

NO. 20-212

In the ORIGINAL
Supreme Court of the United States

TERESITA A. CANUTO,

Petitioner,

FILED

AUG 12 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

v.

REP. NANCY PELOSI; REP. STENY HOYER;
REP. JAMES CLYBURN; REP. BEN RAY, ET AL.;

Respondents.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
District of Columbia Circuit**

PETITION FOR A WRIT OF CERTIORARI

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AUGUST 12, 2020

SUPREME COURT PRESS

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QUESTIONS PRESENTED

The district court made legal mistakes in the review the time to respond, directed must respond in summons served or—if required 21 days or within 60 days. Federal defendants William Pelham Barr, Channing D. Phillips and defendant Eric Garcetti failed to reply served summons. The district court's order on December 4, 2019 dismissing the case was erroneous and contrary to rules because it allowed federal defendants and defendant's non-compliance under the rules of the Fed. R. Civ. P. 4(a)(1) which (A) state the time within which the defendants must appear and defend; (B) filed—may be served in a judicial district of the United States by (1) following state law for serving a summons in an action brought in court's of general jurisdiction; (C) state the name and address of the plaintiff's attorney or—if unrepresented.

In addition, Appellant asserts that the district court has jurisdiction to hear claims against defendant Gavin Newsom under FTCA claims. As stated by Circuit Judges Dyk, Taranto and Hughes of the United States Court of Appeals for the Federal Circuit, Case No. 2015-5085 decided on September 14, 2015 *Teresita A. Canuto v. United States*:

“District Courts have jurisdiction over FTCA claims against injury or loss of property or personal injury or death caused by the neglect or wrongful act or omission of any employee of the government while acting within the scope of his office or employment.”

THE QUESTIONS PRESENTED ARE

- 1) Whether the U.S. Court of Appeals and the District Court erred when it affirmed the motion for summary affirmance and motion to dismiss of appellee Gavin Newsom.

2) Whether the U.S. Court of Appeals erred when it dismissed appellant's claim against defendant Gavin Newsom because according to the Court appellant failed to establish standing pursuant to Article III of the U.S. Constitution because she did not allege facts sufficient to demonstrate a causal link between any action or inaction of appellee Newsom and the harms she allegedly suffered at the hands of other individuals not before the court; that there must be a causal connection between the injury and the conduct complained.

LIST OF PARTIES

Petitioner

Teresita A. Canuto

Respondents

Rep. Nancy Pelosi

Rep. Steny Hoyer

Rep. James Clyburn

Rep. Ben Ray Lujan

Rep. Hakeem Jeffries

Rep. Kevin McCarthy

Rep. Steve Scalise

Rep. Lis Cheney

Rep. Gary Palmer

Gavin Newsom

Eric Garcetti

LIST OF PROCEEDINGS

United States Court of Appeals for the District of Columbia Circuit

No. 20-5016

Teresita A. Canuto, Appellant v. Nancy Pelosi, Rep., et al., Appellees

Date of Final Judgment: May 15, 2020

United States District Court for the District of Columbia

Civil Action No. 19-1791 (JEB)

Teresita A. Canuto, Plaintiff v. Rep. Nancy Pelosi, et al., Defendants

Memorandum Opinion and Order Filed: December 4, 2019

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JURISDICTION

This Court has jurisdiction to review this case under 28 U.S.C. § 1254, which provides that (c)ases in the courts of appeals may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.



STATEMENT OF THE CASE

This case concerns about the non-stopped or continuous torts in the form of sexual assaults and battery (physically and emotionally) against the petitioner that began in November 2014 until the filing of this lawsuit. For unknown reasons to plaintiff/petitioner, plaintiff was besieged by the reserves of the U.S. Navy and U.S. Army with sexual assaults and batteries but the technique they made or the leaders who planned, ordered, and implemented the said attacks was plaintiff was being put

into deep sleep or unconscious and sexually assaulted therefore the attackers were unknown to plaintiff. But the attackers who made the aggravation were following the same routine i.e. putting a laceration or cuts in the skin, body parts of plaintiff. Later the attacker is leaving a mark such as bruise (tissue injury) to plaintiff. Plaintiff would wake up at times feeling drugged, in a day or two sore or pain in the inflamed tissue of private parts would be felt by plaintiff from the attacked did to her.

The sexual assault continued and did not stopped despite many lawsuits filed at the federal court and district court of Columbia. Plaintiff's claims were dismissed and she lose the cases, but the more plaintiff lose her cases the more the sexual assaults becomes more aggressive and frequent that happens in a weekly basis. In those years, plaintiff continued to be stalked, tailgated before the sexual assault. Plaintiff and her family moved several times to a new residence to keep off from further attacks and breached of her apartment. But once the new residence was learned by these aggravators, the neighbors of plaintiff would become the collaborators and helped the attackers to impregnate the apartment of plaintiff and put her to deep sleep and sexually assault her.

Plaintiff becomes the laughing stuff of many civilians whenever plaintiff is at restaurant, at the roads men and women were laughing once they see me. As previously stated in her lawsuits filed at the federal court and district court, plaintiff was initially mobbed by the reserves of the U.S. Navy and U.S. Army and made sure the residence of plaintiff was surrounded as frequently noticed and observed whenever plaintiff moved to a new apartment the place become surged with arrivals

of many visitors mostly men in a weekly basis that coincides with the times the plaintiff was raped or sexually assaulted. The task of sexual assault was transferred to local civilians and illegal aliens who was now the one that stalking and tailgated my vehicle before the scheduled sexual assault.

In the cases plaintiff previously filed at the courts, defendants were saying that my claims were full of conspiracy, fantastic or not true. Plaintiff was harmed and intentionally injured in a planned manner. Plaintiff would not filed a lawsuit if she were not aggravated and discriminated in the form of sexual assaults and batteries. The practice of inflicting torts to plaintiff because they hate plaintiff but in a sneaky manner that no evidence who was the persons did the aggravation is unacceptable to plaintiff. This is the reasons plaintiff sued the Governor of California Gavin Newsom due to torts committed by him and his subsidiaries. The foreign state shall be liable for actual compensatory damages resulting from physical and emotional injuries resulting from tortious conduct incurred by the persons for whose benefit the action was brought.

But the Appellate Court and the District Court's decision to dismiss the FTCA claims of appellant was erroneous because it contradict to previous decisions of the United States Court of Appeals for the Federal Circuit Judges Dyk, Taranto and Hughes of the United States Court of Appeals for the Federal Circuit statement that say-

"District Courts have jurisdiction over FTCA claims against injury or loss of property or personal injury or death caused by the neglect or wrongful act or omission of any employee of the government while acting within the scope of his office or employment."

The district court of Columbia has jurisdiction over tort claims of appellant against defendant Newsom.

The U.S. Court of Appeals and the District Court's decision that affirm the motion for summary affirmance and motion to dismiss of defendant Gavin Newsom were erroneous because it allow federal defendants William Pelham Barr, Channing D. Phillips and defendant Eric Garcetti failure to reply to summons served on them and non-compliance to the rules of Fed. R. Civ. P. 4(a)(1)

In other case of plaintiff filed at the district court Case No. 1:17-cv-00979 (APM) *Teresita A. Canuto v. Department of Defense, et al.* the district court dismissed plaintiff's complaint. According to the district court's decision:

"A district court may dismiss a prose complaint without giving notice and an opportunity to be heard where the plaintiff fails to conform to the rules of pleading . . . such as the case here, the court found that plaintiff failed to comply with rule 8's "short and plain" pleading requirement . . ."

*(Memorandum Opinion of District court, October 13, 2017, Case No. 17-cv-00979 (APM) *Teresita A. Canuto v. Department of Defense, et al.*)

Clear error was committed by the district court in its Order filed December 4, 2019 that dismissed the claims of appellant. The defendant and federal defendants fail to conform to the rules of summons and the district court did not found that failure to comply. The U.S. Court of Appeals and the District Court erred.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

I. THE U.S. COURT OF APPEALS AND THE DISTRICT COURT ERRED WHEN IT AFFIRM THE MOTION FOR SUMMARY AFFIRMANCE AND MOTION TO DISMISS OF APPELLEE GAVIN NEWSOM. THE DISTRICT COURT MADE LEGAL MISTAKES IN THE REVIEW THE TIME TO RESPOND, DIRECTED MUST RESPOND IN SUMMONS SERVED OR-IF REQUIRED 21 DAYS OR 60 DAYS. FEDERAL DEFENDANTS WILLIAM PELHAM BARR, CHANNING D. PHILLIPS AND DEFENDANT ERIC GARCETTI FAIL TO REPLY TO SUMMONS SERVED ON THEM. THE DISTRICT COURT'S ORDER FILED DECEMBER 4, 2019 THAT DISMISSED THE CASE OF PLAINTIFF WAS ERRONEOUS AND CONTRARY TO RULES BECAUSE IT ALLOWS FEDERAL DEFENDANTS AND DEFENDANT'S NON-COMPLIANCE NOT PERMITTED UNDER THE RULES OF FED. R. CIV. P. 4(A)(1) WHICH (A) STATE THE TIME WITHIN WHICH THE DEFENDANTS MUST APPEAR AND DEFEND; (B) FILED-MAY BE SERVED IN A JUDICIAL DISTRICT OF THE UNITED STATES BY; 1) FOLLOWING STATE LAW FOR SERVING A SUMMONS IN AN ACTION BROUGHT IN COURTS OF GENERAL JURISDICTION; (C) STATE THE NAME AND ADDRESS OF THE PLAINTIFF'S ATTORNEY OR-IF UNREPRESENTED.

The following items or categories are the contents of review which the district court made legal mistakes;

- 1) Review the time to respond, directed must respond in the summons served or-if required 21 days or within 60 days.
- 2) Review the time to respond, directed must respond in served or-if the re 26(d)(2)-within 30 day conference.
- 3) The content of motion was the request of plaintiff to issue a default judgment in favor of plaintiff for failure of defendants to answers the summons and complaint on the due date required for them to reply to the summons.

Public officers sued in their official capacity who have ceased to hold office since the commencement of their action have been automatically substituted with their successors under Fed. R. Civ. P. 25(d).

Plaintiff serve defendants with summons and the complaint within 90 days after the filing of the complaint under the Fed. R. Civ. P. 4(m). Plaintiff file with the court

proof that federal defendants William Pelham Barr, Channing D. Phillips and defendant Eric Garcetti have been served with a summons and the complaint.

To properly serve the federal defendants, plaintiff must comply with Federal Rules of Civil Procedure 4(i) which provides:

United States: to serve the United States, a party must:

(A)(i) deliver a copy of the summons and of the above, or if the court determines that plaintiff has not shown good cause for failure to serve the federal defendants, the claim against federal defendants will be dismissed without prejudiced.

Plaintiff must comply with Federal Rule of Civil Procedure 4(i). Plaintiff mail a copy of summons and complaint to the U.S. Attorney for the district where the action is brought—

Channing D. Phillips,
U.S. Attorney of the District of Columbia
555 4th Street, NW
WA, DC 20530

Plaintiff deliver the summons and complaint by certified mail to:

William Pelham Barr, Attorney General of United States
U.S. Department of Justice
950 Pennsylvania Avenue,
Washington, DC 20530-0001

Plaintiff filed a motion for judgment against federal defendants William Pelham Barr, Channing D. Phillips and defendant Eric Garcetti who have failed to respond to summons and complaint served on them. The content of motion for default judgment against federal defendants and defendant requesting the Court to grant the default judgment in favor of plaintiff due to the summons after it was properly served on them. The proof of service contain copies of signed return receipt for the

federal defendants William Pelham Barr, Channing D. Phillips, and defendant Eric Garcetti.

In other case of plaintiff filed at the district court Case No. 1:17-cv-00979 (APM), *Teresita A. Canuto v. Department of Defense, et al.* the district court dismissed plaintiff's complaint. According to the district court's decision:

"A district court may dismiss a prose complaint without giving notice and an opportunity to be heard where the plaintiff fails to conform to the rules of pleading . . . such as the case here, the court found that plaintiff failed to comply with rule 8's "short and plain" pleading requirement . . ."

Memorandum Opinion of District Court, October 13, 2017, Case No. 17-cv-00979 (APM)

Teresita A. Canuto v. Department of Defense, et al.

Accordingly, the district court commit clear error in its Order filed December 4, 2019 that dismissed the claims of appellant. Federal defendants William Pelham Barr, Channing D. Phillips and defendant Eric Garcetti fail to conform to the rules of summons, the district court did not found that failure to comply. The U.S. Court of Appeals and the District Court erred.

II. THE U.S. COURT OF APPEALS ERRED WHEN IT DISMISSED APPELLANT'S CLAIMS AGAINST DEFENDANT GAVIN NEWSOM BECAUSE ACCORDING TO THE COURT APPELLANT FAILED TO ESTABLISH STANDING PURSUANT TO ARTICLE III OF THE U.S. CONSTITUTION BECAUSE SHE DID NOT ALLEGE FACTS SUFFICIENT TO DEMONSTRATE A CAUSAL LINK BETWEEN ANY ACTION OR INACTION OF APPELLEE NEWSOM AND THE HARM SHE ALLEGEDLY SUFFERED AT THE HANDS OF OTHER INDIVIDUALS NOT BEFORE THE COURT; THAT THERE MUST BE A CAUSAL CONNECTION BETWEEN THE INJURY AND THE CONDUCT COMPLAINT. APPELLANT ASSERTS THAT THE DISTRICT COURT HAS JURISDICTION TO HEAR CLAIMS AGAINST DEFENDANT GAVIN NEWSOM UNDER FTCA CLAIMS.

As Stated By Circuit Judges Dyk, Taranto and Hughes of the United States Court of Appeals for the Federal Circuit, Case No. 2015-5085 Decided on September 14, 2015, *Teresita A. Canuto v. United States*.

“District Courts have jurisdiction over FTCA claims against injury or loss of property or personal injury or death caused by neglect or wrongful act or omission of any employee of the government while acting within the scope of his office or employment.”

Appellant clearly stated in the filed statement of the claim and complaint the cause of action of the lawsuit due to torts. Due to tortious conduct of defendant Gavin Newsom appellant was harmed, injured, and battered. Appellant suffered sexual assault, battery, emotional injuries, violation of privacy, property, the result of negligence or breach of duty of care of defendant Gavin Newsom, the legally recognizable cause of the harm who was responsible to the actions of local residents and illegal aliens who committed intentional actions or criminal actions.

As stated in Torts: Liability For Physical Harm (Basic Principle) of the American Law Institute, Chapter 5.

Factual cause:

§ 26—Factual Cause

An actor's tortious conduct must be a factual cause of another's physical harm when the harm would not have occurred absent the conduct. Tortious conduct may also be a factual cause of harm under § 27.

Both the Restatement Second of Torts and the Restatement of Torts employed the term "legal cause" to encompass two distinct inquiries: factual cause and proximate cause. *See Restatement Second Torts and Restatement of Torts.* The definition provided for legal cause in the Second Restatement differed modestly from the first Restatement by adding that it addressed the "causal sequence between an actor's tortious conduct and the invasion of a legally protected interest. The definition provided in Comment b was then reiterated and elaborated.

In tort claims procedure, 28 U.S.C. § 2674 it is stated that the United States shall be liable for actual or compensatory damages for torts committed by persons acting on behalf of the United States. The victim of harm can recover their loss as damages in a lawsuit.

The district court of Columbia has jurisdiction to hear tort claims. As stated by Circuit Judges Dyk, Taranto and Hughes of the United States Court of Appeal for the Federal Circuit, Case No. 2015-5085 decided on September 14, 2015 *Canuto v. United States*:

"District Courts have jurisdiction over FTCA claims against injury or loss of property or personal injury or death caused by the neglect or wrongful act or omission of any employee of the government while acting within the scope of his office or employment."

Due to shared sovereignty between each state and the federal government, appellant and defendant Gavin Newsom are citizens of both the federal republic and of the state in which they reside. The state of California is a semi-sovereign republic under the

federal government of the United States and possess a number of powers and rights under the U.S. Constitution. Defendant Gavin Newsom is an employee of the United States government and the Chief of the states' National Guard and that state's respective defense force.

The District Court has an authority also for obtaining personal jurisdiction under section 5 of the Fourteenth Amendment of the United States Constitution.

Fourteenth Amendment, Section 5 (Framing)

The Fourteenth Amendment was proposed by Congress in 1866 and ratified in 1868. Section 1 made persons born in the nation citizens and prohibited states from abridging the privileges and immunities of citizen of the United States and from denying due process or equal protection to any person.

As stated in FSIA Guidelines-Exceptions to Immunity

"Thus 'a' state remains immune with respect to its sovereign or public acts (*jure imperii*) but not with respect to its acts that are private or commercial in character (*jure gestionis*)."

Immunity only protects acts taken in the person's official capacity. *See Chuidian*, 912-F.2d at 1101-1102. Federal defendants breach of the private residence of plaintiff, intentionally and unlawfully sexual assault and battered plaintiff was an act that is private in character and not in official capacity.

Appellant's sexual assault and batteries initially made by the reserves of the United States Navy and Army on November 2014 and the tortious conduct was continuous for five (5) years despite appellant's many filed lawsuits at the U.S. Federal Court of Claims and of the District of Columbia (see Case No. 2015-5085

Canuto v. United States, Case No. 16-cv-02282 *Canuto v. Carter, et al.* among others). Afterwards, appellant noticed that the task of sexual assault and battery was transferred to local residents and illegal aliens. This caused appellant to file a lawsuit against defendant Gavin Newsom due to torts.



CONCLUSION

For the foregoing reasons the Petitioner requests that the Court reverse the decision of the Columbia Circuit.

Respectfully submitted,

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