

20-6858
IN THE SUPREME COURT OF THE UNITED STATES

Benjamin Mario Soto,

PETITIONER

VS.

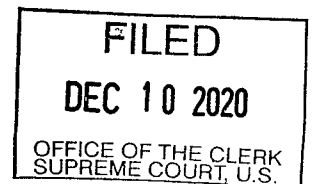
Minnesota Department of Human Services et al,

RESPONDENT,

AFSCME Union Council 5 Local 2181 et al,

RESPONDENT.

ORIGINAL



ON PETITION FOR WRIT OF CERTIORARI TO

STATE OF MINNESOTA IN SUPREME COURT

Motion to Proceed with only 1 Filing for Each Stage of my Proceeding in this

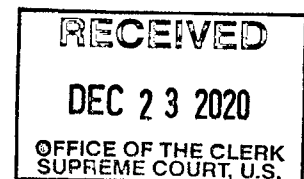
Court

Benjamin Mario Soto

407 Goodrich Ave.

St. Paul, MN 55102

612-479-5104



No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Benjamin Mario Soto — PETITIONER
(Your Name)

Minnesota Department of Human Service et al,
AFSCME Union Council 5 Local 2181 — RESPONDENT(S)
et al

ON PETITION FOR A WRIT OF CERTIORARI TO

State of Minnesota in the Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Benjamin Mario Soto
(Your Name)

407 Goodrich Ave.
(Address)

St. Paul, MN 55102
(City, State, Zip Code)

612-479-9756
(Phone Number)

QUESTIONS PRESENTED

1. My employment contractual due process property rights were deprived without due process by all defendants violating the 5th and 14th Amendments of the U.S. Constitution.
2. Minnesota State judicial officers are trained professionals at law and do not honor the U.S. Constitution and all laws pursuant to stating many times in their filings that the U.S. Constitution does not apply to and has no force in Minnesota or any State in the Union in violation of Article 6 of the U.S. Constitution and their oaths or affirmations to the U.S. Constitution even after being informed by me in my filings many times from the Minnesota District Court on up to the Minnesota Supreme Court demonstrating these judicial officers agents of the State of Minnesota required to enforce the will of the State of Minnesota deliberately acting outside their judicial capacities or in complete absence of jurisdiction violating the 5th and 14th Amendments for due process and equal protection of the laws.
3. Minnesota State judicial officers stated many times in their filings that the Minnesota Constitution does not apply and has no force in the Minnesota Courts violating the 5th and 14th Amendments for due process and equal protection of the laws.

4. Federal and State Courts cannot assume legislative powers. Courts of Minnesota and defendants have misapplied/extrapolated numerous erroneous case laws both State and Federal. Just because something is intended to be a widely-accepted-rule does not change the fact that is not in this case violating Articles 1 and 6 of the U.S. Constitution as stated throughout my filings.
5. Minnesota Courts claim that 42 USC 1983 is not a law that they have to enforce and are not obligated and will not honor in their courts violating Article 6 of the U.S. Constitution.
6. Allen v. Hennepin County, 680 N.W. 2d 560, at 563 (Minn. Ct. App. 2004) 90 day limitation from the Uniformed Arbitration Act cannot be extrapolated to apply to this case by the courts where arbitration was not allowed by contract/(Governing Collective Bargaining Agreement [CBA]) violating the 5th and 14th Amendments for due process and equal protection of the laws.
7. As I stated numerous times in my filings that the Minnesota State judicial officers assumed to interpret the Governing CBA contractual language misinterpreting the clear and explicit language of the Governing CBA violating Article 1st of the U.S. Constitution which states that States cannot pass any law impairing the obligations of contracts. Judicial officers have no authority to interpret the clear and explicit language of any contract doing so violates due process and equal protection of the laws according to the 5th and 14th Amendments of the U.S.

Constitution further proof of these judicial officers acting outside their judicial capacities or in complete absence of jurisdiction.

8. As stated numerous times in my filings that I had a protected interest in continued employment see all my filings and, Article 16 Sections 1 and 3 also Article 12 Section 10 D of the Governing CBA, including my Probationary Appointment Letter all submitted in my initial Minnesota District Court Complaint defendants violating the 5th and 14th Amendments for due process and equal protection of the laws. My contractual property right stated that the only reason for termination/(non-certification) was if I could not perform (output and accuracy) which is the same reason for all employees which was never proven/(documentation needed to be submitted in my Personnel File as required by the Governing CBA) Minnesota Department of Human Services (MNDHS) defendants only made false claims of being unprepared.
9. As stated numerous times in my filings that I had a cognizable claim under the Americans with Disabilities Act since I initiated an ADA claim with the MNDHS as required by 29 CFR App. 1630.9(1998) which is another violation of the 5th and 14th Amendments for due process and equal protection of the laws.
10. Minnesota Appellate Court upheld a Finding of insufficient fact and a failure to exhaust administrative remedies of my ADA claim. Finding of insufficient facts/evidence is the duty of a jury to decide not a Judge(s) as requested in my

Initial Minnesota District Court Complaint violating due process and equal protection of the law according to the 5th and 14th Amendments.

11. As stated numerous times in my filings that since I was not an "at will" employee AFSCME Union misrepresented me ignored/ (deprived of) by the Minnesota Courts et al in violation of due process and equal protection of the laws according to the 5th and 14th Amendments.

12. Defendants and defendant actors do not have immunity to suit in this State action and can be added at any time since the 11th Amendment of U.S. Constitution does not apply in this case according to its clear and explicit language since I am not a foreigner to Minnesota, including violation of U.S. Constitution Article 1 Section 10 Clause 1 as I stated above. Carter v. Peace Officers Standards and Training Bd., 558N.W.2d 267, 273 (Minn. App. 1997) does not apply since it utilized federal case law that utilized the 11th Amendment and does not apply in a State action brought by a Minnesotan.

13. I was denied the use of these case laws Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), and Hafer v. Melo, 502 U.S. 25 (3rd Cir. 1991) all cited in my initial Complaint and further filings for the inclusion of all actors which can be added at any time during proceedings in a 42 USC 1983 action not allowed by the Minnesota Courts et al in violation of due

process and equal protection of the laws according to the 5th and 14th Amendments.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

There are State and Union actors that are named throughout my filing not listed in the caption that is why I used et al since I wanted these actors added during my State court proceedings but were denied by the State Courts et al.

RELATED CASES

In U.S. District Court Minnesota:

Case No. 20-cv-1668 (DWF/ECW)

Ex Parte Young injunction request.

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TABLE OF AUTHORITIES CITED

CASES

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- Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).
- Hafer v. Melo, 502 U.S. 25 (3rd Cir. 1991).
- Allen v. Hennepin County, 680 N.W. 2d 560, at 563 (Minn. Ct. App. 2004) 90 day limitation from the Uniformed Arbitration Act see dissenting Judge Minge's decision.
- Ex Parte Young, 209 U.S. 123 (1908).

STATUTES AND RULES

- 42 USC 1983.
- Articles 1 and 6, and Amendments 5, 11 and 14 of the U.S. Constitution.
- Americans with Disabilities Act (ADA).
- 29 CFR App. 1630.9 (1998) rule for determining if an ADA claim was made was if one was ever initiated.

OTHER

- Article 12 Section 10 D and Article 16 Sections 1 and 3 of the Governing Contractual Bargaining Agreement (CBA) clearly and explicitly stating my "just cause" rights.
- My Conversion to Probationary Status Letter of Nov. 21, 2018 in Appendix 2 of my initial District Court of Minnesota Complaint further defining my "just cause" rights and remedies.

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix ~~1C~~ to the petition and is

☐ reported at _____; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Minnesota Appellate District court appears at Appendix A, B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was 09/15/2020.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Articles 1 and 6, and Amendment 5, 11 and 14 of the U.S. Constitution.
- 42 USC 1983 Minnesota claims it is not a law that has any force/applies to Minnesota Courts or any State Court in the U.S.
- ADA
- 29 CFR App. 1630.9(1998)

STATEMENT OF THE CASE

Pro se

Petitioner Benjamin Mario Soto, a former employee of Respondents Minnesota Department of Human Services (MNDHS) and AFSCME Union participant sued MNDHS and AFSCME for being arbitrarily terminated/ (non-certified) during probationary period and misrepresented as an "at will" employee violating my employment contractual due process property rights which were deprived without due process by all defendants violating the 5th and 14th Amendments of the U.S. Constitution. MNDHS notified me that I would not be certified making false undocumented ridiculous claims of failure to be prepared for work. The Governing Collective Bargaining Agreement (CBA) required lack of performance (output and accuracy) complaints to be documented and submitted to my Personnel File for contractual due process my Personnel File is empty of any/all complaints. The MNDHS violated my contractual CBA due process rights falsely claiming Probationary Employment was "at will" terminating my employment with AFSCME Union misrepresenting me in the termination process. According to the clear and explicit language of the Governing CBA Article 16 Sections 1 and 3 all employees have "just cause" employment status. According to the clear and explicit language of my Probationary Employment Appointment Letter the only reason for non-certification was for lack of performance (output and accuracy) further establishing contractual "just

cause" employment right. Lack of performance is the same "just cause" reason for terminating any employee including permanent employees.

I stated sufficient due process claim ignored(deprived of) by the Minnesota State Courts et al. In this state court action the State does not enjoy 11th Amendment U.S.

Constitutional Immunity since I am a Minnesotan. According to Article 1 of the U.S.

Constitution no State shall pass law impairing the obligations of contract. The State is a person in this case that can be sued under 42USC1983. Since I initiated an Americans with Disabilities Act (ADA) claim with the MNDHS the State further does not enjoy 11th Amendment immunity. Union Exclusive Remedy does not exist in this case since the clear and explicit language of the Governing CBA does not state/give that right violating Article 1 of the U.S. Constitution as stated above and also considering that the Union misrepresented me as an "at will" employee.

Justice Leonardo Castro, Ramsey County District Court, granted MNDHS and AFSCME Union motions to dismiss my claim with prejudice upheld by the Minnesota Appellate and Supreme Courts depriving me of my legal and contractual property rights guaranteed by the 5th and 14th Amendments of the U.S. Constitution claiming that the U.S. Constitution does not apply to any State in the Union including Minnesota in this case in violation of Article 6 of the U.S. Constitution.

Reasons for Granting the Petition

All Minnesota Courts et al are depriving me of my legal and contractual due process rights and equal protection of the laws arbitrarily in violation of both Federal and State Constitutions and the laws pursuant to claiming that the U.S. Constitution including 42USC1983 does not apply/(has no force of law) in any State of the Union acting beyond their judicial capacities legislating/extrapolating law deliberately misinterpreting the clear and explicit language of contracts are in clear violation of their oaths or affirmations of office including violating Articles 1 and 6 of the U.S. Constitution as I conveyed many times in all my filings in their courts acting clearly outside their judicial capacities or in complete absence of jurisdiction the State claiming immunity from suit and therefore not required to fulfill their contractual obligations utilizing the reasons/laws/ (case laws) of their decisions of this case all of which needs to be corrected by the U.S. Supreme Court that possess Original Jurisdiction guaranteeing the Rights of We the People as promised.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Benjamin M. Soto
Benjamin Mario Soto

Date: 12/12/2020