

No. 19-_____

In the
Supreme Court of the United States

ANDREW CLARKE,

Petitioner,

v.

RUSSELL R. MCMURRY,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

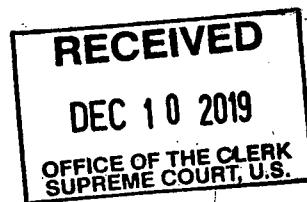
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DECEMBER 2, 2019

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QUESTIONS PRESENTED

Government officials may be sued in their individual capacity. Such a suit does not represent a suit against the government entity for which he is associated. *Kentucky v. Graham*, 473 U.S. 159, 165 (1985). The failure to identify in which capacity a defendant is being sued is a critical pleading defect.

The question presented is whether, in the instant case, where Russell R. McMurray, the named defendant, can be sued in his individual capacity, or whether as the lower courts deemed, this suit is equivalent to suing the State of Georgia.

LIST OF PROCEEDINGS

United States Court of Appeals for the Eleventh Circuit
No. 18-13446

*Andrew Clarke v. Russell R. McMurry, P.E.,
Commissioner of the Georgia D.O.T.*

Decision Date: April 2, 2019

United States District Court,
Northern District of Georgia

No. 1:18-cv-01507-TCB

*Andrew Clarke v. Russell R. McMurry, P.E.,
Commissioner of the Georgia D.O.T.*

Decision Date: July 17, 2017

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OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Eleventh Circuit dated April 2, 2019 is included below at App.1a. The Order of the United States District Court for the Northern District of Georgia, dated July 17, 2018 is included below at App.4a.



JURISDICTION

The Eleventh Circuit issued its opinion on April 2, 2019. (App.1a). Petitioner filed a timely petition on September 30, 2019 which was returned for refiling in compliance with Rule 33.1. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV

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.



STATEMENT OF FACTS

Respondent paying off said loans. However, upon the completion of the B.S. degree, the Respondent, refused to uphold that written promise. The Petitioner sought medical treatment, just prior to the filing of this case, and to date, the Respondent, has failed to schedule any medical appointments, and medical treatment.

The Petitioner, was injured on April 2, 1996, and for twenty-three and a half years, has done battle, to achieve optimal medical improvement, and to partake of the vocational rehabilitation, mandated by state law. When the state is the employer, it does not enact the law, for injured black employees.



REASONS FOR GRANTING THE PETITION

The Court needs to protect the automatic rejection of 42 U.S.C. § 1983. While each case must stand on its own merit, this law was created in 1871, known at the Ku Klux Klan Act, not a single case, was allowed to go forward, until 1961, ninety years of rampant racial persecution, and not a single case, was allowed to proceed. It is not much better today. Most attorneys will not handle civil rights cases,

because of the resistance of many, on the federal bench. The federal bench, comprised of political appointees, unfortunately, has done much to defeat equal protection of the law, since the passage of this law.

If the laws, are rarely enforced, the bigots, feel emboldened, to wreak havoc, on the powerless, the voiceless, and that undermines the rule of law. Actually, it protects white supremacy, and ferments social discord.



CONCLUSION

This Petitioner, wants due process, and equal protection of the law. For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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