

20-1086

IN THE SUPREME COURT OF THE UNITED STATES

JANUARY TERM, 2021

RANDALL G. STEPHENS

Petitioner,

vs.

DOW CHEMICAL COMPANY

Respondents,

ORIGINAL

FILED

JAN 21 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI

LIMITATION

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Respectfully submitted by,

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QUESTION PRESENTED FOR REVIEW

Whether Administrative Judge John J. Russo's, Journal Entry of April 15, 2019 and Judge Brendan J. Sheehan's, Journal Entry of February 26, 2020 denying Petitioner access to the Court of Common Pleas Cuyahoga County, Ohio based on the May 22, 2017 Order and Journal Entry of Judge Kelly Ann Gallagher, granting the Respondents' March 13, 2017 Motion requesting the Court to declare Petitioner a vexatious litigator. This action and conduct of the above Judges violates the United States Constitution Amendment VI [1791], and the State of Ohio Constitution Article VIII Section II, which guarantees Petitioner's right to face his accuser and to a speedy and public trial before an impartial jury?

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OPINIONS BELOW

The Supreme Court of Ohio filed their Journal Entry September 29, 2020 by Chief Justice Maureen O' Connor, which reads as follows:

"Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to S. Ct. Prac. R. 7.08(B)4."

The Court of Appeals of Ohio Eighth District County of Cuyahoga, filed their Journal Entry June 1, 2020 by Administrative Judge Eileen T. Gallagher, concurred by Judge Mary J. Boyle, which reads as follows:

"Sua sponte, this appeal is dismissed."

The Court of Common Pleas Cuyahoga County, Ohio filed their Journal Entry May 20, 2020 by Judge Emily Y. Hagan, which reads as follows:

"Pursuant to the Notice of Appeal filed 05/14/2020. All matters in this case are hereby stayed. Case will be reinstated to the active docket upon remand."

JURISDICTION

SUPREME COURT OF THE UNITED STATES

TITLE 28 UNITED STATES CODE SECTION 1257(a)

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of

which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission hold or authority exercised under, the United States.

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

UNITED STATES CONSTITUTION ARTICLE (2)

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

STATE OF OHIO CONSTITUTION ARTICLE I SECTION 16

REDRESS FOR INJURY: DUE PROCESS

“All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay. Suits may be brought against the state, in such courts and in such manner, as may be provided by law.”

STATEMENT

This is a case for the full and final settlement payment of Petitioner's workers' compensation claim against the Respondents. January 5, 2017 Judge Kelly Ann Gallagher, Ordered the parties into final settlement proceedings. March 8, 2017 Judge Kelly Ann Gallagher, received the Court Ordered Agreed Settlement by All Parties, by Registered Mail Number RR 769404919 US.

April 15, 2019 Administrative Judge John J. Russo, and on February 26, 2020 Judge Brendan J. Sheehan, filed their Journal Entry which reads in pertinent part as follows:

"The court has received a request from Randall G. Stephens for leave as a vexatious litigator to file (1) Motion for Leave to File Complaint Charge Breach of Contract Evidence Breach of Contract.

Pursuant to R. C. 2323.52(F)(1), a Court of Common Pleas that entered an Order under Division (D)(1) of this section shall not grant a person found to be a vexatious litigator leave for the institution or continuance of, or the making of an application in, legal proceedings in the Court of Claims or in a Court of Common Pleas, Municipal Court, or County Court unless the Court of Common Pleas that entered that Order is satisfied that the proceedings or application are not an abuse of process of the Court in question and that there are reasonable grounds for the proceedings or application."

REASONS FOR GRANTING THE WRIT

Pursuant to United States Constitution Amendment VI [1791], reads as follows:

"In all criminal prosecution, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertain by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Pursuant to the State of Ohio Constitution Article VIII Section II reads as follows:

"That in all criminal prosecutions, the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county or district in which the offense shall have been committed; and shall not be compelled to give evidence against himself, nor shall he be twice put in jeopardy for the same offense."

It is evident that both parties have accused each other, therefore under the above

Federal and State Constitutional Laws, they both are guaranteed the right to face their accuser and have a speedy public trial by an impartial jury.

THE DECISION BELOW SQUARELY
CONFLICTS WITH THE COURTS DECISION

Whipps v. Ryan, 2013-Ohio-4382 the Court of Appeals of Ohio, Tenth Appellant District, Franklin County, Judgment Rendered October 3, 2013 Reversed, cause Remand.

It stated in the Whipps, case “with regard to a declaration that a party is a vexatious litigant. Ohio Revised Code Section 2323.52 unambiguously requires the commencement of a civil action, and a motion is not equivalent of a complaint. Pursuant to Ohio Rule of Civil Procedure 3, a party commences a civil action by filing a complaint. Accordingly, filing a motion in a pending cause of action is not equivalent of commencing a civil action as intended by both the Ohio ‘revised code Section 2323.52 and Ohio Rule of Civil Procedure 3.”

New York Life Ins. Co. v. Calhoun, C. C. A. Mo. 114 F. 2d 526, 537.

In the case of New York Life Insurance Company, it states, “under the statute permitting recovery of damages for “vexatious delay or refusal to pay” of an insurer in payment of a policy, no penalty can be inflicted unless it appears to a reasonable and prudent man before the trial that refusal was willful and without reasonable

cause, and penalty will no inflicted because of adverse outcome of trial.”

Rose Rifkin v. Samuel I. Safenovits, Supreme Court of Errors of Connecticut 131 Conn. 411; 40 A. 2d 188; 1944 Conn. Lexis 296 argued October 11, 1944 and Decided November 30, 1944 Error and Case Remanded with Direction.

In the Rose Rifkin case, it states “conditions upon which the right to require performance of a contract obligation depends may often be implied where not to do so would defeat the clear intention of the parties and the object of the contract.”

“Where one party to a contract enters upon the performance of an express obligation imposed upon him by a contract, the law implies a corresponding obligation on the party of the other party to the contract which reasonable men would understand must have been intended to be included.”

THE DECISION BELOW, IF PERMITTED TO STAND, WOULD TRIGGER A
WIDESPREAD ENVIRONMENT OF PROTEST AND POSSIBLE VIOLENCE
VIOLENCE THROUGHOUT THE ENTIRE UNITED STATES FROM LITIGANTS
BEING DEPRIVED OF THEIR DAY IN COURT FOR EQUAL JUSTICE

If the decision of May 22, 2017 by the Court of Common Pleas Cuyahoga County, Ohio granting the Respondents-Defendants' May 13, 2017 Motion accusing and requesting the Court to declare Petitioner-Plaintiff a vexatious litigator would stand, it would become precedent case law, and every Judge would have legal

precedent to prevent all Plaintiffs from their day in Court for equal justice when a Defendant files such motion against a Plaintiff.

CONCLUSION

When reviewing the Journal Entry of the Court of Common Pleas Cuyahoga County, Ohio of May 20, 2020 [see appendix C] which reveals that the Court of Common Pleas Cuyahoga County, Ohio which declared Petitioner a vexatious litigator, on May 22, 2017 has now granted Petitioner leave to proceed. Due to the fact that the proceedings will satisfy the Court, that the requested filings will not be an abuse of process of the Court.

Therefore, by the Law of the Land this case must be reversed and remanded to the Court of Common Pleas Cuyahoga County, Ohio and set for a speedy public trial, before an impartial jury of twelve (12) of Petitioner's peers, without denial or delay.

The State of Ohio Constitution Article II Section 28; the Ohio Revised Code Section 4123.75 and Local Rule of the Court of Common Pleas Cuyahoga County, Ohio 15(D), should be applied for and at the trial when trying this matter.

STATE OF OHIO CONSTITUTION ARTICLE II SECTION 28 RETROACTIVE LAWS; LAWS IMPAIRING OBLIGATION OF CONTRACTS

"The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may by general laws, authorize courts to

carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state."

OHIO REVISED CODE SECTION 4123.75 REMEDY OF EMPLOYEE
AGAINST NONCOMPLYING EMPLOYER

Third paragraph fifth sentence reads as follows:

"As soon as the issues are made up in any such case, it shall be placed at the head of the trial docket and shall be first in order, for trial without denial or delay."

LOCAL RULE OF THE COURT OF COMMON
PLEAS CUYAHOGA COUNTY, OHIO 15(D)

"The trial date for a case will be set by the Judge to whom the case is assigned."

January 21, 2020 A. D.

Respectfully submitted by,



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