential liability and it is insufficient to merely make general statements of facts or recitations of conclusory allegations. *Smith v. Silver Lake Elementary School*, 2012 WL 23993722, at *2 (Del.Super.).

The Supreme Court of the State of Delaware and all of the lower courts have made an issue of whether or not the Petitioner alleged gross negligence on the part of Mr. Barla and as such whether or not his conduct falls under sovereign immunity.

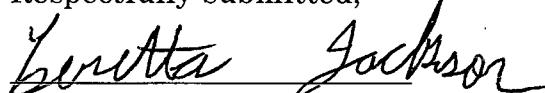
It has long been held in Delaware that pro se pleadings are judged by a "less stringent standard" than a pleading or document filed by an attorney. *Johnson v. State*, 442 A. 2d 1362 (Del. Supreme Court 1982), yet Petitioner was not afforded that courtesy when her pleadings were reviewed and instead despite setting forth gross negligence of Mr. Barla, Mr. Barla was allowed to get away with his heinous, uncivilized and barbaric actions, even though he had no rights under the Fourth Amendment to enter the property of the Petitioner and inflict the grievous and murderous injuries to her pet dog.

CONCLUSION

The petition for writ of certiorari should be granted for the foregoing reasons.

DATED this 31st day of July, 2019

Respectfully submitted,



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