

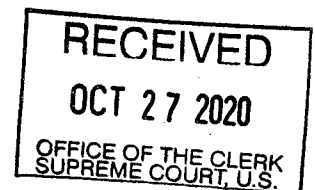
No. 19-8752

IN THE
SUPREME COURT OF THE UNITED STATES

DERRICK M. ALLEN SR.

V.

ANNETTE MOORE ET. AL



PETITION FOR REHEARING

FROM THE RULING OF THE UNITED STATES SUPREME COURT

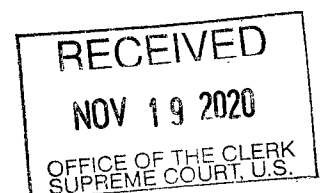
DERRICK M. ALLEN SR.
DURHAM COUNTY JAIL

10973

P.O. BOX 771

DURHAM, N.C.

27702



QUESTION(S) PRESENTED

Whether complaint lack subject matter jurisdiction to appeal from order or judgment of an District court; whether petitioner complaint contains sufficient factual matter to survive a motion to dismiss ; and whether unpublished opinion(s) are deemed as binding precedent in this circuit ?

POINT OR FACT(S) OVERLOOKED OR MISCOMPREHENDED BY THE COURT(S):

Both the District court for the Middle District of North Carolina, and the court of appeals of for the fourth circuit dismissed petitioner complaint for separate reason(s):

The District court for the middle district of north Carolina dismissed plaintiff action pursuant to 28 U.S.C. § 1915 (e)(2)(b)(ii).....

Fails TO STATE A CLAIM WHICH RELIEF CAN BE GRANTED; AND THE COURT OF APPEALS FOR THE FOURTH CIRCUIT DISMISSED PETITIONER APPEAL FOR THE LACK OF SUBJECT-MATTER-JURISDICTION; TWO WHOLLY UNRELATED ISSUES). FIRST, Appellant address DISMISSAL BY DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA PURSUANT TO 28 U.S.C. 1915(e)(2)(B)(ii)

I. FAILURE TO STATE A CLAIM

A MOTION TO DISMISS ACTION FOR FAILURE TO STATE A CLAIM OR FOR WANT OF SUBJECT-MATTER-JURISDICTION MAY BE GRANTED ONLY IF IT APPEARS BEYOND DOUBT THAT PLAINTIFF CAN PROVE NO SET OF FACTS) IN SUPPORT OF HIS CLAIM. SEE, *CAITHOUNH V. UNITED STATES* (1977, SD CA1) 475 F. Supp. 1 OFF'D (CA 9 CA1) 604 F.2d 647, CERT. DEN. 444-US 1078, 62 L.Ed. 2d 761, 100 S. CT. 1029.

IN ORDER TO SURVIVE A MOTION TO DISMISS, COMPLAINT MUST CONTAIN SUFFICIENT FACTUAL MATTER ACCEPTED AS TRUE. TO STATE A CLAIM OF RELIEF THAT IS PLAUSIBLE ON ITS FACE; CLAIM HAS FACTUAL PLAUSIBILITY WHEN PLAINTIFF PLEADS FACTUAL CONTENT THAT ALLOWS THE COURT TO DRAW AN REASONABLE INFERENCE THAT DEFENDANT IS LIABLE FOR MISCONDUCT.

HERE, PETITIONER HAS SHOWN THAT HE WAS DENIED PUBLIC HOUSING WITH THE TOWN OF CHAPEL-HILL DUE TO INACCURATE INFORMATION DERIVED FROM THE FBI IN CLARKSVILLE, WEST VIRGINIA.

II. DISMISSAL OF COMPLAINT FOR THE LACK OF SUBJECT-MATTER-JURISDICTION:

FEDERAL COURT(S) ARE COURTS OF LIMITED JURISDICTION AND CAN ONLY ADJUDICATE THOSE CASE(S) THAT FALL WITHIN ARTICLE III OF THE UNITED STATES CONSTITUTION [SEE, U.S.C.A. ARTICLE III].

- THE DISTRICT COURT(S) SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTION(S) ARISING UNDER THE CONSTITUTION, LAWS, OR TREATIES OF THE UNITED STATES [28 U.S.C. 1331].

- DIVERSITY OF CITIZENSHIP; AMOUNT IN CONTROVERSY THE DISTRICT COURT SHALL HAVE ORIGINAL JURISDICTION OF ALL CIVIL ACTIONS WHERE THE MATTER IN CONTROVERSY EXCEEDS THE SUM OR VALUE OF SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) EXCLUSIVE OF INTEREST AND COSTS, AND IS BETWEEN:

- CITIZENS OF DIFFERENT STATES,
- CITIZEN(S) OF A STATE, AND CITIZEN(S) OR SUBJECT(S) OF A FOREIGN STATE, EXCEPT THAT

THE DISTRICT SHALL NOT HAVE ORIGINAL JURISDICTION UNDER 28 U.S.C. 1332 OF AN ACTION BETWEEN CITIZENS OF A STATE AND CITIZEN(S) OR SUBJECTS OF A FOREIGN STATE WHO ARE LAWFULLY ADMITTED FOR PERMANENT RESIDENCE IN THE UNITED STATES AND ARE DOMICILED IN THE SAME STATE;

- CITIZEN(S) OF DIFFERENT STATES, IN WHICH CITIZEN(S) OR SUBJECT(S) OF A FOREIGN STATE ARE ADDITIONAL PARTIES; and

- A FOREIGN STATE, DEFINED IN 28 U.S.C. 1603 (a), AS PLAINTIFF AND CITIZEN(S) OF A STATE OR OF DIFFERENT STATE, 28 U.S.C. 1332 (A).

- DERIVATIVE JURISDICTION.

INsofar as an FEDERAL QUESTION IS CONCERNED, AS IT RELATES TO SUBJECT MATTER JURISDICTION ... THE PLEADER MUST SHOW THAT HE OR SHE HAS ALLEGED A CLAIM FOR RELIEF ARISING UNDER FEDERAL LAW AND THE CLAIM IS NOT FRIVOLOUS.

BAKER V. CARR, 369 U.S. 186, 82 S. CT. 691, 7L ED 2D 663 (1992).

HEREIN, PETITIONER HAS ALLEGED A CLAIM FOR RELIEF ARISING UNDER FEDERAL LAW. ALL CITIZEN(S) OF THE UNITED STATES SHALL HAVE THE SAME RIGHT, IN EVERY STATE AND TERRITORY, AS IS ENJOYED BY WHITE CITIZEN(S) THEREOF TO INHERIT, PURCHASE, LEASE, SELL, HOLD AND

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and Convey Real and Personal Property Pursuant to 42 U.S.C. 1982; THEREFORE, PETITIONER CLAIM FOR RELIEF ARISING UNDER FEDERAL LAW PERTAIN TO OWNING HIS OWN EARTHLY ABODE... THE RIGHT OF THE PEOPLE TO BE SECURE IN THEIR PERSON(S), HOUSE(S)...

III. UNPUBLISHED OPINION(S):

UNPUBLISHED OPINION(S) ARE NOT LEGAL PRECEDENT AND ARE MERELY UTILIZED WHEN THERE'S NO CASE CITATION ON POINT OR TO DISPARAGE TRUTH AND/OR TO DISPARAGE THE RIGHTS OF U.S. CITIZEN(S) WHICH INFRINGES, THE 14TH AMENDMENT, THE EQUAL PROTECTION OF LAWS.

III. Conclusion :

PETITIONER [DERRICK M. ALLEN SR.] HAS ADEQUATE ILLUSTRATED, PLAINTIFF(S) COMPLAINT CONTAINS SUFFICIENT FACTUAL MATTER TO SURVIVE A MOTION TO DISMISS; AND THE DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA AND THE U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT DISMISSED PETITIONER(S) COMPLAINT FOR TWO SEPARATE, UN-RELATED REASON(S); MOREOVER, THE DISTRICT COURT SHALL HAVE ORIGINAL JURISDICTION OF all

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Civil action(s) arising under the Constitution, Laws, or Treaties of the United States, and Petitioner has both an Constitutional and Statutory Right to appeal an ORDER Final judgment of an District Court according to 28 U.S.C. 2107. Lastly, unpublished opinion(s) are unconstitutional.

PETITIONER ARDENTLY REQUEST OF THIS COURT TO allow PETITIONER TO PROCEED IN FORMA PAUPERIS, and grant his writ of CERTIORARI [REHEARING]. REHEARING IS NECESSARY; THERE HAS BEEN A LOSS OF LIBERTY ... THE FREEDOM TO WORK, THE FREEDOM TO RESIDE AS AN AMERICAN MINUS THE HANDCUFF(S), WAIST CHAIN and SHACKLES HAS BEEN ABRIDGED AND PETITIONER IS STAGNANT. THERE'S ONE COURT THE POWER TO CORRECT SUCH AN SOCIAL BLUNDER, WHEN ALL OTHER LOWER COURTS LACK THE WILL, MOTIVATION AND INSPIRATION TO RECTIFY WHATS BEEN MISCONSTRUED.

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