

No. _____

In The
Supreme Court of the United States

JORGE ALBERTO MENDOZA,

Petitioner,

vs.

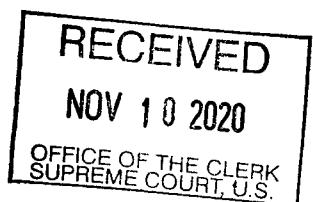
UBER TECHNOLOGIES INC.,

Respondent.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

PETITION FOR WRIT OF CERTIORARI

JORGE ALBERTO MENDOZA
15540 Vanowen Street
Apt. 113
Van Nuys, CA 91406



QUESTION PRESENTED

Whether Constitutional Due Process can be part of
Arbitration Jurisdiction.

PARTIES TO THE PROCEEDINGS

Petitioner Jorge Alberto Mendoza was the plaintiff in the district court proceedings and appellant in the court of appeals proceedings. Respondent Uber Technologies Inc. was the defendant in the district court proceedings and appellee in the court of appeals proceedings.

RELATED CASES

Jorge Mendoza v Uber Technologies INC. N CV 19-9741-FMD (JRP) US Central District Court of California. Judgment entered Nov 13, 2019.

Jorge Mendoza v Uber Technologies INC N CV 19-9741-FMD (JRP) US Central District Court of California. Judgment entered May 4 2020

Jorge Mendoza v Uber Technologies INC. N 20-55567 US Court of Appeals for the Ninth Circuit. Judgment entered May 22, 2020.

Jorge Mendoza v Uber Technologies INC N 20-55567 US Court of Appeals for the Ninth Circuit. Judgment entered June 25, 2020

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PETITION FOR WRIT OF CERTIORARI

Petitioner Jorge Alberto Mendoza respectfully petitions this court for Writ of Certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The decision by the Ninth Circuit California Court of Appeals denying petitioner Jorge Alberto Mendoza direct appeal is reported as 28 U.S.C. § 1291 Dees v Bill 394 F 3d 1290, 1294 (9th Circuit 2005). The Ninth Circuit denial, Central District Court adopting recommendation, Magistrate recommendation, and Complaint are in the Appendix Documents.

JURISDICTION

Mr. Mendoza's petition for hearing to the Ninth Circuit Court of Appeals was denied on 06-25-2020. Mr. Mendoza invokes this Court's jurisdiction under 28 U.S.C. § 1254(1). Having timely filed this petition for a Writ of Certiorari within ninety days (plus 60 days grace period) of the California Court of Appeals judgment.

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution, Amendment XIV

“All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State 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 laws”

INTRODUCTION AND STATEMENT OF THE CASE

Defendant deprived Plaintiff of his only property which was his contract with defendant, without any further investigation or minimum reasonable compulsory process. As we know a fundamental shift in the concept of property occurred with the recognition of society’s growing economic reliance on government benefits, employment, and contracts. Defendant terminated the agreement and deactivated the account leaving Plaintiff out of the Uber system without hearing or at least reviewing the evidence Plaintiff had offered.

This case presents the question of whether the concept of “Due Process” standard of the XIV amendment rule is satisfied when an issue of “Due Process”

is sent to Arbitration by lower courts to be solved by a private Jurisdiction. (Arbitrators)

Why this private company Uber needs to comply with the XIV amendment (Due Process)?

Defendant is not immune to the application of the Constitution, specifically to Due Process because they are State regulated organizations for Public Safety; furthermore, they are under Judicial Intervention in regards to Public Safety. Defendant is a California State regulated for public safety.

Public Safety is a public policy to protect passengers from danger. In the case of Transportation Network Company (TNC) as Uber and Lift, etc. they are strictly regulated by the State delegating on them the power of punishing drivers that are Driving Under the Influence, becoming in this respect state agency to public safety.

They exercise their power by making policing decisions enforcing public safety rules, and punishing drivers that drive under the influence of drugs or alcohol. That procedure is called Zero Tolerance and is a State regulated process that delegates on TNC companies power to enforce rules and protect public not only to apply this Zero Tolerance to drivers but also to the persons or person who does the report by asking them for proof or evidence about the incident. The State Decision 13-09-045 Rulemaking 12-12-011 enacted a legal procedure for that. The State has delegated on TNC companies the power to enforce public safety rules (see Decision 13-09-045 September 19, 2013).

In this respect Defendant did not follow the legal procedure and did not respect due process since Defendant applied a sanction on Plaintiff acting under the color of the law, because they wanted to exercise their delegated power from Zero Tolerance state regulation; however, they exceeded that power delegated by the State.

In order for an organization to be seen as governmental, private companies must be a State actor, meaning an organization that exercises “Powers traditionally exclusive to the State” defined from the case *Jackson v Metropolitan Edison Co.* and the action must have been originally and solely performed by the government (*Rendell-Baker v Kohn* and *Evans v Newton*).

As a state actor Defendant needs to observe Due Process established in the State regulation. In this case, Defendant deprived Plaintiff of his contract which is considered property without observing Due Process.

Defendant is under Judicial Intervention in regards to a Public Safety by the United States Northern District of California.

A settlement has been reached in two class action lawsuits filed against Uber Technologies Inc., by drivers who have used the Uber App in California and Massachusetts. Under the settlement, Uber has agreed to create a Settlement Fund and modify certain business practices, as described below. The United States Court for the Northern District of California authorized a notice published (<http://www.uberlitigation.com>).

Uber will pay \$ 20,000,000 into a Settlement Fund that will be paid out to drivers who are Settlement Class Members. Uber also will modify certain business practices as described fully in the notice package. Specifically, Uber agrees to the following:

Comprehensive written deactivation policy.

Formal appeals process for certain deactivation decisions.

Quality courses for drivers.

A petition from Uber for a Writ of Certiorari was filed in response to the Ninth Circuit affirmation of the order approving the Settlement. The United States Supreme Court has now denied the petition, and Settlement is now final.

REASONS FOR GRANTING THE WRIT

- I. The Ninth Circuit Court should have taken this Appeal because it is a Constitutional case. The defendant went against the 14th Amendment of the Constitution, to be compared with the case of Dees v Billy which is a medical case.**

The Ninth Circuit Court should have taken this Appeal because it is a Constitutional Case not the same as the case of Dees v Billy which is a medical case and does not involve any violation of the Constitution. Also what I noticed a little strange is that the Ninth Circuit on May 28, 2020 filed a Time Schedule Order

in which they gave me and schedule to do the opening brief and excerpts of records scheduled to be presented by July 21, 2020 and after that on June 25, 2020 they filed the order to dismiss the case. Since the beginning also the Central District Court didn't take the case as a Constitutional Case. At first before the defendant presented the motion to Compel the judge ordered a Discovery in which explained all the procedures we had to take in order to clarify everything about the false accusation of driving under the influence. The defendant did not give me the chance to present the evidence I have and the Discovery was the opportunity to cross information also for the defendant to present its investigation and proof if the person who accused me had a police report or called 911 to report the incident. At that point I was optimistic that the judge was doing his job but when the court received the Motion to Compel from the defendant, the judge cancelled the order for the Discovery. After that the case was only based on the motion to compel to go to Arbitration and took many time because the defendant presented the Technology Agreement I signed with them in which they affirm that is not an Employment Contract in which it explains that when I had any problem or issue with them I had to go to Arbitration but they don't even mention in its Agreement the constitutional rights that has any citizen independently if you had signed an Agreement or not mainly when they know that they are part of the State of California because in 2013 the State of California delegated all the Transportation Network Company (TNC) including Uber to collaborate with the State with public safety which

includes driving under the influence and gave them guidelines to follow on how to perform their job including further investigation. This further step eventually they have to present in the discovery of what further investigation they made in my case and present proof or evidence to support their defamation against me. This kind of defamation they do to thousands of drivers and because they don't have time or money or the information needed to sue them, they don't proceed or they go to Arbitration and the Arbitrators usually are in favor of the defendant and mainly because Arbitration Jurisdiction should not be part of Constitutional Due Process, this is a job of a Federal Judge.

II. The Ninth Circuit Court should not only base its judgments in precedent similar cases based in not final orders from lower courts but also analyze if it is a Constitutional Case in which Arbitration is not competent even though 28 U.S.C. § 1291 mandates that and have its exceptions.

The confusion I would say has come since the Central District of California because in its order to go to Arbitration which is not final they mention as a precedent case *Dees v Billy* which is not a Constitutional case that is why they went to Arbitration, consequently, the Ninth Circuit Court based on that order which includes the case mentioned before and the law of 28 U.S.C. § 1291 took the decision to Dismiss my Appeal for lack of jurisdiction. The Ninth Circuit should

have evaluated the case since the beginning to look at the complaint I made to form a more informed decision and not only based in the final order from the lower court to go to Arbitration being this a Constitutional case that has to be seen by a Federal Judge not Arbitration Jurisdiction.

III. The Central District Court did not focus on the main purpose of the complaint which was the violation of the 14th Amendment of the Constitution; rather they focused on the motion to compel presented by the defendant.

The Central District Court once they received the motion to compel by the defendant they forgot that this is a Constitutional case because they went against the 14th Amendment of the Constitution and in the effort to make me go to Arbitration the defendant presented the Technology Agreement I signed. In order to fight against Arbitration I file a resource in which I explained that according to a California law and Federal law that drivers who are part of Transportation Network Companies (TNC) who take passengers from the Los Angeles International Airport or any International Airport are doing Interstate Commerce; consequently, these drivers were exempt to go to Arbitration and this resource I filed took most of the part of the case discussing and arguing back and forth if the drivers do Interstate Commerce or not rather than focusing on the main point of the sue. In my complaint I am not asking mainly to be considered as an employee or

want my account reactivated I just let the judge compensate me according to law or his/her judgment, I am asking for Justice because if we allow the defendant to continue doing these false accusations without any evidence or proof they are not only going to continue doing these false accusations but also they are going to prompt other passengers or riders to do more defamations against drivers because they know that it will be very difficult to be discovered because the defendant probably assure them that they are protected because we signed an Agreement to go to Arbitration, so they become accomplices that's why I would like the discovery to know who was the person or persons who did this defamation against me.

IV. Although is something legal, external recommendations to the judge for part of the defendant's should not be allowed because they manipulate and interfere with the good reasoning of the judge. In this case the Magistrate Jean Rosenbluth influenced the judge Fernando Olguin from the Central District of California in making the decision to go to Arbitration.

The Recommendation from the Magistrate Jean Rosenbluth has influenced the decision made by the Central District Court of California because is mainly based in the Agreement I signed with the defendant to go to Arbitration and the fact that I did not Opt out of the agreement; furthermore, he mentioned that I am not engaged in Interstate Commerce; so I am not

exempt to go to Arbitration. I understand that all of his allegations are true but he did not mention that my case is a Constitutional case, which is the violation of the 14th Amendment of the Constitution that the defendant not even mention in the Agreement being part of the State of California and mainly because Arbitration Jurisdiction is not part of Constitutional Due Process. As I mentioned before I had the recourse to fight against Arbitration stating that I was engaged in Interstate commerce because I took passengers from Los Angeles International Airport but ultimately this is not the case none of the parties including the judge from the Central District of California not even mentioned or realized that this is not the case to go to arbitration because this case since the beginning should have been focused on the Civil Rights section 1983 that made the 14th Amendment of the Constitution to be enforced because the defendant since 2013 is part of the State of California and is no longer immune to be sued for violations of the Amendments of the Constitution, and it seems that the defendant does not want us to know that. They mention everything in the agreement except that they act as an arm of the State of California.

CONCLUSION

For the forgoing reasons, the Court should grant a Writ of Certiorari.

Respectfully Submitted

JORGE ALBERTO MENDOZA