

20-1103 ORIGINAL
No.

In The
Supreme Court of the United States

FILED
JUN 15 2020
OFFICE OF THE CLERK
SUPREME COURT OF PENNSYLVANIA

MICHAEL F. KISSELL,

Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
OFFICE OF THE ATTORNEY GENERAL
ANTHONY T. KOVALCHIK—DEPUTY ATTORNEY GENERAL
Respondents.

Denied Appeal from Third Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Michael F. Kissell
Proceeding Pro Se
1027 Quincy Drive
Greensburg, PA 15601
Telephone: 724-834-3920
mkissell1027@comcast.net
Filed Primarily June 17, 2020

i
QUESTIONS PRESENTED

1. Whether subject matter jurisdiction matter was properly invoked involving a continuing violation of Title VII, 1983 etc in the underlying claims of retaliation and hostile environment conditions in the reinstatement process of a jury award and reinstatement.
2. Whether a timely well-pled complaint and court record pleading was sufficient to withstand dismissal by Rule 12 (b)(6) when a prior case won by Jury trial by the petitioner is a continuing violation of repeated acts and or the petitioner is accused of being handicapped disabled.
3. Whether the District Court and the Third Circuit deviated from acceptable judicial proceeding in this case that requires this courts supervisory power pursuant to Rule 10.
4. Whether procedural process denied the rights of the petitioner by misrepresentation and criminal acts during the appeals process and the misleading and violations of the rules of professional conduct involving attorneys hired by the petitioners
5. Whether the Respondents attorney took steps to overturn a jury award by misguided and criminal acts. Aiding and abetting the distribution of the Back Pay Award to avoid proper IRS Tax reporting and withholdings. Giving and allowing the petitioners attorney Leonard Sweeney to illegally endorse forgery of the check to cash out of State. Commingling the funds without the knowledge of the petitioner. TAX FRAUD

Questions Continued

6. Whether Petitioners Attorney Christopher P. Skatell misrepresented the petitioner. The Petitioner does not understand the filing of case No. 2:18 -cv-01409 by his attorney when the attorney was fully briefed and knew of the appeal PRO SE and the extension was denied knowing that he had to File for the Writ of Certiorari. To file the 1983 and Title Vii would be fruitless and the case would be dismissed by res judicata. Unbelievable especially after the promises of Christopher p. Skatell to prosecute Leonard Sweeney, to end my pension hearing quickly with the evidence supplied and to re-file my 1983. Title Vii claims appeal to SCOTUS,
7. Whether Petitioner was abused of his constitutional rights to protect the perpetrators by the attorney Christopher P. Skatell involving violations of Professional Conduct while draining the petitioners Bank Account while withholding factual evidence from the Honorable Courts and Pension hearing examiner. Falsely representing the petitioner for monetary and political gain.
8. Whether the petitioner was set up into Tax Fraud one way or the other.
9. Whether a Lower Court is or is not Restricted to Act Even when a case is marked as Closed on the Docket and Notices. Case 97-0786 Case3-15-cv-00058 and Case No. 2:18-cv-01409

LIST OF PARTIES

The following is a list of all parties to the proceeding in the court below,
as required by RULE 24.1 (b) and Rule 29.1 of the Rules of the Supreme
Court of the United States

1. Michael F. Kissell, Petitioner
2. Pennsylvania Department of Corrections
Commonwealth of Pennsylvania
Office of the Attorney General
Deputy Attorney General
Anthony T. Kovalchik, Respondents

TABLE OF CONTENTS—Continued

	Page
Questions Presented.....	i, ii
List of Parties.....	iii
Table of Contents.....	iv
Table of Authorities.....	v
Opinions Below.....	1
Jurisdiction.....	1
Constitutional and Statutory Provision-	
involved.....	1,2,3
Statement of the Case.....	4-13
Conclusion.....	13
Certificate of Service.....	14
Appendices	

United States Court of Appeals for the Third Circuit Opinion
and Judgment, June 8, 2020

TABLE OF AUTHORITIES

Title VII continuing violations of 2000e case 97-0786

Civil Rights Act of 1871 42.S.C and 1983
First Amendment to Free Speech

7th Amendment right to Jury Trial over 20. Dollars

9th Amendment

14th Amendment right to procedural Due Process
Pennsylvania Human Relations Act 43 P.S. 951-63 (PHRA)

Charlton v Paramus Bd of Educ.
25 F.3d 194,201 3rd circuit

Weiss v. Parker Hannifan Corp.
747. F Supp.1118 1128 D.N.j 1990

Burdine 450 U.S. 450 at 256

Bailey v Glover

National R.R . Passsenger Corp v Morgan
2002 Opinion U.S. Supreme Court

Cooter&Gell v Hartmark Corp. 496 U.S. 384 395, 110S.Ct
2447,110 1 Ed 2d 359

Petitioner, Michael F. Kissell, having first-hand knowledge of the events in this case respectfully petitions for writ of certiorari or relief by review of judgment of the United States Third Circuit Court of Appeals (Third Circuit).

The legal citations and arguments used are those of a layperson without any formal or informal legal training. Therein, Michael respectfully asks this Court's indulgence for the less educated.

OPINIONS BELOW

The unpublished decision and order of the United States Court of Appeals for the Third Circuit is attached as Appendix 1-0.

JURISDICTION

The judgment of the Third Circuit court of appeals was entered on June 8, 2020. App. 1.

The jurisdiction of this Court is invoked under 28 U.S.C § 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

-U.S. Const., First amendment provides
“Free speech the right to petition the government for redress of grievances.”

- U.S. Const., Seventh amendment provides

“The right to a jury trial in certain civil cases and inhibits courts from overturning a jury’s finding of fact.”

- U.S. Const., Ninth amendment provides

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

- U.S. Const., Fourteenth amendment provides

“..NO State shall make abridge the privilege or immunity of the 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 the equal protections of the law.”

-28 U.S.C. §1331 provides

“The Distinct courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

-Federal Doctrine of Fraudulent Concealment *Bailey v. Glover*: (1)
 “diligent”;
 (2) “concealment”

That a federal Court may consider issues after an action is no longer pending, Cooter & Gell v. Hartmarx Corp, 496 U.S. 384,395, 110 S.Ct. 2447 L.ED.2d359. including the imposition of costs, attorney’s fees, and contempt sanctions, the imposition of a Rule 11 sanction, id, at 396,110 S.Ct. 2447,-Bechuck v. Home Depot U.S. Inc., 814 F.3d 287,291-92 (5th Cir. 2016

-Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. §§2000e) and 1981 provides

“[i]t shall be an unlawful employment practice for an employer to discriminate against any of his employees... because he has made a charge”

- (a) Discrimination retaliation harassment
- (b) Asking managers about salary information to uncover discriminatory wages tax issues withholding benefits
- (c) Making a person work station more difficult punishing a employee
- (d) Title V American with Disabilities Act
- (e) The equal pay act
- (f) Material adverse employment action attachment of a jury award and attachment of Pension FRAUD
- (g) Repeated violations at new work location
(continuing violations) National R.R Passenger Corp v Morgan 2002 opinion U.S. Supreme Court

Federal Rules of Civil Procedure 8 provides:

- (a) Claim for Relief. A pleading that states a claim for relief must contain :
- (b) A short and plain statement of the grounds for the courts jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;
- (c) A short and plain statement of the claim showing that the pleader is entitled to relief;and
- (d) a demand for the relief sought ,which may include relief in the alternative or different types of relief

STATEMENT OF THE CASE

Petitioner Filed a timely Complaint PRO Se, the petitioner is not educated in the ways of the Courts but realizing the Fraud and Tax Fraud that was initiated by his past attorney Leonard Sweeney and that the collusion by the petitioners attorney and that of the respondents attorney Rodney Torbic were to overturn a jury Back Pay Award in case 97-0786, Kissell v Department of Corrections SCI Greensburg ,Pa.

Petitioner filed a claim for damages and loss of employment for Reported Hostile conditions causing death of inmates etc. and forced retirement seeking a trial by Jury. The actions by the respondents. Set the petitioner up by concealment of additional monies issued in the name of petitioners and given to petitioner's attorney Leonard Sweeney without the knowledge of the petitioners and then illegally endorsing the checks and cashing them out of state in OHIO. Without petitioners knowledge creating a misappropriation of Government Funds , violations of proper payroll procedures in violation of Internal Revenue Service procedures and withholdings in violation of Law.

The petitioner a corrections officer one was reinstated to SCI Laurel Sommerset ,Pa. on November 15, 2004. Where the proper W-4 was filled out and the employer was informed of the award of Back Pay.

The continuation of a hostile environment throughout the years by the failures and the violations of Union Bargainig rights, the withholding benefits and concealment of proper tax reporting were of major concern to the petitioner and were used as retaliatory tools to force retirement or to Quit. The retaliation by attachment of my wages and the continued hostility and the dangerous situations at the petitioners work location forced the petitioner to retire and then the attachment of my pension was disparaging. The petitioner emotional and mental abilities were drained..

The pre summed failures of the Attorney Mark Bolkovac led the petitioner to believe continued collusion existed between the respondents and petitioners attorney to delay, conceal and cover-up the many crimes being reported by the petitioner.

The petitioner then filed case 3-15-cv-00058 PRO SE due to the Hostile Enviroment that had been activated against the petitioner to correct the damages forced upon the petitioner and the imposed attorney fees.

The Lower Courts focused on the agencies MOTIONS to DISMISS for failure to State a Claim without depositions, interrogatories or to allow evidence or pleadings allowing the Respondents . Quick move to Dismiss allowing the damages to continue to esculate. Knowing the petitioner was entitled to relief by Law and the earlier decision of the JURY AWARD. Where relief was granted Case 97-0786.

The responsibilities of the petitioner by the code of ethics led to sworn statements involving: criminal acts of Rape, Sexual Harassment, sexual assault, theft and negligence by staff that caused death of inmates. The petitioner was the block officer on most situations and was the primary responder and witness.

The Lower Court were advised of the criminal acts and Tax Fraud by the prior Attorneys involved and requested the lower court assign an attorney to protect the petitioner's constitutional rights. When the Third Circuit Court suggested this action to the lower Court to amend the complaint the plaintiff requested assignment of an attorney and jury

trial but the request was quashed and the Trial matter was denied and dismissed. The petitioner stated a claim for excessive damages.

The Lower Courts were obligated to take the well pleaded evidence and facts as accurate and true knowing the petitioner was entitled to relief and by progressing to a non bias Jury Trial. Knowing the limitations of the petitioner to proceed Pro Se the lower courts diminished their responsibilities to a fair trial an constitutional rights.

The Respondents representative's pleadings were in bad faith and were failures to the Rules of the courts Civil and Criminal Law. They moved (Sua Sponte) The Respondents agenda was politically motivated to permit fraud upon the courts and the Internal Revenue Service. Still using the prior jury award of Back pay as the vehicle to punish the plaintiff while throughout the years continuing a hostile environment. The petitioner has reported the criminal acts of his attorney and that the opposition attorney Rodney Torbic from the Office of the Attorney General in the year 2002 to Josh Shapiro Attorney General of Pennsylvania Involving the Misappropriation of Government Funds. The continued concealment and failures of proper reporting procedures to the IRS, Tax Fraud, those reported for sexual assault and those responsible for negligence involving the of death of inmates. Mr. Shapiro would not respond and his Criminal Division Quashed the criminal charges dismissing the Case.

To The Honorable Supreme Court Justices and Especially Justice Samuel Alito Because I have no choice but to Represent myself due to the malicious actions of the past attorneys involved it is apparent that the attorneys representing my employer chose to impose their own directives and opinions to change my jury award because they could not accept their loss. Placing the petitioner in Tax Fraud to this very day. The petitioner had a new IRS Trial Date on February, 8 2021 which now again has been continued.

The collusion between the petitioners attorneys and the respondents representatives led to many discriminative actions against the petitioner and staff that supported the petitioner which in it self allowed many innocent staff mainly female to be humiliated and hurt to the point some did not return to work while the others feared a bullseye would be placed on their back for their reporting of Sexual assault.

I am requesting The Honorable United States Supreme Court to review my Appeals and exhibits on record in case 19- 3229 from district Case No. 2:18-CV-01409-CRE filed 10/22/19 which should have never been filed by my newly hired attorney Christopher Skatell . Mr Skatell has deceived the petitioners involving the previous requests for Writ of Certiorari--Filed 1/28/17, 4/21/17 and 5/25/17 and even helped write the last request for extension to get better affiliated with the matters.

I had previously filed to represent myself Pro SE because of the deceit and collusion involving my jury award trial case 97-0786 involving the illegal actions of the attorneys involved to fraud the Taxes of my back and front pay awards and the continuing hostile environment I endured.

I filed Case NO. 3:15-CV-00058 PRO SE on 3/9/15. I discovered I could appeal Pro-Se to the Honorable Supreme Court so I did. On 1/28/17 I filed a request Pro SE for an extension of time. I was then advised by the clerk of SCOTUS and others to hire an attorney instead of representing myself after explaining the background of my Trial matter in the District Court to the Clerk.

I was respectfully requesting my cases to be reviewed by the Honorable Supreme Court because of the Facts and Criminal Acts I was ordered to write in my job status and the Sexual Harassment and retaliation that I suffered and was oppressed by my employer and my Union . The cases are as follows: Case No. 3:15-CV-00058 filed 3/9/15, appeals no. 15-2654, and No. 16-1900. So I started interviewing a couple of Attorneys and hired Christopher P. Skatell on 01/31/17 paying him \$8000.00 dollars in February to start to review the federal cases of Title VII and 1983 Civil rights case listed above that were dismissed by the Court with no interrogatories or depositions under the pretense I did not state a claim. I paid Mr. Skatell approximately \$4000 per month as he deceived me in his invoices he was reviewing my Federal Case 97-0786 and my Pro Se

Case No. 3-15-cv-00058 and was going to proceed with WRIT of CERTIORARI . Mr. Skatell was also hired for representation of a Pension Hearing Case involving tax fraud and his declaration he was going to go after my previous attorney Leonard Sweeney after our discussions of Sweeney criminal act of illegally endorsing and cashing a back pay check payable to me in 2004, without my authorization in the state of Ohio. Mr. Sweeney's collusion with the Office of the Attorney General led to the attachment of my pay eight years later and the continued harassment forcing me to retire to address the Hostile environment installed against me. Mr. Skatell apparently kept deceiving me by his invoices and further misguided delays and the misguided Title VII case he filed knowing it would be easily dismissed by the Office of the Attorney General due to res judicata I have always been limited to narrow windows, no witnesses and stonewalling. Furthermore, my pension hearing was delayed for years and I finally received the decision when Mr. Skatell advised me to get a new attorney to Appeal his failures and he was exposed for failing to present the Writ of Certiorari. Mr. Skatell took no further steps to represent me when The District Court dismissed my case and his communications broke down aiding my perpetrators to escape prosecution. The petitioner attorney Christopher P. Skatell inhibited the EVIDENCE of DOCUMENTATION in my legal matters so the evidentiary materials would be held from the court and no trial would occur and failed to place evidence and rebut the pension hearing examiners recommendation. The petitioner fearing the same

repeated action will represent themselves Pro Se in the Tax Court Lacking the Knowledge on how to proceed. The petitioners would not be in tax court . The pension hearing would have ended it had our attorney Mr. Skatell properly represented the petitioner and the facts. I myself had to request the Hearing Examiner Decision and the Decision of the Pension Board which was sent to me on or About May 8, 2020 at which time I discovered Mr. Skatell failed to supply sufficient Evidence he was given and failed to file exceptions to the Opinion and Recommendation of the Hearing Examiner. Politics again started to rule my trial matter to obstruct justice of the crime involving: the death of inmates due to negligence, theft of prescribed medication by managerial staff, sexual assault of staff, sexual harassment and other crimes. Mr. Skatell lied to me to make me believe the Writ of Certiorari was filed he then filed District Case No. 2:18-cv-1409-Cre WHICH HE USED AS A SHIELD TO PROTECT THE PERPETRATORS AND AID THE COVERUP OF CRIMES BY THE EMPLOYER AND THEIR REPRESENTATIVES to stonewall and delay my trial matter for his financial and political gain. Mr. Skatell obtained approval from the EEOC to re-file the Title VII claim. However, when I questioned Mr. Skatell of the 1983 civil right charges he informed me that it was a long way off about the 1983 civil violations but this turned out to be another lie and I was deceived that the writ was filed so I would continue to pay Mr. Skatell's invoices monthly.

Mr. Sweeney who represented me in the 97-0786 case was disbarred in 2013 for criminal actions. Furthermore, the disciplinary Complaint written by my Tax attorney Patsy Iezzi in 2007 was covered up by the Disciplinary Board to protect the Attorneys that were involved. Mr. Skatell never advised me or the Pension hearing examiner of the disbarment. I was informed after my pension hearing by my local District Attorney Office of the disbarment of Mr. Sweeney when they recused themselves from the criminal complaint I filed in 2019 written by Mr. Skatell who then stayed uninvolved. The DA then recused the case to the Pennsylvania Attorney General's Office who assumed jurisdiction. My Criminal Complaint was stonewalled and Quashed by the Attorney General's office. This is violating my constitutional rights. I have paid Mr. Skatell \$30,000 dollars in advance and he has duped me and has billed me over \$50,000 dollars. Mr. Skatell knowingly filed a case that would be dismissed by res judicata then lied proclaiming he knew nothing of the prior cases to aid in cover-up of the crimes of my jury award and those committed at SCI Laurel by managerial staff. My case was dismissed and Mr. Skatell stated he would not appeal the matter aiding the office of the attorney General in the violation of my rights.

I request Guidance and Help from the Honorable Supreme Court in the protection of my constitutional right and entitlements to law. I request that I regain my jury award and the attorney fees that were initiated without recovery and my trial either be reopened in the Lower Court and that I have the right to proceed to be accommodated for the damages I have endured due to the obstruction of justice by those I hired and the Office of the Pennsylvania Attorney General josh Shapiro who were in discussion with my prior attorneys and the cover-up of the Deaths and many crimes that I reported as they occurred. This is so that I am made whole as the jury awarded in 2002. Or I request the Honorable Supreme court to order my employer to make me whole for the losses they created by their deceit. The perpetrators used every opportunity to make my work area hostile by discrimination, harassment, and by overwhelming my work area. For example: I have suffered while performing my job duties by the code of ethics for the deaths, theft of state properties (prescription medication) and the written reports I was ordered to write involving sexual encounter by staff with inmates and so on. Again I was punished for doing my job by the withholding of my benefits and additionally 8 years later in 2012 being punished by the attachment of my wages and Pension for reporting of sexual assaults by managerial staff of the female employees. It is apparent to me now that the office of the Attorney General took steps to violate the jury award of my Trial matter 97-0786 by the misguided distribution of the Back pay to

fraud the IRS and to set me up into further complications and has controlled the outcome of my Trial Matters by oppression . I request guidance as I am exhausted and hurt by these recurrent events. The attorney Christopher P. Skatell was hired specifically to present a writ of Certiorari to the United States Supreme Court involving my pro se attempt in the lower courts for justice of the retaliation that were initiated. The Trial matter CASE NO. 2:18-cv- 01409 CRE should have never been filed by ATTORNEY SKATELL without first addressing the Honorable SCOTUS. In ending the Petitioner has learned that reporting crimes in the Department of Corrections to high level management that are then discovered to be involved can be quite detrimental to his lively hood and life.

CONCLUSION

The petition of writ of certiorari should be granted.

Respectfully submitted,

Michael F. Kissell
Michael F. Kissell
1027 Quincy Drive
Greensburg, PA 15601
Telephone: 724-834-3920
MKissell1027@comcast.net
Filed Primarily June 17, 2020