

QUESTION PRESENTED

No. 2019-198

19-5628

SUPREME COURT OF THE UNITED STATES

WASHINGTON .D.C. Court Clerk

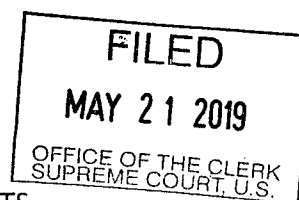
ORIGINAL

CHARLES ROCHESTER (Pro-se)

Pétitionner,

Vs.

NEW YORK STATE DIVISION OF HUMAN RIGHTS



On Petition for a Writ of Certiorari to
the New York State Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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General Counsel's Office

QUESTION PRESENTED

1. Does the United State District Court as well as the United States Second Circuit of Appeals have a duty to protect jurisdiction and join, a State case, and apply, The Anti-Injunction Act 28 USC 2283 Three Exception when evidence produced shows NYSDHR was tampering with Federal Agency U.S.E.E.O.C, and the public from being attack by NYSDHR concealing file and tampering with file and evidence to stop a weight review investigation in to the facts?
2. . Can the NYSDHR, half print out documents and take out documents out of case files that were evidence in Petitioner favor?
3. .Can State Administrative intentionally Violate due-process clause 5th 6th 14th amendment of U.S.C.? And Equal Protection Clause, by ignoring unviewed issues and evidence of documents cut out my file, and missing. 5th, 14th?
4. . Can a State DHR Investigator Abuse of Power and Abuse of Discretion, by changing your words in a report testimony then leave out fact of a party testimony, in the petitioner favor?
5. . Can State DHR Investigator write his personal opinion, that a Fortune Society Inc. Does hire Ex-Felons and can't discriminate against other Ex- Felons?
6. . Can DHR exchange documents or accept documents, the other party can't see, Until after Weight Review Hearing by U.S.E.E.O.C.?
7. . Can a State investigator just interview and question only one side, and never talk to any of the three Job Recruiters? Is this Arbitrary and Capricious or one sided?
8. Can a State Courts ignore common sense of an Arbitrary and Conspicuous Determination by intentionally leaving out your Un-viewed issues of official misconduct? Three Ex-felons hiding conflict of interest from their H.R.
9. Can the NYSDHR leave out facts of my allegations were true and undisputed by ex-felons ,who didn't deny violating, their own rules, code, regulations, not to engage in a conflict of interest and report to Human Resource Protocol? Can the details of out criminal history, if it the facts are part of my complaint of Discrimination?
10. Can a N.Y.S. Queens County Judge Misrepresentation of Meaning of Conflict of Interest, that is in betted in rock of protocol of State and Federal Meaning of State and Federal own Job Policies, by claiming petitioner liken this to a conflict of interest.? Can a Judge minimize a Conflict of Interest by NOT DECLARING ARBITRARY
11. Can a NYSDHR Investigator who is also a lawyer knows a party is engaged in misconduct of company policy that is discriminatory and turn his head? Is he violating **Candor Code of Rule 3.3** if this prevent you from be hired?
- 12.Can a State Investigator leave out company Job panel is violating their own rules, codes and regulations by holding an illegal job interview ,that the conflict of interest was the cause of Job discrimination, arrest , conviction and age and retaliation and equal pay discrimination by offering a interim position to work for free?
13. Can N.Y.S. >A.D.-2 Department / Court of Appeals only be willing to hear your case, if you can pay\$ 300.00 filing fee for an Appeal Brief? > (14).Can a State Administrative Court denial you a Public Hearing or Confrontational Hearing, when the evidence warrants a hearing? Or when the discrimination could have been avoided by Fortune Society just following their rules, are they liable? > (15) Should I had been given credence ,since I was a former NYSDHR intern Whistle blower on Ex-co/worker for tampering with evidence before U.S.E.E.O.C. **Direct witness.**
- (16)Can a State NYSDHR prevent you from seeking redress and Grievance from U.S.E.E.O.C. by making you pay for your entire file, at \$26.00 dollars instead of 75 cent? > Never seen files?
- (17) Can the State NYSDHR deny you a Public Hearing by Retaliate cause you appeal their determination ?
- 18).Can NYSDHR withhold petitioner file, and force the U.S.E.E.O.C., to adopt their State Investigator decision?
- (19) Can the State Investigator accept documents that were not given to the petitioner and used them in his Determination Order before I can see them? (20) Can a Job recruiter, that Used Crack Cocaine and Marijuana ,and Committed Crimes with you, and try to date your girlfriend , also been lock up in two different Correctional Facility be able to break his Company Polices and interview you and vote, if you get hired ? , Is this Arbitrary and Conspicuous and Discriminatory? (21) Does DHR investigator have a duty to report what they were doing behind their Human Resources Back and hiding the relationship as well as blaming the conflict of interest on the job applicant Charles Rochester, when they're high ranking official on policies & what is discrimination? Can the Court clarified what due- process violations, when alter and missing and cut up documents is visible?

LIST OF PARTIES

~~CP 1~~ [1] All parties appear in the caption of the case on the cover page.

[1] 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:

Fortune Society

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 2 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

Fourteenth Amendment - Rights Guaranteed Privileges and Immunities of Citizenship, Due Process and Equal Protection

Amendment Text | Annotations

1. Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
2. Anti injunction Act 28 U.S.C. 2283 Three Exceptions when Federal can join or make injunction relief to prevent NYSDHR to stop client from reviewing their files . Stop NYSDHR over charging client to make copies of files instead of paying for entire file Stop NYSDHR fro impeding on U.S.E.E.O.C. by taking out documents meant for review by U.S.E.E.O.C. Stop State form sheilding employees from one-sided investigation by abuse of power when having evidence of discrimination. , Stop the NYSDHR from preculding the public from reviewing their case files and aiding and abetting a party over the other .

3. Fraud upon the Courts

Fraud on the court is also known as **fraud upon the court** and this motion can be filed in United States Bankruptcy and District Courts. Rule 60(d)(3) of the Federal Rules of Civil Procedure states that nothing in Rule 60 limits a court's power to set aside a judgment for **fraud on the court**. Apr 4, 2019

New York State Court of Appeals May *9th* 2018 appear in Appendix -C.

an extention of time to file writ is 60 days from June 19, 2019

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his **rights** and obligations in a suit at law, everyone shall be **entitled** to a fair and **public hearing** by a competent, independent and impartial tribunal established by law. Dec 18, 2008

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

The Constitution states only one command twice. The Fifth Amendment says to the federal government that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. These words have as their central promise an assurance that all levels of American government must operate within the law ("legality") and provide fair procedures. Most of this essay concerns that promise. We should briefly note, however, three other uses that these words have had in American constitutional law.

STATEMENT OF THE CASE

BEFORE I BEGIN PLEASE TAKE NOTICE, that I was a former New York State Division of Human Rights Intern and trained by the N.Y.S.D.H.R. in client charts and records in the Court Record Room and had an indebt understanding of Court procedures, that lead to official misconduct and the petitioner making a former complaint against the N.Y.S.D.H.R. impeding on U.S.E.E.O.C. Jurisdiction.

SEE PART TWO AFTER

This appeal puts before the Court the most federally invasive law in existence, a provision in which the Federal Court can join or intervene with States Case, When a party is named as a defendant in a state-court lawsuit, it is entirely natural— and generally correct—for that litigant to conclude that, barring a basis for removal to federal court, its fate will remain in the hands of the state's courts, perhaps for years to come. However, if either of the parties to the state proceeding is or has been a party to a federal action involving the same or similar claims or issues, or if the state proceeding implicates a uniquely federal right or remedy, that state-court defendant may have at its disposal a means to bring the state suit to a relatively quick and successful end in federal court. Specifically, the federal Anti-Injunction Act (AIA), 28 U.S.C. § 2283, includes three exceptions that empower a federal court to enjoin a state proceeding when necessary to give full effect to a federal right or remedy, or to protect or preserve the federal court's exercise of its jurisdiction or a prior federal judgment. What is more, because these exceptions are intended to preserve the effectiveness of federal law and the authority of the federal courts—not to protect the purely private interests of the party that seeks the injunction—the AIA and the cases applying it impose few requirements for seeking an injunction, other than that it must fall clearly within one of the statutory exceptions.

This case is unusual and the circumstance call out for justice and Federal intervention due to the sever abuse of power and the lack of Candor for the Tribunal, and abuse of power on the and abuse of discretion as well as extreme violation of American Bar Association rules of Professional Responsibilities of the code of conduct, for officers of the Court and those place in position of power. This is a Public Concern and as a friend of the poor I came to great length to seek the protection of the Due- process Clause and the safety of the United States Equal Employment Opportunity Commission, and to request the Right to Sue letter have meaning to address issues in Federal Court , also to prevent New York State Division of Human Rights Officers from abuse of power and changing the direct testimony in their reports but mainly to stop Attorney s who represent N on-Profit organizations from sending perjury statement to the Courts that they know is falsity and against their own Company Policies . On March 3, 2016 I was interview for a position as a discharge planner by Three Ex-Felons who were Job recruiters, one I had an extreme History with of both of us using Crack Cocaine, Marijuana, selling Drugs, and committing crimes, as well as being lock up in the same Two Correctional Facilities in in Yaphank N.Y. and Riverhead Correctional in Suffolk County Long Island. In Essence to the fact we knew each other, the job Recruiter saw me and jump up and tap one of the Job Recruiter and went into a back room and left me with the Third panel which I told him I know his Co/work really well (he stated cram down and when they came out after a 15 to 20 minutes the interview went in to a fast pace .

The third panel member got up and the interview proceeded, after the 5 minutes interview, it was over and I was not hired for the position. I filed a job discrimination and conflict of interest with the N.Y.S.D.H.R. and explained to the investigator exactly what I told this Court about my relationship with the job interview, I told him they were not supposed to allow to let their co/worker sit on the panel and they should of followed their own Rules, and Code, Regulation and Policies but none of the Three Ex-Felons followed their policies and claimed a PRETEX that I was not Qualified for the position, When I had a New York State Certified Counselor Certificate with Three Years of Experience working as a Substance Abuse Counselor with a Caseload of 20 and New York State Nurses Aid Certificate and Bronx Defenders Attorney Certificated in Parent Advocacy and Foster care child rights as well as a Health Care Facilities that lead to pay positions. As well as the record will reflect after school program on Gang Violence how to do life on the Street and Domestic Violence and Hepatitis A,B,B, and work as a Hiv and Aids Harm Reduction Counselor. 58 people applied for this job and two were hired with Similar Skills as me two weeks after I sue them. I was more than qualified as the recorded will reflect none of the hired person had any substance abuse credential but from the look of the mater my resume was used as a blue print, while claiming I was unqualified when the Pretext was Conflict of Interest.

Part Two Second Conflict of Interest

After the Order and Determination of the N.Y.S.D.H.R. and after the facts you can request a WEIGHT REVIEW HEARING BY U.S.E.E.O.C. –A FEDERAL AGENCY THE PUBLIC DEPEND ON FOR REDRESS.

I was granted a hearing and the U.S.E.E.O.C. adopted the N.Y.S.D.H.R. Determination and Oder that denied me a Public Hearing for lack of Probable Cause that there was no discrimination found. And the State Court found no Conflict of Interest and use the Fortune Society Attorney Rebuttal to my complaint that I was interviewed just like anyone else.

When I request a Weight Review with U.S.E.E.O.C. and request to review my case files, I was told to pay for the entire file even if I needed two copies this is when the first time I notice the State DHR was precluding me to see my case file, I made many request after and still was not granted my fills, so AI file in Federal District Court to Preserve my rights.

After I complained to my former Boss at DHR I was e-mailed my case filed with half Cut Out Documents, Missing Documents, and all of my Certificated in my favor were tamper with, The DHR abuse their power to prevent the U.S.E.E.O.C. from reviewing my case files because they will have seen a document destroyed and spoliation, alter and abuse of power or would of seen the Fortune Society Attorney letter that was contradicting what happen, due to any Investigator or truth minded person will have seen trickery due to the Investigator NEVER INTERVIEW ANY OF THE THREE EX-FELON, SO WHEN I TRY TO REVIEW MY RECORDS TO PERFECT MY RIGHT TO SUE LETTER I HAD NO DOCUMENT UNTIL AFTER THE U.S.E.E.O.C ADOTED THE STATE FINDING . . . THIS IS VIOLATING OUR RIGHT TO BE-ABLKE TO HAVE FAIR DUE-PROCESS AND HE SUPREME COURT MUST PROTECT THIS INSTITUTION FOR ABUSE OF POWER AND PLACE AN INJUCNTION TO CEASE AND DISIST THIS DHR FROM BLOCKING ANY CLIENT FROM REVIEWING FILES. It is noted the State Supreme Court Judge use the same perjury report by The DHR who use in the exact words from Fortune Society Attorney who perjury and Falsity to the Supreme Court and United

State District Court that is on another Petition . However the record will Reflect and Direct Evidence will show this Case was Arbitrary and Conspicuous, and Server Conflict of Interest and abuse of power and by both parties aiding and abetting, by exchanging document with each other until after the U.S.E.E.O.C. adopted the DHR and Fortune Society version of fact , that common Sense will show to a laymen , which without an Injunction the N.Y.S.D.H.R can impede on anybody case who appeal a DHR Investigation Determination and the Non- Profit can hire or not hire ex-felons who they had a history with and the State Judge can minimize a Conflict of Interest the will not Fly with the State Conflict of Interest or Federal Job Interview without recusal or following State and Federal Policies, and this Company receives Million and Millions of Dollars from the Federal Government, and have to follow policies' that prevent job discrimination and abuse of power which the NYSDHR shielded the State employers who were my ex/coworkers from liabilities

The line must be draw on Non-Profit that do business with the State and County Correctional Facilities that allowed Ex-Felons to Interview Ex-Felons for position in Correctional Facilities. Even when they know each other and still can interview a person the job panel had criminal history.

While all know it against their Fortune Society Policies and the N.Y.S.D.H.R. With DHR investigator unjustified presumption that those Non- profits can dictate who get hired or not by systematically incapable of fulfilling his duty and the constitutional and statutory obligation to respect the laws of their own Conflict of Interest and Job hiring code and rule and regulations.

There is invasive federal preemptive oversight on local Non- Profit that do business with the Federal Government, Congress

Title I of the ADA prohibits employment discrimination against a qualified individual with a disability. The law requires that reasonable accommodations be made to allow the employee to perform the essential functions of the job, or to assist the employee in the application process if necessary

ADEA (Age Discrimination in Employment Act of 1967)

Prohibits employment discrimination based on age with respect to persons who are at least 40 years of age. 60 years old at the time

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Difference between Arrest Records and Conviction Records

The fact that an individual was arrested is not proof that he engaged in criminal conduct. Therefore, an individual's arrest record standing alone may not be used by an employer to take a negative employment action (e.g., not hiring, firing or suspending an applicant or employee). However, an arrest may trigger an inquiry into whether the conduct underlying the arrest justifies such action.

In contrast, a conviction record will usually be sufficient to demonstrate that a person engaged in particular criminal conduct. In certain circumstances, however, there may be reasons for an employer not to rely on the conviction record alone when making an employment decision.

Several states' laws limit employers' use of arrest and conviction records to make employment decisions. These laws may prohibit employers from asking about arrest records or require employers to wait until late in the hiring process to ask about conviction records. If you have questions about these kinds of laws, you should contact your state fair employment agency for more information.

All of criminal history and personal business was known to the job Recruiters, before the interview and after the interview along with the fact he call only one of the panel and left the other the Court can differ that the three was foul play and concealment from the Third panel member who knew of the policies and conflict of interest and new his co/workers were violating policies' and procedures and was high ranking official engaging in Discriminatory behavior. It is also noted that the Fortune Society Attorney said the only reason she went back there to see if there were any bad blood knowing it a catch 22 you can't hired a person on a conflict of interest and against t Human Resources Policies .

This was a **two Cases of Conflict of interest** which the Federal Court must interpret the Law for all State and Federal Judges, so they will not be tired when face with no power when a Party could of prevented the Job discrimination just by following their Company Policies and the State Division follow their policies on not to interfere with Federal Jurisdiction and evidence in a client favor .

Exhibits are Attached to the Petition

Also is noted the New York State Appellant Court Second Department was willing to hear my apples if I could of paid the \$ 300:00 dollar court fees, and approve my Brief and Arguments and the New York State Court of Appeals denied poor person application as well , with its own ruling, that rewards unclean and hands and Fraud upon the Court by Fortune Society Attorney writing a report in his own words that was falsity and Fraud to the Court that was against own rules , and that falsity report was skilled and used by all the State Courts and NYSDHR to sweep perjury and official misconduct under the rug and left the N.Y.S.D.H .R. in power to interfere with any U.S.E.E.O.C. Weight Review and force the U.S.E.E.O.C. to give a RIGHT TO SUE LETTER THAT THE FEDERASL COURT CAN DISMISS BY JUST SAYING THIS IS A STATE JURISDICTIONWHEN IT NOT ONECE THE STATE MADE IT ORDER AND THE CLIENT REQUEST A WEIGHT REVIEW THE NYSDHR CAN'T TAKE OUT DOCUMENT, WITHHOLD DOCUMENTS , OVER CHARGE YOU FOR COPIES AND HINDER YOU BY ACT OF ABUSE OF POWER NOT TO LET YOU SEE YOUR FILES NOR IMPED TO HIDE DOCUMENTS FROM U.S.E.E.O.C. ..THIS WINDOW PERIOD IS FEDERAL JURISDICTION,

THE PETITIONER REQUEST INJUNCTION ON THE N.Y.S.D.H.R. TO CAHNGE POLICIES AND ALLOW US TO REVIEW OUR ENTIRE FILES AND ORDERTHEM TO GET COMPUTER TO ALLOW CLIENT TO REVIEW THEIR DOCUMENT ON THE COMPUTER JUST AS ANY OTHER STATE COURT ALLOW YOU THE RIGHTS AND FOR THE PETITIONER REQUEST PUBLIC HEARING WITH A COMMISSIONER TO HEAR THE CASE AND FOR THE STATE TO TAKE ACTION IF THE ALLEGATION IS FOUNDED, AS OF YET NONE OF THE PARTIES NEVER DENIED OR STATED I WAS MISLEADING THE FACTS ,AND THAT THE FORUNE SOCIETY AND THE STATE INVESTIGATOR WAS INGRAVE ERROR FOR NOT REOPORTING THE FACTS AND OFFICIAL MISCONDUCT OF THE THREE EX-FELONS AND THE NYSDH EMPLOYERS WHO CUT OUT MY FILES . DUE- PROCESS MUST BE PORTECTED AT ALL COST BY OUT GOVERNMENT.

REASON TO GRANT WRIT

A. To avoid erroneous deprivations of the right , of the public to have fair due-process to have U.S.E.E.O.C. Weight Review after NYSDHR made it Order/Determination . Should 'not be able to impede on U.S.E.E.O.C. jurisdiction by removing case evidence or spoliation of documents , and let their State Employees remain in their position to cause harm on any other Job applicant who appeal a State Investigator wrongful determination, and get Retaliated on when he report the abuse . (Arbitrary and Capacious) also One sided Investigation when State only interview one side and accepted a perjury report against it own policies to interview a criminal associate, for a Job working inside Rikers Island Correctional Facility , this Court should clarify the State and Federal meaning of Conflict of Interest "initiation" standard for recusal of Ex-Felons interviewing friend of Ex-Felons that cause discrimination. Due process violation 5th and 14th amend .Clarified. Companies that work inside Correctional Facilities to follow their own rules, release sought is Public Hearing to address discrimination and abuse of power and discretion also as whistle blower, due to I was trained not to due what they did. tamper with files Rule 3.3 Candor Toward the Tribunal as well as American Bar Association Professional Responsibility of Conduct rule 3.4 Rule 4.1 Rule 4.4 as well as not attempt to fool the courts

Title VII of the Civil Rights Act of 1964

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Charles Rochester

Date: 8/8/2019