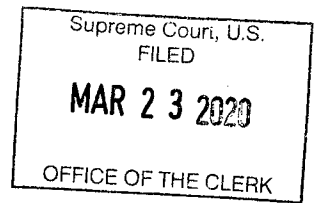


No. 19-8167

ORIGINAL



In The Supreme Court
Of The United States

Charles Talbert
vs.

Blanche Carney, et al

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

Petition For Writ Of Certiorari

Charles Talbert
QA4727
SCI Phoenix
1200 Mokychic Drive
Collegeville, PA. 19426

March 23, 2020

I. Questions Presented:

(i) Did the Appeals Court, abuse its discretion, when denying Petitioner's motion to proceed in forma pauperis, which had ultimately, and also, effectively, foreclosed his First and Fourteenth Amendment right, to equal protection of the laws, and right of access to the Court

(ii) Did the Appeals Court, when applying the "three strikes" provision of 28 USC 1915(g), commit error in its denial of Petitioner's IEP motion, aforementioned, when the appeal derived from a civil matter that had proceeded into the District Court by grant of his original motion

(iii) Did the District Court make legal error, and/or abuse its discretion by dismissing the civil complaint, as to Respondent, Shaniqua Ford, on the grounds of the aforesaid "three strike" rule, when Ford had, in contrary, been allowed to be amended into the complaint, in question, without Petitioner having to pay any fees or costs

(iv) Did both, the District Court, and Appeals Court, commit legal error, and/or, abuse its discretion, by allowing Respondents, Blanche Carney, Terrance Clark, and Gerald May, commit perjury and fraud upon the Court, and thereafter, allow judgment to stand against Petitioner on such perjury and fraud

II. List of Parties and Related Cases:

Charles Talbert - Petitioner

Blanche Carney - Respondent

Terrance Clark - Respondent

Gerald May - Respondent

Shaniqua Ford - Respondent

• Talbert v. Carney, et al, No. 18-1620-MAK, U.S. District Court for the Eastern District of Pennsylvania. Judgment entered Sept. 6, 2019.

• Talbert v. Carney, et al, No. 19-3429, U.S. Court of Appeals for the Third Circuit. Judgment/Order entered Feb. 20, 2020.

• Private Criminal Complaint against Carney, Clark, and May forwarded by Philadelphia District Attorney Office on Sept. 20, 2019, to the Philadelphia Municipal Court, which was disapproved by that Court on October 30, 2019.

• Civil Action Cases: 17-4262, 17-4263, and 17-4266, were all previous lawsuits Petitioner filed and settled against Respondents in a universal settlement.

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Cases: *Allah v. Seiverling*, 229 F.3d 200 (3d Cir. 2000)

Bounds v. Smith, 430 U.S. 817 (1997)

Rhodes v. Robinson, 621 F.3d 1002 (9th Cir. 2010)

Bressman v. Bressman, 874 F.3d 142 (3d Cir. 2017)

Commonwealth v. Corbett, 715 A.2d 1226 (Pa. Commw. 1998)

Reutzel v. Douglas, 502 PA. 149 (Pa. S.Ct. 2005)

Statutes And Rules: 28 U.S.C. 1915A(a)

28 U.S.C. 1915A(b)(1)

Fed. R. Civ. P. 15(d)

Fed. R. Civ. P. 60(b)

18 Pa. Const. Stat. Section 4902

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.

Opinion Below:

1. The opinion of the United States court of appeals is unknown if it
has been published or not.
2. The opinion of the United States district court is unknown if it
has been published or not.

Jurisdiction:

1. The date on which the United States Court of Appeals denied my
motion to proceed in forma pauperis to my appeal was February 20,
2020.
2. The jurisdiction of this Court is invoked under 28 USC 1254(1).

Constitutional And Statutory Provisions Involved:

1. This civil action itself was based upon my First and Fourteenth Amend-
ment rights. Specifically, retaliation by respondents, in response to
my protected right to seek redress, and deprivation of liberty with-
out due process.
2. Amended versions of the complaint against Shaniqua Ford, was her
being deliberate indifferent to my safety by having another inmate
assault me in retaliation of me filing lawsuits against Carney.
3. The matter at hand entails my First and Fourteenth Amendment right
to equal protection of the laws to appeal judgments made against
them, and right of access to the Court, any Court, without being
hindered.
4. Fed. R. Civ. P. 15(d): right to supplement and add new claims.
5. Fed. R. Civ. P. 60(b): right to vacate fraudulent obtained judgment.
6. 28 USC 1915A(a): this provision conflicts with section 1915(g).
7. 28 USC 1915A(b)(1): this provision conflicts with section 1915(g).
8. 18 Pa. Cons. Stat. Section 4902: Perjury is an instance of false swearing
or willful breach of oath. Swearing falsely is an infamous crime.

Statement of the Case:

Petitioner had just reached a global settlement with the City of Philadelphia and various City employees. Respondents Blanche Carney (prison commissioner of the Philadelphia Department of Prisons), Terrance Clark, and Gerald May (warden's of the PDP at the time of occurrence) were labeled as Defendants in most of the lawsuits that were settled. Shortly after settlement, Petitioner became pretrial detained under charges that were later dismissed. When Petitioner went to general population, May and Carney had him transferred the next morning to the hole at another prison in retaliation of the settlements. When Petitioner requested to be placed back into population, Clark ignored him and kept him there in the hole, indefinitely, until released. The sole purpose of solitary confinement without due process, was to retaliate against him for filing and settling lawsuits against them.

On January 9, 2019, Petitioner was rearrested and sent back to the PDP. On February 27, 2019, Respondent provoked another inmate to assault Petitioner, while Petitioner was on the prison phone speaking with his lawyer J. Michael Considine, Jr. Shaniqua Ford, one of Carney's Correctional Officers, had the inmate assault Petitioner behind his lawsuits that were filed against her superiors Carney and Clark by Petitioner's attackers own representation. The Rule 15(d) motion filed on or about July 29th 2019, seeking to supplement the complaint and add Ford for conduct occurring after the filing of the complaint, was granted by the District Court (see order Appendix C).

On September 5, and 6, 2019, during trial, 3 settled civil cases (Appendix A), was shown to Respondents Carney, Clark, and May for recollection purposes. While under oath, all 3 of them committed perjury to the Court and the Jury by stating that they did not know that Petitioner ever sued or settled any cases against them. The District Court allowed this perjury to go on without inquiry. Because of Respondents perjury facts, regarding knowledge of pre-filed settled lawsuits, the lack thereof, the Jury couldn't find a "retaliation" claim. The Judge, thereafter, ruled against Petitioner's due process claim. Accordingly, on or about the 6th of September, 2019, Judgment was made against the Petitioner on all claims. (Appendix C). On October 10, 2019, the court struck Ford from the amended supplemented complaint under 1915(g), in contrary to the court's order July 29th which granted Petitioner's motion to amend, with clear intent to have Ford served by U.S. Marshals "at no cost to Mr. Talbot". The 1915(g) rulings in this matter contradicts the wording in Sections 1915A(a) and 1915A(b)(1), by the former requiring "screening dismissal"

at the commencement of the action; while the latter allows the court to review and dismiss the complaint by it being frivolous, etc. Not to mention Ford was relevant in Petitioner's amended complaint since early July. And was not dismissed due to failure to state a claim; but due to the "three strike" provision under 1915 (g).

Petitioner filed a post trial Rule 60(b) motion on the grounds of fraud, yet the court rejected those accusations and even stated, in the memorandum that he believed the Respondents testimony as to lack of knowledge concerning settled lawsuits that each release stated their names and their agreement to settle.

Petitioner filed a notice of appeal on October 21, 2019 to the U.S. Third Circuit Court of Appeals, however, on February 20, 2020, the Court denied Petitioner's motion to proceed in forma pauperis (Appendix D).

The Philadelphia Municipal Court disapproved Petitioner's private criminal complaint against Carney, Clark, and May on October 30, 2019 (Appendix B) without opinion.

Without any other avenue to go to find relief, Your Petitioner is now before the Honorable United States Supreme Court praying that he finally receives justice for the wrongs done to him by state actors to whom abused their authority just for retribution.

Reasons For Granting The Petition:

Legal Analysis:

"Prisoners have a constitutional right of access to the courts... Indigent prisoners must be allowed to file appeals and habeas corpus petitions (without) payment of docket fees in order to prevent effectively foreclosed access to the courts." *Bounds v. Smith*, 430 US 817 (1977). This fundamental right enshrined into the First Amendment, conflicts with both the District and Appeals Courts decision to strike Respondent Ford from the complaint, and decision to deny Petitioner from appealing the judgment of the lower court by denying his motion to proceed in forma pauperis. Both decisions derived from their misuse of 28 USC 1915 (g). 1915 (g), prevents the Courts from entertaining complaints when the author has had at least 3 complaints dismissed as frivolous or failure to state a claim. This law is discretionary. However, the District Court contradicted its use of 1915 (g) by first allowing Ford to be added into the complaint following a Rule 15(d) motion which reads: "The purpose of Rule 15 (d) is to promote as complete an adjudication of the dispute

between the parties as possible by allowing the addition of claims which arise (after) the initial pleadings are filed." Rhodes v. Robinson, 621 F.3d 1002 (9th Cir. 2016). The Appeals Court misused the three-strike provision due to the fact that the appeal review had derived from a civil case that commenced by the grant of in forma pauperis. This decision was erroneous and conflicting.

The civil action against the remaining Respondents was filed for them abusing their authority to retaliate against Petitioner for his exercise of Accessing the Court to seek redress. "The right of access to the courts must be freely exercisable by a prisoner without hinderance or fear of retaliation." Allah v. Seiverling, 229 F.3d 220 (3d Cir. 2000). As aforementioned, Respondents used their authority to have Petitioner transferred from general population to solitary confinement for several month until his release, where he was kept therein without due process and without any way to be released therefrom while pretrial detained. The sole reason behind such confinement, under inhumane conditions, was behind their motive to retaliate.

A judgment against Petitioner, was based upon Respondents making false testimony under oath, by their affirmation that they had absolutely no knowledge of Petitioner filing suit or settling any suit against them in Federal Court. This perjury caused the jury to believe that there was no retaliation. Since contracts make settlements a part of its family, we will resort to the State Supreme Court for enlightenment on settlement agreements. "The law in Pennsylvania is clear and well settled that an attorney (must have express authority) in order to (bind a client to a settlement agreement). The rationale for this rule stems from the fact that parties settling legal disputes forfeit substantial legal rights, and such rights should only be forfeited knowingly. As such, a clients attorney may not settle a case without the clients grant of express authority, and such express authority can only exist where the principal specifically grants the agent the authority to perform a certain task on the principals behalf." Reutzel v. Douglas 582 Pa. 149; 870 A.2d 787 (Pa.S.Ct. 2005). As aforementioned, the City of Philadelphia has a legal duty, not just to inform Respondents of Petitioners lawsuits filed against them, but also a mandatory obligation to acquire their consent in order to settle those lawsuits. By the Respondents making representations under oath in regards to their alleged lack of knowledge of the aforesaid lawsuits that were settled, demonstrates perjury on the Court by the jury and the Judge reliance on that testimony. Furthermore, in every pretrial conference, or settlement conference court order, the Court itself demands that "lead counsel shall have addressed settlement with (all parties) and be prepared to discuss settlement, including (authority from the clients to settle.)"

To elaborate on the meaning of perjury under 18 Pa. Cons. Stat. Sect. 4902: "Perjury is defined as a felony of the third degree, if in any official proceeding he makes a false statement under oath or equivalent affirmation." Commonwealth v. Corbett, 715 A.2d 1226 (Pa. Commw. 1998).

In regards to this false testimony and fabrication of evidence given upon the jury by fraudulent conveyance, Petitioner sought justice under Fed. R. Civ. P. 60(b) which states in general: "Rule 60(b) authorized relief from a final judgment for fraud, misrepresentation, or misconduct and for any other reason that justifies it." Bressman v. Bressman, 874 F.3d 142 (3d Cir. 2017). Bressman further states, "the concept that the inherent power of Federal courts to vacate a fraudulently obtained judgment, even years after the judgment was entered, has long been recognized by the United States Supreme Court." However, Bressman further demonstrates the Third Circuit's hesitation to grant Rule 60(b) motions: "The Third Circuit has adopted a policy disfavoring default judgments and encouraging decisions on the merits." This adopted policy is in direct conflict with Rule 60(b), since the Court could rely on fraudulent obtained judgments without interference.

The national importance of having the Supreme Court decide the questions involved is to:

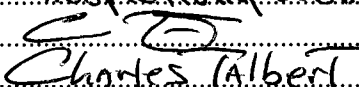
- (1) enlighten the nation to the lengths of misconduct that state actors will go to avoid liability.
- (2) punish Respondents before the nation; to deter them or any other State actor around the nation from this form of misconduct.
- (3) ensure the nation, that the inherent power of the U.S. Supreme Court will continue to make clear that nobody, especially prison administrators, are above the law.
- (4) direct all District and Appeals Courts to modify their adopted policies in their approach to Rule 60(b) motions.

The Courts discretionary jurisdiction is invoked also to provide a correct solution to a routine problem of perjury coming from officials around the nation that cause fraudulent obtained judgments without interference of inherent judicial power. The questions presented are worthy of this Courts discretion, to fix the erroneous rulings aforementioned by the District and Appeals Courts.

Conclusion:

Wherefore, the Petitioner respectfully requests this Honorable Court to grant the writ and provide any other relief deemed appropriate.

Respectfully submitted,


Charles Albert

March 23, 2020