

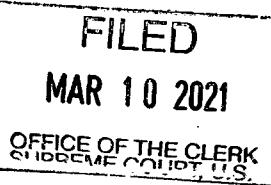
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Derek N. Jarvis,
Petitioner

vs.

Isiah Leggett, Et Al.,
Respondent(s)

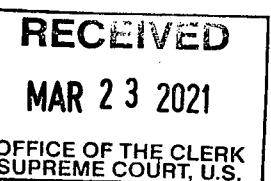


On Petition For A Writ Of Certiorari To The
Maryland Court Of Appeals

PETITION FOR REHEARING

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GROUND FOR PETITION

JURISDICTION

The Court entered an order denying the Petition for writ of certiorari on February 22, 2021. As stated in Petitioner's certification pursuant to Rule 44.2, attached to the end of this Petition. This Petition is restricted to addressing intervening circumstances of controlling effect, specifically, the impact of this Court's decision in *Monell*, where the Supreme Court determined that local government bodies may be held liable under 1983, based on it's individual agents or employees..... that resulted in a violation of the plaintiff's rights. 436 U.S. at 690.

A government agency may be held liable, when the execution of the governments policy or custom 'causes' the injury'. *City of Canton*, 489 U.S. at 694 (finding government liability appropriate where official policy was the moving force behind the constitutional violation'). See *Monell*, 436 U.S. at 694. In this case, Isiah Leggett in this case, is liable for his officials violating Plaintiff's constitutional rights, when it threatened and harassed Plaintiff Jarvis, and denied Plaintiff the right to file a civil rights complaint, depriving Plaintiff Jarvis of his rights to due process.

In *Farmer vs. Brennan*, 522 U.S. 834, 842, the Supreme Court held that, an official would be liable even if they had mere suspicions, but declined to investigate them. Id.

PETITION FOR REHEARING

Pursuant to Sup.Ct.R. 44.1, Petitioner, Derek Jarvis, respectfully, petitions this Court for an order 1) granting Rehearing, 2) vacating the Court's February 22, 2021 order denying Certiorari, and 3) vacating the judgment, and remanding to The Maryland Court of Appeals for further consideration to keep uniformity with the older Supreme Court established case law authorities such as, In Monell, The Supreme Court determined that local governmental bodies may be held liable under 1983, based on it's individual agents or employees.....that resulted in a violation of the plaintiff's rights. 436 U.S. at 690.

'Because suits against a municipal officer sued in his/her official capacity, and direct suits against municipalities are functionally equivalent. There no longer exist a need to bring official-capacity actions against local government officials, because local government units, such as a County Executive or Mayor, can be sued directly". Busby vs. City of Orlando, 931 F.2d 764, 776 (11th Cir. 1991).

REASONS FOR GRANTING THE REHEARING

THE COURT SHOULD GRANT REHEARING TO CLARIFY WHETHER LOCAL OFFICERS HAVE IMMUNITY FOR THREATENING AND MALICIOUS ACTS THAT VIOLATE PETITIONER'S RIGHTS TO DUE PROCESS AND DEPRIVED HIM OF HIS RIGHTS

The Maryland Appeals Court, must have clarity on whether County Officials were immune when it violated Petitioner Jarvis's rights, and deprived him of his rights, when they called and threatened Petitioner Jarvis, if he filed a complaint with any agency in the County with respect to civil rights violations.

The due process clause requires that every man shall have the protection of his day in Court. *Truax vs. Corrigan*, 257 U.S. 312, 332.

THE MARYLAND COURT OF APPEALS UNREPORTED OPINION CONFLICTS WITH THE SUPREME COURT AND FAILS TO FOLLOW SIMILAR CASES

A government agency may be held liable, when the 'execution of the governments policy or custom, 'causes the injury. *City of Canton*, 489 U.S. at 694 (finding government liability appropriate where official policy was the moving force behind the constitutional violation'). See *Monell*, 436 U.S. at 694. *Santiago vs. Fenton*, 891 F.2d 373, 381 (1st Cir. 1989). Here, in this case, Leggett is liable, because an Official Michael Subin who was an official in his office, threatened to contact authorities on Petitioner Jarvis, if he filed a civil rights complaint with any agency in Montgomery County. The lower Court's erred and conflicted with the Supreme Court, and it's own precedent, when it held, that, 'Isiah Leggett was not liable, because he was not personally involved', which conflicts with it's own precedent in that Court, and similar cases.

CONTRARY TO THE MARYLAND APPEALS COURT, AND COURT OR SPECIAL APPEALS-SUITS AGAINST A MUNICIPAL OFFICER AND SUITS AGAINST MUNICIPALITIES SUCH AS THE COUNTY EXECUTIVE IN THIS CASE ARE FUNCTIONALLY EQUIVALENT

The Unreported Opinion by The Maryland Appeals Court is inconsistent with this Court, and conflicts with similar rulings in this court. Isiah Leggett is liable in this case as he is the County Executive in Montgomery County Maryland, and Michael Subin is an Official who works in the Office of The County Executive.

Claims against state officers in their official capacity are functionally equivalent to claims against the 'entity they represent'. E.g., *Ex Parte Town of Landesboro*, 950 50.2d 1203, 1207.

In this case, the lower court erred, and failed to follow this court's precedent, as well as failed to follow similar cases in this court, as it was unnecessary to bring suit against Michael Subin, and other County Officials, because they were all Officials employed in the County Executive Isiah Leggett's Office and were County employees in their official capacity. The 11th Circuit has held, local government units, such as Isiah Leggett who was the County Executive, can be sued directly, as a result of the malicious act(s) of his County Officials, and suits against municipal officers such as Isiah Leggett and municipalities are 'functionally the same'. *Id.*

"Because suits against a municipal officer sued in his/her capacity, and direct suits against municipalities, are functionally equivalent. There no longer exist a need to bring official-capacity actions against local government officials, because local government units, such as Isiah Leggett in Montgomery County, can be sued directly". *Busby vs. City of Orlando*, 931 F.2d 764, 776 (11th Cir. 1991).

Thus, retaliation by a public official such as Michael Subin, for the exercise of a constitutional rights, such as filing a civil rights complaint, is actionable. See *ACLU vs. Wicomico County*, 999 F.2d 780, 785 (4th Cir. 1993). Thus, Isiah Leggett, is liable for the malicious act(s) of his individual agents Officials and employees.

Moneil claims based on a failure to adequately train, show a deliberate difference to the rights of persons with who the [u]ntrained employees, come into contact. Connick vs. Thompson, 563 V. S. 51, 61 (2011).

In order to prevail on a negligence cause of action, the Plaintiff must prove 'the applicable standard of care, a deviation from that standard by defendant, and a causal relationship between that deviation, and the plaintiff's injury. Evans-Reid, *supra*, 930 A.2d at 937 n.6. In this case, Isiah Leggett, and his Officials failed in that standard of care as Montgomery County Officials when they threatened Petitioner Jarvis, deviating from that standard of care, depriving Petitioner Jarvis of his rights and due process, engaging in malicious and deliberate acts which caused injury to Petitioner Jarvis and irreparable harm, as Petitioner Jarvis did not file complaint as a result of County Officials threats and malicious acts.

Government Officials act outside the law, and are personally liable when their conduct 'shocks the conscious', or offends the community's sense of fair play'. *Rochin vs. California*, 342 U.S. 165 (1952).

When conduct violates 'clearly established statutory or constitutional rights of which reasonable persons would have known that, " the official is not protected by immunity'. *Id.* (quoting *Harlow vs. Fitzgerald*, 457 U.S. 800, 818 (1982)). As a consequence of Isiah Leggett's illegal conduct, and violations of Petitioner's constitutional rights in facilitating the unlawful acts, after filing state complaint against Isiah Leggett before litigation, certiorari is warranted, as Isiah Leggett condoned the unlawful acts by his Officials.

CONCLUSION

For the foregoing reasons above, Petitioner Jarvis, requests that the Court 1) grant rehearing of the order denying his petition for writ of certiorari in the case, 2) vacate the Court's February 22, 2021 order denying certiorari, and 3) grant the petition for certiorari, vacate judgment, and remand to the Maryland Court of Appeals for further consideration and in uniformity with Monell and other similar cases that conflict with the lower courts. The Maryland Appeals Courts ruling conflicts with this Court, and the unreported opinion is inconsistent with the Supreme Court, conflicting with similar rulings. The Unreported opinions by Maryland Appeals Courts are also unconstitutional as the rulings are not in line with 'stare decisis' and fail to follow historical cases or this Court.

Respectfully submitted,

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CERTIFICATE OF GOOD FAITH

Petitioner Jarvis, hereby, certifies that this petition for Rehearing is presented in 'good faith', and not for delay and is restricted to the grounds specified in Rule 44.2.

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