No. 19-8526

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Quintez Talley — PETITIONER
(Your Name)

vs.

Timothy Mazzocca, et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Quintez Talley - KT5091
(Your Name)

48 Overlook Drive
(Address)

LaBelle, Pa 15450
(City, State, Zip Code)

nonapplicable
(Phone Number)

QUESTION(S) PRESENTED

1. Does the inability to show a concrete financial loss derrieve a grieving party of standing when bringing a Racketeering Influenced and Corrupt Organization (RICO) Act claim arising from mail and/or wire fraud?

2. Does the doctrine that a district court <u>must</u> decline exercising supplemental jurisdiction over a prisoners state law claims when the federal claims have been dismissed violate the Eighth Amendments proscription against the imposition of excessive fines?

3. Does the doctrine that a district court <u>must</u> declining exercising supplemental jurisdiction over a prisoners state law claims when the federal claims have been dismissed substantially depart from this Courts prior instruction that such a decision should be based upon "the values of judicial economy, convenience, fairness, and comity"?

4. Is a district court's dismissal of a pro se plaintiffs complaint at the screening phase for failure to state a claim without leave to amend a substantial departure from this Court's decision in <u>Neitzke v. Williams</u>, 490 U.S. 319, 329, 109 S.Ct. 1827 (1989)? (or, Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure?)

5. What is the appropriate remedy for a district courts resolution of material facts at the pleading stage?

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:

TIMOTHY MAZZOCCA; JOHN WETZEL; LT. MORRIS; CAPTAIN SHREDDER; ATTORNEY GENERAL OFFICE; PA DEPARTMENT OF CORRECTIONS; JOSHUA GLESSNER; DANIEL MOSES; ROBERT SMITH; GERALD CRISWELL; DEAN BOWMAN; THOMAS SUCHTA; RONALD HAGG; DUSTIN POPE; TAMMY FERGUSON; RODNEY CHISM; ROBERT WILLIAMSON; DAVID LINK; KEVIN MCELWAIN; MICHAEL WORSTELL; MICHAEL LEFEBYRE; KELI M. NEARY; JOSH SHAPIRO; DR. PILLAI

RELATED CASES

- Talley v. Mazzocca, No. 19-cv-161, U.S. District Court for the Western District of Pennsylvania. Judgment entered on May 8, 2019.
- Talley v. Mazzocca, No. 19-2309, U.S. Court of Appeals for the Third Circuit. Judgment entered on October 24, 2019.

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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 2019 WL 2025175; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished. (only the Westlaw citation is currently available)

[ ] 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 October 24, 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: January 6, 2020, and a copy of the order denying rehearing appears at Appendix E.

[ ] 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 ________. 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

This case involves the First, Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, and the Racketeering Influenced and Corrupt Organization (RICO) Act, which Provide:

First Amendment of the United States Constitution

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridge the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.

Eighth Amendment of the United States Constitution

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Fourth Amendment of the United States 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 no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Fourteenth Amendment of the United States Constitution

Section 1. All persons born or naturalized in the United States, are subject to the jurisdiction thereof, are citizens of the United States and of the States 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 law.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The Amendments are enforced by Title 42, Section 1983, United States Code:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other 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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

The RICO Act claims are enforced by 18 U.S.C. § 1962(b) and (c) and (d), and 18 U.S.C. § 1964(c):

18 U.S.C. § 1962(b)

It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

18 U.S.C. § 1962(c)

It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

18 U.S.C. § 1962(d)

It shall be unlawful for any person employed by or associated with any to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

18 U.S.C. § 1964(c)

Any person injured in his business or property by reason of a violation of section 1962 of this chapter [18 USCS § 1962] may sue therefor in any appropriate United States District Court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962 [18 USCS § 1962]. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.

18 U.S.C. § 1343. Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit, authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a Presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5122)), or affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

STATEMENT OF THE CASE

The Petitioner's complaint alleged that during the proceedings in a separate civil action, Talley v. Pillai, No. 18-cv-1060 (W.D.Pa.), the respondents used mail and wire communications to carry out a successful scheme to share and then use Petitioner's confidential business/financial information for their benefit. The complaint further alleged that while the court ultimately denied the motion to revoke informa pauperis status that the information was used in, respondents acted with the intent of depriving Petitioner of his property, i.e., the right to prosecute a civil action in which tens of thousands of dollars were at stake.

Finally, Petitioner's complaint also alleged that respondents had: (1) intrusively seized his papers and effects without either a warrant or probable cause; (2) arbitrarily infringed upon his First Amendment rights to speech and/or communication; and, (3) in using the information in support of a Fed.R.Civ.P. 11(b) motion for sanctions (cloaked as a motion to revoke [Petitioner's] in forma pauperis status), failed to provide Petitioner with notice of the motion, undermining Petitioner-Plaintiff's ability to object to the information used before it was made available for public consumption without any - let alone "just" - compensation.

The district court, itself resolving issues of material fact(s), dismissed Petitioner's complaint at the screening phase, holding: (1) that the showing of a concrete financial loss was a prerequisite to having standing in a civil RICO Act case; and, (2) Petitioner-Plaintiff could not possibly have a protected liberty or property interest in a confidential business document for which he'd filed a prior lawsuit about; lastly, (3) leave to amend should be denied. The court of appeals affirmed the dismissal for the reasons stated by the district court.

REASONS FOR GRANTING THE PETITION

A. The Third Circuit Court of Appeals has decided an important question of federal law in a way that conflicts with relevant decisions of this Court

This case provides the Court with a ripe opportunity to give guidance to an entire nation as to what effect racketeering activity must have upon its victims.

In Petitioner's Complaint it was alleged that respondents used mail and wire communications with the intent of interfering with Petitioners property right to prosecute civil action Talley v. Pillai, et al., No. 18-cv-1060 (W.D.Pa.) by using the same medium to first share then use Petitioner's confidential financial / business information, in violation of 18 U.S.C §§ 1341 and 1343. Neither the district or appellate court's disputed that "confidential business information" - or, financial information - constitutes "property" for purposes of the federal mail fraud statute[1], instead, the district and appellate courts focused upon the "effect" of respondents acts; ultimately, concluding that because Petitioner hadn't pleaded a concrete financial loss he didn't have standing to bring civil RICO Act claim. Appendix "D" at p. 5-6.

This position, affirmed by the Third Circuit (App. "A" at p. 2), is in direct conflict with this Court's holding that "the wire fraud statute punishes the scheme, not its success," Pasquantino v. United States, 544 U.S. 349, 371 (2005), and Carpenter v. United States, 484 U.S. 19 (1987).

In Scheidler v. National Organization for Women, 537 U.S. 393 (2003) the Court made it unambiguously clear that RICO does not require proof that either the racketeering enterprise or the predicate

FOOTNOTES

1. Carpenter v. United States, 484 U.S. 19, 27, 98 L Ed 2d 275, 108 S Ct 316 (1987) (finding that confidential business information constitutes "property" for purposes of the federal mail fraud statute).

acts of racketeering were motivated by an economic purpose. Id. at 398-99. Scheidler addressed the cause; the present cause questions the effect. That is, "what must its effect be?"

The Third Circuit's strict interpretation of "property" as having to be something tangible, i.e., "money" / "concrete financial loss", est, is incompatiable with this Court's definition of "Property" as "extend[ing] to every species of valuable right and interest." Pasquantino, 544 U.S. at 356 (quoting Black's Law Dictionary 1382 (4th ed. 1951)). The right to prosecute a non-frivilous civil action in which tens of thousands of dollars are at stake is clearly a "valuable right and interest." Id. Surely, such an interest is the "economic equivalen[t] between money in hand and money legally due," correct? Id.

In Carpenter v. United States, 484 U.S. 19 (1987), expressing the unanimous view of the eight members of the Court, Justice White upheld a conviction under the mail fraud statute[2] absent any monetary loss because the victim had been deprived of its [intangible] property right of making exclusive use of [it's] confidential business information and mail and wire communications were used as mediums to carry out the fraudulent scheme. Accordingly, Petitioner prays, in light of the Court's decision in Carpenter, it shall be held "sufficient [to establish standing] that [Petitioner] has been deprived of [his] right to exclusive use of the information, for exclusivity is an important aspect of confidential business information and most private property for that matter. Carpenter, 484 U.S. at 26-7.

The appellate Court's affirmance of the district courts numerous constitutional claims, brought pursuant to 42 U.S.C §1983, was also in conflict with decisions of this Court, as the district court's dismissal was largely predicated upon the courts improper resolution of a material fact at the screening phase. Specifically, Petitioner alleged that the respondents had come into contact with the information from his settlement agreement by way of their co-defendants/respondents; the district court,

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2. While Carpenter was a criminal RICO case and the present is civil, that should have no bearing upon the Court's analyst, as both serve the same objective. Hope v. Pelzer, 122 S. Ct. 2515 (2002).

upholding its mandatory duty to screen a prisoners complaint,[3/4] vehemently concluded that no claim could lie against respondents for disclosing the terms of the confidential settlement agreement because petitioner had himself attached said document to one of his previously filed lawsuits. Appendix "D", generally. It would be beyond cavil to object that the allegations within petitioners complaint didn't provide respondents with "fair notice of what the... claim is and the grounds upon which it rest[ed]." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S. Ct. 1955 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47, 78 S. Ct. 99 (1957)); accord, Swierkiewicz v. Sorema, 534 U.S. 506, 512, 122 S. Ct. 992 (2002).[5]

Had respondents - not the district court during the screening phase - alleged that petitioner's filing of the lawsuit with the settlement agreement attached was indeed the way in which they'd come into possession of the confidential business information, not by the feeding of it to them from their co-defendants (as had been alleged by petitioner), this could've quite reasonably been grounds for the court to conclude that there existed a genuine issue of material fact. Indeed, a "material" fact is one that "might affect the outcome of the suit under the governing law," Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505 (1986), and a "genuine" issue exists "if evidence is such that a reasonable jury could return a verdict for the nonmoving party." Id. at 248. Even so, this Court has long held that resolving these sort of disputes is the job of the jury, not the judge. Anderson, 477 U.S. at 255 ("Credibility determinations, the weighing of the evidence, and the drawing

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3. 28 U.S.C. § 1915A(a);
4. While petitioner was a "prisoner" at the time of filing, he was not a "prisoner" at the timeframe that the incidents that make up his complaint and believes this fact should be decisive of whether or he should've been subjected to the district courts "screening".
5. While more recent decisions seem to have made the "fair notice" requirement more demanding, it is used in the present context only to establish that respondents could've, had they chosen, raised the issue (as a defense) of petitioner's prior filing of the settlement.

of legitimate inferences from the facts are jury functions, not those of a judge.").

Farther, the district and appellate courts position regarding Petitioner lacking standing is too in conflict with many of the previous decisions of the Court, as it takes "standing" out of its originally intended context.

The Court has long held that a plaintiff has standing to sue if the defendants' conduct has caused her some actual injury or threatens to do so, and if a favorable court decision is likely to redress the injury. Valley Forge Christian College v. Americans United for Separation of Church and State, 454 U.S. 464, 472, 102 S.Ct. 752 (1982); Allen v. Wright, 468 U.S. 737, 751, 104 S.Ct. 3315 (1984); Sprint Communications Co., L.P. v. APCC Services, Inc., 128 S.Ct. 2531, 2535 (2008).

Simply put, it would be beyond cavil to object that the allegations within Petitioner's complaint, taken as true[6], didn't establish that respondents used wire and mail communications to carry out or farther a scheme to deprive Petitioner of his "property," i.e., exclusive use of confidential business information. Included within Petitioner's "Prayer[s] for relief" were requests for both injunctive and declaratory relief.[7] Complaint at paragraphs 30-7; see also, Carpenter, 484 U.S. at 26-7.

The lower courts' uncompromising stance that "[Petitioner] has no cognizable ["property", or] "privacy" claim about the release of the terms of his settlement agreement, when he in fact was the one who first put the terms in the public record," App. "D" p. 10, seemingly based upon the third-party doctrine, again finds itself in conflict with the Court's previous

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6. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007).

7. Petitioner's "Prayer for relief" also included a prayer for "[a]ny additional relief judge or jury deems just, equitable, or proper." See Complaint at paragraph 37.

decisions regarding this exact issue.

> "The third-party doctrine partly stems from the notion that an individual has a reduced expectation of privacy in information knowingly shared with another. But the fact of "diminished privacy interests does not mean that the Fourth Amendment falls out of the picture entirely."

Carpenter v. United States, 585 U.S. ___, 138 S.Ct. ____, 201 L. Ed. 2d 507, 523-24 (2018) (quoting Riley v. California, 573 U.S. 373, 392 (2014)).

The district courts ruling, subsequently affirmed by the appellate court, also justified the respondents filing of over ten (10) years worth of Petitioner's inmate account information on the grounds that "it is clear from the record that the intrusion into [Petitioner's] privacy does not outweigh the substantial legitimate government interest at stake in insuring that allegations of poverty are true when granting a litigant in forma pauperis status," App. "D" p. 9, though 28 U.S.C. § 1915(a)(2) only requires a prisoner to submit six (6) months prior to the date of filing. Accordingly, the affirmance of documentation to which the respondents obtained solely by means of my incarceration being used against Petitioner to deprive him of property is clearly in ABSOLUTE conflict with decisions of this Court! Riley, 573 U.S. at 392 (quoting Maryland v. King, 569 U.S. 435, 463, 133 S. Ct. 1958, 1979, 186 L. Ed. 2d 1, 30 (2013)) ("Not every search "is acceptable solely because a person is in custody."); Boyd v. United States, 116 U.S. 616, 633 (1886) ("we have been unable to perceive that the seizure of a man's private books and papers to be used in evidence against him is substantially different from compelling him to be a witness against himself.").

Farther, while Petitioner didn't expressly bring a Fifth Amendment of the United States Constitution claim against respondents for their compelling Petitioner to be a witness against himself by submitting copies of Petitioner's inmate account statement, with the hopes of depriving him of a "property" interest, without notice or an meaningful opportunity to object to the use of such information before it was filed in the district court, because the facts within Petitioners Complaint sufficiently established such a violation, the refusal to permit Petitioner an opprotunity to file an amended complaint was also in conflict with decisions of this Court, too. Neitzke v. Williams, 490 U.S. 319, 329, 109 S.Ct. 1827 (1989).

B. The United States Court of Appeals has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power

The district court itself acknowledged that it was reviewing Petitioner's complaint under the same standard applicable to a motion to dismiss pursuant to Rule 12(b)(6). App. "D" p.3-4. The accepted and usual course of judicial proceedings governing such a review does not authorize a judge to make or resolve disputes of material fact at the pleading stage. Fed. R. Civ. P. 56(a) (summary judgment is proper only "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.") At the pleading stage the complaint must be read in the light most favorable to the plaintiff and all well-pleaded, material allegations of fact in the complaint must be taken as true. App. "D" p. 4 (citing Estelle v. Gamble, 429 U.S. 97 (1976)).

Simply put, the lower courts orders were largely predicated upon a resolution of a question of material fact, which, without providing Petitioner the opprotunity to submit evidence in his own defense, found in favor of the respondents - whom weren't even served! In short, the lower courts presented a defense on behalf of respondents, then subsequently made a ruling in favor of the respondents....

Clearly, this practice substantially departs for the accepted and usual course of screening and/or Rule 12(b)(6) proceedings as to call for an exercise of this Court's supervisory power. See

Rule 10(a) of the Rules of the Supreme Court of the United States.

Such an insury is wanting as to the question of what the appropriate relief is? What is the appropriate remedy in a case in which the district court arbitrarily resolves issues of material fact at the pleading stage? To avoid Prejudice to any of the parties, especially the plaintiff(s), the only appropriate available remedy appears to be the convertion of the complaint into either a motion for judgment on the pleading, pursuant to Rule 12(c), or a motion for summary judgment, pursuant to Rule 56, if not a trial.

Petitioner's position is based largely in part to the fact that, in taking it upon itself to resolve these material facts, the district court has ultimately provided respondents with the very disputed material fact to which it is now to rule?....

The circumstances of this case also shines an illuminating light upon the abusive manner in which Rule 12(b)(6) motions, in title only, are being employed to impede pro se plaintiffs' ability to undertake discovery; a practice which is being allowed to develope & persist. Love v. Pullman, 404 U.S. 522, 526, 92 S.Ct. 616 (1972) (stating "technicalities are particularly inappropriate in a statutory scheme in which laymen, unassisted by trained lawyers initiate the process").

*Because questions 2, 3, and 4 of this Petition have already been brought before this Court by way of the United States Supreme Court of Talley v. Pennsylvania Department of Corrections, No. 19-8320, Petitioner shall decline to re-raise them herein. Petitioner does, in the event the Court grants Cert. in Talley v. Pennsylvania Department of Corrections, requests that the Court shall endeavor to make a ruling as to what effect, if any, such ruling shall have upon this Petition, please.

Given the fact that the district court improperly used it's duty to screen Petitioner's complaint as an opportunity to create and then resolve disputed material facts, even if respondents were to decide to raise the identical facts, it is now irrefutable that there would now exist a credibility issue; the resolution of which is the function of a jury, not a judge. Anderson, 477 U.S. at 255 ("credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge.")

It would be virtually impossible to overstate the importance to the general public in providing it's greater majority, untrained in matters of the law, with guidance, as well as a corrective remedy, as to issues presented herein.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Quinton Tallier

Date: April 12, 2020