

No. 19-7660

ORIGINAL

Supreme Court, U.S.
FILED

JAN 15 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Ronald Blue West Pro Se — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Third Circuit Court of Appeals, Philadelphia, PA.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ronald Blue West Pro Se
(Your Name)

FCC-Hazelton, P.O. Box 500
(Address)

Bruceton Mills, WV 26525
(City, State, Zip Code)

None
(Phone Number)

QUESTION(S) PRESENTED

In 2015, I Ronald Blue West, was incarcerated at the FCI-Allenwood Federal Correctional Institution in White Deer, Pa. Pennsylvania. West, file a civil action against the United States of America, for putting his "Life" in danger on the compound of FCI-Allenwood Pa. The Middle District Court of Pennsylvania, granted in forma pauperis for a civil complaint in the District Court. West, used a form from civil rights complaint, and checked the line that form marked "42 U.S.C. §1983-State and Federal Officials".

Presented Questions

West, allege that defendants put his "Life" in danger when they released him from the "Special Housing Unit" back into general population after telling other inmates about his "Law enforcement" background. He alleged that he "experienced a compensable loss as a result of negligence on the part of Bureau of Prisons employee's, and that prison staff violated his "constitutional" right for protection citing 28 U.S.C. §543.30, the Federal regulation pertaining to the purpose and scope of the Federal Tort Claim Act ("FTCA") 28 U.S.C. §2671 et seq. West, then filed a response to the Motion for a more definite statement complaint. West, referred to his action as a "Federal Tort Claim Act Complaint" for negligence and contended that the United States was liable for the actions of its employee's, but he also referred again to "42 U.S.C. §1983 and his "constitutional" right for protection. November 20, 2015 and February 11, 2016, and money damages under the "FTCA" in the amount of \$50.000

[729 Fed.Appx. 147]

The District Court granted West leave to proceed in form pauperis and the Clerk of Court pursuant to the "FTCA" to substitute the United States of America as the sole defendant and to terminate the individual defendants.

Question 1.

A. The District Court of the Middle District of Pennsylvania, whether give relief on the Civil Action matter under "42 U.S.C. §1983-State

And Federal Officials!" In the complaint, Petitioner alleged that defendants put his "Life" in danger when they order the release on the Petitioner from the "Special Housing Unit" back into the general population after telling inmates about his "Law enforcement background"?

B. Under Pennsylvania Law, a tort plaintiff must allege that (1) that defendant owed a duty of care to the plaintiff; (2) the defendant breach that duty; (3) there is a causal connection between the breach and the resulting injury, and (4) the plaintiff suffered actual loss or damage. See *Martin v. Evans*, 551PA 479, 711 A.2d 458. 461 (Pa 1998). The magistrate Judge treated the complaint as raising only an "FTCA" because, West failed to allege a physical injury as required by 28 U.S.C §1346(B)(2). The complaint was filed under "Pennsylvania Law" and a plaintiff must show the breach of duty, not "physical injury" under "Pennsylvania Law".

C. [729 Fed. Appx.148]

The District Court, in an order entered on September 26, 2017, overruled West's objection, adopted the report and Recommendation, and dismissed the complaint for lack of subject matter jurisdiction pursuant to Rule 12(B)(1).

[729 Fed Appx. 149] West made attempts that showed, particularly with respect to breach of duty, and loss he sustained, and thus his civil action was properly construed as an action for breach of duty, not mental or emotional injury. Was that Report and Recommendation, made by the Magistrate Judge wrong to dismiss the case?

D. Under the "FTCA" a claim for damages filed in District Court, as a general matter, whether the amount sought in the underlying administrative claim with the appropriate Federal agency is right under 28 U.S.C §2675(A)(B)?

C. Did the Middle District Court of Pennsylvania, and the Third Circuit Court of appeals have jurisdiction under 28 U.S.C. §1291? They granted West leave to appeal in forma pauperis on summary action under the Third Cir. LAR. 27. 4 and I.O.P. 10.6 two time on the same Appeal. Is that right for the Court to do?

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:

For the United States of America, Defendant-Appellee, Timothy S. Judge, Esq office of United States Attorney, Scranton, PA.
Kate L. Mershimer, Esq Office of United States Attorney, Harrisburg, PA.

RELATED CASES

See *Giraldo v. Cal. Dept of Corrs & Rehab*, 168 Cal. App 4th 231 85 cal Rptr. 3d 371. 382-88 (Ct App. 2008). *Lawson v. Superior Court* 180 Cal App. 4th 1372, 103 Cal Rptr 3d 849-50 (Ct App. 2010). The very fact of their incarceration means that prisoner's are often helpless to protect themselves from harm [2016 U.S. App Lexis 25] restatement (Second) of Torts §320 cmt. b (1965) While California Law specifically contemplates this duty as one to protect prisoner's from the criminal acts of Third parties. See *Giraldo*, 85 cal Rptr. 3d at 385. liability in the state where the tort occurred. 28 U.S.C. 1346(b)(1). 1. Defendant owed a duty of care to the Plaintiff, and that duty was breach on November 18, 2015, when plaintiff was order back into general population from ("SHU"). 2. Plaintiff suffered actual loss because of the defendant. See Bureau of Prison, Program Statement; Standard of employee Conduct #3420.09 Page 9 (15) CONFIDENTIALITY. Employees of the ("BOP") have access to official information ranging from personal data concerning Staff and Inmates, to information involving security. Because of the varying degree of sensitivity of such information, it may not be disclosed to inmates.

TABLE OF CONTENTS

OPINIONS BELOW.....	The Third Circuit Court of Appeals	1
JURISDICTION.....	The Middle District Court of Pennsylvania	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	28.U.S.C §1983..	
STATEMENT OF THE CASE	Breach of Duty under Pennsylvania Law	
REASONS FOR GRANTING THE WRIT	Violation of 28 U.S.C §543.30	
CONCLUSION.....	Courts have Jurisdictional under the Law of the State.	

INDEX TO APPENDICES

APPENDIX A	SUR PETITION FOR REHEARING.....	Exhibit 1
APPENDIX B	Appeal Middle District Judgment.....	Page 1 of 22
APPENDIX C	General Docket Court of Appeals.....	Page 1 of 5
APPENDIX D		
APPENDIX E		
APPENDIX F		

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

U.S. v. Muniz
10 L. Ed 2d (1963)

U.S 805 150,150. 83
Ct 1850 10 L.Ed

A plaintiff pursuing an ("FTCA") claim must show (1). That a duty was owed to him by a defendant. (2) Negligent breach of said duty; and (3). That negligent breach was the proximate cause of the Plaintiff injury/ Loss.

Thompson v. U.S June 18, (2018)

2018 Dist Lexis 101268

Under the Pennsylvania Law, the united States, Department of Justice, Bureau of Prison, has a duty to use reasonable care for the safety of all Prisoner's in their Custody.

See Hossic v. U.S (M.D. Pa 1987)

682 F.Sup.23,25

STATUTES AND RULES

The Middle District of Pennsylvania have Jurisdiction under the Pennsylvania law. Under the rule of Law, the Court have jurisdiction to Rule on the Petitioner civil action against the United States of america. Petitioner, exhausted his administrative remedy by filing claim no. TRT-MER-2016-03256. The Bureau of Prisons, have a Program Statement #3420.09, 2/5/99. Standard of Employee Conduct Page 9 (15). CONFIDENTIALITY, that was violated under that Program Statement. Also, Petitioner's "constitutional" right for protect, citing 28 C.F.R. §543.30, the Federal regulation pertaining to the purpose and scope of the Federal Tort Claim Act. 28 U.S.C. §2671. In two of the complaints.

OTHER

CFR 28 §543.30 and the Brueau of Prisons, Program Statement 3420.09
CONFIDENTIALITY.

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 No. 3:16-cv-02460; 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 No. 19-1272; 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 Date November 15, 2019 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 11/15/2019.

☐ 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: 11/1/2019, 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 11/15/2019.
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

28 U.S.C. §1983.....Passim
28 U.S.C. §543.30 C.F.R.....Passim

BOP POLICY

Standard of Employee Conduct Program Statement #3420.09 2/5/99.

CONFIDEATIALITY.....Page.11

COURT RULES

Fed R. Civ.....P. 56
28 U.S.C. §2671.....Passim
Fed R, Civ P.60(b)(2).....Passim

STATUTES

18 U.S.C. §4042.....Passim
28 U.S.C. §1291.....Passim
28 U.S.C §1331.....Passim

1/27/2020

STATEMENT OF THE CASE

West, who during the relevant time period, was incarcerated at the Allenwood Federal Correctional Institution in White Deer Pennsylvania, West alleged that the defendants put his "life" in danger when they order the released him from the ("SHU") back into the general population after telling inmates about his "Law enforcement" background. He alleged that he "experienced a compensable loss as a result of negligence on the part of Bureau of Prison employees", and that prison staff violated his "constitutional" right for protection citing 28 C.F.R. §543.30. West was ordered into general population, and he attached a response from the Warden to his grievance, which indicated that his request to remain in the ("SHU") was granted pending the completion of the investigation.

There was an incident with inmate "Patrick Patterson" one of the inmates that the officials alleged told about his "Law enforcement" background", and that put his "life" in danger in a prison environment around inmates. When West was in ("SHU") around August of 2015, there was a "note" or "kite" given to one of the inmates in ("SHU") by someone in the "rec, yard". The "note or kite" was given to Lieutenant "Prutzman" S.I.S. at the time, and then West filed the grievance, which indicated that he remain in the ("SHU") because it would not be safe for him to return to the general population. That grievance was granted and then violated after telling inmates about his background. There was no reason for the staff to let any inmate know about my history in "Law enforcement", which is in the ("BOP") SENTRY for all staff to see, not inmates.

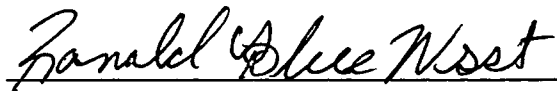
There is a "Law in Pennsylvania, and under that Law, a tort must show the breach of duty and care that the Defendant owed to the Plaintiff, under that Law. Petitioner, file the case under the Pennsylvania Law, in the Middle District of Pennsylvania, in October 25, 2019, the plaintiff file to reopen the case after the evidence was told to him, that "Patrick Patterson" gave the defendant and "Affidavit" on the breach of duty, but was not given to the Court in the Middle District of Pennsylvania, PA. West asserted that he exhausted his administrative remedies regarding his present claim by filing claim "No. TRT-NER-2016-03256" pursuant to the "FTCA"

The Court over looked the issue with Petitioner complaint in the case, when Petitioner explain that he loss a consumable lot of his property, and along with his "Longevity" in "Unicor". That was in his complaint but the Court over looked that part in the Middle District, and the "Report and Recommendation" to dismissal of the case was an error on the part of the Magistrate Judge to dismissal for lack of subject matter jurisdiction. Petitioner, allege on incident in which there was an argument with inmate "Patrick Patterson" and then pushed out of the cell by inmate "Patrick Patterson". Prisoner's have a constitutional right to be protected. Defendant committed a "constitutional" violation when they order the petitioner back into general population on November 18, 2015, in FCI-Allenwood PA. That was a violation of 28 C.F.R. §543.30, of the Federal regulations. Petitioner's Appeal had jurisdiction under 28 U.S.C. §1291. The Clerk granted Petitioner leave to Appeal in forma pauperis and advised him that the appeal was subject to dismissal.

Petitioner, sought to pursue a civil rights action against the individual Federal Defendant. See *Bivens v Six Unknown Name Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 91 S. Ct 1999, 29 L. Ed 619 (1971) under (1983).

The Courts have jurisdiction under (1983) on the negligence of breach of duty by Federal employees and their duty, when it is violation in place where it occurred. There was a "Affidavit" on the breach of duty, but was not given to the Court, in the Middle District of Pennsylvania to show that the United States of America is liable for the action of its employee's under the Federal Tort Claim Act, while acting within their scope of employment.

Humbly,

A handwritten signature in cursive script, reading "Ronald Blue West", is written over a horizontal line.

Ronald Blue West #11353-007

1/27/2020

REASONS FOR GRANTING THE PETITION

Lientenant Prutzman, S.I.S. at the time, was one of the defendants, who release the information to inmates and "specifically" inmate "Patrick Patterson" about Petitioner background in "Law enforcement" that put his "Life" in danger, when they order him release from ("SHU") in November 18, 2015. That was a violation of Petitioner right for protection under C.F.R. §543.30. On the same day that Petitioner was called to "Patterson" cell to have a "verbal conversation" on the issue with "S.I.S." who told him about his backround in "Law enforcement" and then pushed him out of the cell. Petitioner did alleged and injury as the result of the negligence of the Defendants for violating his right for protection under C.F.R. §543.30. No officer or employee shall disclose, CONFIDENTIAL, information regarding my "Law enforcement" background status except where the subject has authorized the disclosure by Law, or where the individual to who such information pertains is suspected by such officer or employee's agency, not inmates.

Petitioner, background is in the SENTRY data of the Bureau of Prisons. Therefore, there was no reason for S.I.S. Lieutenant to discuss my background with no inmates within the FCI-Allenood compound, in White Deer, PA. Ther is good reason for granting the Petition for Writ of Certiorari, in the United States Superme Court. There is a Law, in Pennsylvania, and under that Law where the breach of duty occurred by the Staff and Officers in Pennsylvania. Petitioner adhere to established by the Rules of the Court, on all level under the civil action precedence. That is also a fact in the complaint as the violation that

Occurred in FCI-Allenwood PA, on Petitioner's background on "Law enforcement". its also, a fact that the Middle District Court of Pennsylvania, have jurisdiction over the law, in that State where the breach of duty occurred on November 18, 2015.

Petitioer, request this Court to grant the Petition for Writ of certiorari, in the United States Superme Court on the matter with breach of duty in Pennsylvania Pa.

Humbly

Ronald Blue West #11353-007

Ronald Blue West #11353-007

1/27/2020

CONCLUSION

Ronald Blue West #11353-007 Janaury 27, 2020 time 09:30

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ronald Blue West

Date: January 27, 2020