

No. 19-7019

ORIGINAL

Supreme Court, U.S.  
FILED

SEP 13 2019

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

ALVIN WASHINGTON — PETITIONER  
(Your Name)

vs.

Justin Bodor; Adam J. Hoffman — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for 3rd Cir.  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Alvin Washington  
(Your Name)

P O Box 1000  
(Address)

Houtzdale, PA 16098-1000  
(City, State, Zip Code)

-----  
(Phone Number)

RECEIVED

SEP 24 2019

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SUPREME COURT, U.S.

## QUESTION(S) PRESENTED

1. Whether the extraordinary circumstances of a person being lawfully evicted by PFA order by the court one day after his unlawful eviction by state employees, denied him of a meaningful opportunity at a meaningful time to challenge the unlawful eviction and regain possession of his home when the unlawful act was random and unauthorized?
2. Whether a person's procedural due process right is violated due to the arbitrary and deliberate unlawful eviction by municipal officials violating his pre deprivation due process right and the post deprivation remedy was rendered unmeaningful the very next day by a lawful eviction of the person ?
3. Whether the fundamental right of a person "to be secure in their persons, houses, . . . from unreasonable searches and seizures, shall not be violated", would support a section 1983 procedural "due process" claim even when state post deprivation process were available ?
4. Whether the pro se, Appellant's third amended complaint was sufficient to state a claim in the pleading stage of a section 1983 complaint pursuant to the Supreme Court's Twombly formulation " that states " . . . this does not impose a plausibility requirement at the pleading stage, but instead simply calls for enough facts to raise a reasonable expectation that discovery will reveal evidence of the necessary element" ?

## 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:

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## TABLE OF AUTHORITIES CITED

### CASES

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Parratt v. Taylor, 451 U.S. 527, 537, 101 S.Ct. 1908  
68 L. Ed. 2d. 420 (1981). 4-5

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Zinerman v. Burch, 494 U.S. 113, 125, 110 S.Ct. 5  
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### STATUTES AND RULES

1871, 42 U.S.C.S § 1983

Throughout

### OTHER

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 A 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 B to the petition and is

☐ reported at 2016 U.S. Dist. LEXIS 100765:: Washington v. Boder (3d Cir. 2016); 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 January 29, 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 September 13, 2019 (date) on July 23, 2019 (date) in Application No. 19 A 94.

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

1871, 42 U.S.C.S. § 1983 - "The Civil Rights Act of 1871, 42 U.S.C.S. § 1983, provides that every person who, under color of any statute, ordinance, regulation, custom or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or 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."

Fourth Amendment of U.S. Constitution : "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, ... and the persons or things to be seized."

Fourteenth Amendment of U.S. Constitution :

"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."



## STATEMENT OF THE CASE

On 9/17/13 Appellant, Alvin Washington was unlawfully evicted from his home by the threat of an arrest upon re-entry to his residence at 1039 Marion street Reading, PA. by the collaborated action and decision of police officer Adam Joseph Hoffman and ADA Justin Bodor. While investigating a complaint made by Lisa Ganns at the Appellant's residence, officer Hoffman was alerted of a previous complaint made by Ganns by ADA Bodor and Bodor wanted the Appellant out the home with Ganns. Bodor was aware that he did not have the authority to have the Appellant removed from his home because the no-contact with victim bail stipulation that he advised officer Hoffman to use as the reason for him to remove the Appellant from his home was non-existent. Immediately after the unlawful eviction, Bodor filed for a bail hearing and requested a ~~non~~ "no contact with victim" stipulation to be added to Appellant's bail that was Granted three days after the unlawful eviction. Officer Hoffman, eventhough he inspected the bail agreement that did not have bail stipulation of "no contact with victim" proceeded with the unlawful eviction of the Appellant.

The U.S. District Court for the Eastern District of PA Dismissed the Appellant's section 1983 Complaint with prejudice on August 2016. This decision was appealed and the U.S. Courts of Appeals ~~dismissed Appellant's claim on~~ Affirmed the District court's decision on the grounds of Appellant's procedural due process claim fails to state a claim because state deprivation process was available, so there was no due process violation of the 14th amendment of the U.S. Constitution, citing Parratt v. Taylor, 451 U.S. 527, 537, 101 S. Ct. 1908, 68 L. Ed. 2d. 420 (1981)

Appellant's arguement is that Supreme Court did not consider due process under the 4th amendment of the U.S Constitution that would support a 14th amendment due ~~claim~~ process claim in Parratt or Hudson v. Palmer, 468 U.S. 517, 533, 104 S. Ct. 3194, 82 L. Ed. 2d. 393 (1984).

The petition for certiorari now follows due the conflict in Parratt and Hudson of no consideration of the 4th amendment due process right in deciding the violation of a procedural due process claim.

## REASONS FOR GRANTING THE PETITION

The Supreme Court must GRANT certiorari to decide the issue of procedural "due process" as it relates to 4th amendment of the U. S. Constitution of which it has not considered in its previous decisions of section 1983 procedural "due process claims. The Supreme Court has held "that because an adequate state remedy exist 'procedural due process' under the 14th amendment of the U. S. Constitution has not been violated". Parratt v. Taylor, 451 U.S. 527, 537, 101 S. Ct. 1908, 68 L. Ed. 2d. 420 (1981) also Hudson v. Palmer, 468 U.S. 517, 533, 104 S. Ct. 3194, 82 L. Ed. 2d. 393 (1984). "When the seizure of the property was random and unauthorized conduct of a state employee, post deprivation process is all that is constitutionally due. However the Supreme Court "did point to the 4th amendment specifically as a ground that would support a section 1983 action even if state remedies to redress a deprivation were available. see *110 S. Ct. at 983 & n. 12. Zinerman v. Burch*, 494 U. S. 113, 125, 110 S. Ct. 975, 108 L. Ed. 2d. 100 (1990)

Here the constitutional violation of "due process" under the 14th amendment of the Federal constitution is in regards to an unlawful eviction of a person from his home by state officials. The unlawful deprivation of a person from his home violates that person's right "to be secure in their persons, houses,... against unreasonable searches and seizures, shall not be violated," a right that is guaranteed under the 4th amendment of the Federal constitution.

What the court must now decide is whether a section 1983 "procedural due process" claim is cognizable even when state post deprivation process exist while the property deprivation also violates the person's 4th amendment right to be secure from unreasonable searches and seizures. This issue must be decided because it applies to the constitutional right of every citizen of the United States to have a process of law to address the random, unauthorized and deliberate acts of state officials of depriving a person of property and holding the state official liable under section 1983 regardless of state deprivation process that were available.

To be secure in the safety and the enjoyment of his or her home is a constitutional right that shared by all person that are covered under the Federal constitution and a certiorari should be GRANTED to decide the issues raised in this instant matter of law for any redress of the violation of "procedural due process" even if state deprivation process are available.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Alvin Washington

Date: December 8, 2019