

JAN 13 2021

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20-7051
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Tomas Zavalidroga,

Petitioner

v.

United States District Court for the Northern District of New York,

Respondent

On petition for Writ of Certiorari to the

United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

Tomas Zavalidroga, pro se

PO box 837

Old Forge, NY 13420

QUESTION PRESENTED

Whether the First and Fourteenth Amendments of the United States Constitution and the International Covenant on Civil and Political Rights (ICCPR) prohibit a U.S. district court from summarily barring a pro se litigant from freely filing claims in the district court without prior approval of the court itself.

JURISDICTION

The jurisdiction of this court is invoked under 28 USC 1254(1).

OPINIONS BELOW

On January 16, 2020, Judge Glenn T. Suddaby, Chief Justice of the New York Northern District Federal Court initiated action by issuing an Order to Show Cause proposing the barring of all future filings of Tomas Zavalidroga in the Northern District federal courts.

On February 26, 2020, Judge Suddaby issued a pre-filing Order formally barring Tomas Zavalidroga from all future filings in the Northern District courts without prior permission and review of the Chief Judge, Suddaby or his assistants.

This Order was appealed to the Second Circuit Court of Appeals, which affirmed the District Court Order. On October 15, 2020, The 2nd Circuit issued a final order, denying the Petitioner's request for en banc rehearing.

RELEVANT STATUTORY PROVISIONS

This petition is taken pursuant to the authority of the 1st and 14th Amendments of the U.S. Constitution and the International Covenant on Civil and Political Rights (ICCPR), which is an international treaty to which the United States is party (ratified by Congress in 1992.)

STATEMENT OF THE CASE

This matter arose during the course of an ongoing civil rights action the Petitioner, Tomas Zavalidroga, had filed in the New York Federal District Court, Northern District in 2019.

In January, 2020, the district court dismissed the underlying civil rights action on an unsupported basis of issue preclusion and proceeded further on January 16, 2020, by Order to Show Cause (In RE Zavalidroga), in moving to permanently bar Zavalidroga from all future filings in the Northern District without prior approval of the court.

Zavalidroga timely responded to the Order to Show Cause on a number of constitutional grounds, but the court ,nonetheless, issued a formal, permanent order on February 26, 2020 barring Zavalidroga from all future filings in the local district courts without first getting prior approval of the Chief Justice of the North District, Glenn T. Suddaby. The District Court based its decision on the basis of an alleged “ vexatious and frivolous” nature of Zavalidroga’s filings and general abuse of the Northern District Court system.

REASONS FOR GRANTING THE WRIT

The Petitioner, Zavalidroga, maintains that the district court’s summary application of this harshest of penalties was a violation of not only U.S. constitutional protections, but also a violation of the law of nations (ICCPR in particular).

Under the 1st Amendment, the Petitioner is entitled to an unfettered right of petitioning government and bring suit, and under the 14th Amendment, the Petitioner is afforded clear equal protections and due process. In this case, however, the Petitioner has been made a stranger to the laws.

The actions of the district court are equally prohibited by the authority of the ICCPR which affords citizens of signatory countries additional protections:

Article 3 “ an effective remedy” (at law) ; Article 5 “ There shall be no restriction upon or derogation from any of the fundamental human rights recognized.” ; Article 14 “ Everyone must be equal before the courts” and “ right to open hearings”.

Additionally, this court has recognized that the provisions of the ICCPR are more than aspirational: “Nothing Congress has done is a reason to shut the door to the law of nations entirely.” (Sosa v Alvarez- Machain, 542 US 692 (2004).

In actuality, the record shows that none of Zavalidroga's prior actions were dismissed on the basis of vexatiousness or frivolity and that in many cases, at least some of Zavalidroga's claims were sustained. In fact, the Petitioner's overall success rate is far higher than that of many members of the federal bar. The penalty of the district court is completely unwarranted.

As this Court has recently stated in Schexnayder v Vannoy, No. 18-8341, "due process" as it applies to pro se litigants is now of major concern.

CONCLUSION

The unconscionable restriction of the Petitioner's free and lawful access to the federal courts is completed unwarranted and should be corrected.

Dated: January 12, 2021


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