No. 21-289

In The

SUPREME COURT OF THE UNITED STATES

Randall Winslow

Petitioner,

vs.

The Pennsylvania Supreme Court et. al.

Respondent.

On petition for a Writ of Certiorari to
the United States Coufilrt of Appeals
for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

Randall Winslow – Pro-se
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QUESTIONS PRESENTED

Whether Pennsylvania Certificate of Merit Pa.Code Rule 1042.3 comports with EQUAL JUSTICE that the outside of your building proudly displays.

Whether Pa. Code rule 1042.3 interferes with Section 1778

Right to contract. The purpose of the Contract Clause was to prevent the states from letting the privileged escape obligations. The Certificate of Merit requirement permits the privileged from redress unless you have tens of thousands of dollars to purchase the Certificate of Merit.

Whether the Pa. Code Rule 1042.3 denies due process.

PARTIES TO THE PROCEEDING

Petitioner is Randall Winslow

Respondent(s) are The Supreme Court of Pennsylvania et.al.

RELATED PROCEEDINGS

No. 2:19 cv-4632 United States District Court for the Eastern District of Pennsylvania

No. 20-1475 United States Court of Appeals for The Third Circuit

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CASES

STATUTES

28 U.S.C. 1738

42 U.S.C. 1983

OPINION(S) BELOW

Attached

JURISDICTION

The Third Circuit notified me of its decision on May 25th 2021 with a case No. 20-1475 and is attached. This Court has jurisdiction under 28 U.S.C. 1254 –U.S. Code Unannotated Title 28. Judiciary and Judicial Procedure 1254. Courts of appeals; certiorari; certified questions

CONSTITUTIONAL PROVISIONS INVOLVED

Artl. S10. C1.5 Contract Clause

The Fifth Amendment

The Fourteenth Amendment

STATEMENT OF THE CASE

The (1st) first attorney/lawyer was Paul Rubino of Paoli, Pennsylvania. Attorney Rubino and Petitioner Randall Winslow had numerous business transactions over the years. He was contracted with to file my appeal. Attorney Rubino never filed or protected my appellate position.

The (2nd) attorney Evan Kelley was hired as an appellate attorney. Attorney Kelley was contracted with to put forward Randall Winslow's right to a complete defense. Attorney Kelley put forward Sufficiency of the evidence assuring Randall Winslow that it's the same as a complete defense.

Randall Winslow does not tolerate people being paid for something and not getting what he has paid money to be executed.

REASONS FOR GRANTING THE PETITION

Unfortunately, the Third Circuit of Appeals court again never reached the merits because it dismissed this case and the previous case on jurisdictional grounds, including the Rooker-Feldman doctrine. Federal Courts are an essential forum for vindicating federal

constitutional rights against infringement by the states. The role is undermined by the overly aggressive application of doctrines like Rooker-Feldman, standing, the Eleventh Amendment, and abstention. Rooker –Feldman doctrine is frequently raised as a defense in lawsuits and this petition is to assist this court in correcting the misinterpretation of Rooker-Feldman and to ensure that plaintiff Randall Winslow and other plaintiffs are able to access the federal courts to protect their constitutional rights.

SUMMARY OF THE ARGUMENT

Randall Winslow filed this case in federal court, alleging that a Pennsylvania law/statute/rule is unconstitutional. Even though the Supreme Court and other U.S. Circuits have held that Rooker – Feldman does not apply when a plaintiff challenges the validity of a statute/law/rule, the court below concluded twice that it does apply and bars plaintiffs suit. That is not the law. Rooker-Feldman applies only when a federal plaintiff is attacking the merits of a state court's decision in a particular case. When by contrast, a plaintiff challenges the validity of a statute or rule that the state court applied, then Rooker-Feldman has no place.

The Rooker-Feldman doctrine is also inapplicable because Randall Winslow is raising a due process and contract challenge to the sufficiency of the very state proceeding that the court below held was the cause of his injury. In other words, the court held twice that Randall Winslow must prove his right to due process and contract in

the same proceeding that he alleges is defective. That defies both common sense and precedent. To be sure, a plaintiff cannot simply slap a due process and contract label on an argument whose substance is that the state court's decision was wrong. But it is another matter when a plaintiff credibly alleges that a state has violated his federal due process and contract rights. That is what Randall Winslow has done twice and here again; raised an independent claim to which Rooker –Feldman does not apply.

ARGUMENT

I. Randall Winslow has demonstrated that Rooker-Feldman doctrine is inapplicable because the Pennsylvania Certificate of Merit at issue is not the result of judicial actions. Yet, even if Randall Winslow is wrong on that count, the doctrine would still be inapplicable because he is challenging the constitutionality of the Certificate of Merit. When a plaintiff does not challenge the adverse (state court) decision but instead targets as unconstitutional the (state) statute/law/rule they authoritatively construed, then Rooker-Feldman does not apply. Skinner v. Switzer, 562 U.S. 521, 532 (2011) ("[A] state court decision is not reviewable by lower federal courts, but a statute or rule governing the decision may be challenged in a federal action.").

The Feldman case, from which the Rooker Feldman doctrine derives its name, illustrates this point. District of Columbia

Court of Appeals v. Feldman was a federal case brought by unsuccessful applicants to the District of Columbia bar. 460 U.S. 462 (1983). The District of Columbia Court of Appeals had recently adopted a rule limiting bar admission to graduates of accredited law schools. Id. at 464-65. Two applicants who had not attended accredited law schools nevertheless petitioned for admission, requesting a waiver of the rule, and emphasizing their unique circumstances and qualifications. One of the applicants explicitly argued that the D.C. Court of Appeals had the "plenary power to regulate the licensing of attorneys...include[ing] the discretion to wave the requirements of Rule 46 in a deserving case." Id. at 467. The D.C. Court of Appeals denied the applicants requests for waivers and both applicants subsequently brought actions pursuant to 42 U.S.C. 1983 in federal district court, arguing, inter alia, (1) that the bar admission was unconstitutional, and (2) that the D.C. Court of Appeals had violated their constitutional rights by failing to grant them waivers from the rule. The Supreme Court distinguished between these two types of claims. On one hand, the claim that the D.C. Court of Appeals should have granted a waiver, based on the applicants unique circumstances, was barred by the doctrine we now know as Rooker-Feldman:

[I]t is clear that their allegations that the District of Columbia Court of Appeals acted arbitrarily and capriciously

in denying their petitions for waiver and the court acted unreasonably and discriminatorily in denying their petitions...required the District Court to review a final judicial decision of the highest court of a jurisdiction in a particular case.

460.U.S. at 486. In contrast, however, because "[t]he remaining allegations in the complaints...involve[d] a general attack on the constitutionality of' the bar admission rule, the court held that the district court did "ha[ve] subject matter jurisdiction " over those claims and remanded for further proceedings. Id. at 487. So, as long as a plaintiff's challenge targets a statute or rule, then Rooker-Feldman does not apply.

First, in Exxon Mobil Corp. v Saudi Basic Industries, the Supreme Court noted that "since Feldman, this court has never applied Rooker-Feldman to dismiss an action for want of jurisdiction. " 544 U.S. 280,287 (2011). The Supreme Court went on to criticize the lower courts because: the doctrine has sometimes been construed to extend far beyond the contours of the Rooker and Feldman cases, overriding Congress' conferral of federal – court jurisdiction concurrent with jurisdiction exercised by state courts, and superseding

the ordinary application of preclusion law pursuant to 28 U.S.C. 1738.

Id. at 283; accord Lance v. Dennis, 546 U.S. 459, 464 (2006) (Neither Rooker or Feldman elaborated a rational for a wide-reaching bar on the jurisdiction of lower federal courts, and our cases since Feldman have tended to emphasize the narrowness of the Rooker- Feldman rule").

The Exxon court then specifically held that Rooker-Feldman is inapplicable when a federal plaintiff brings an "independent claim," even if prevailing on that claim could have the effect of undoing a state court judgment. Exxon, 544U.S. at 293 ("Nor does 1257 stop a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court."). An "independent claim" is easy to identify, as it targets something other than the merits of a state court's decision. In other words, if a plaintiff can plead a claim without specifically" complaining about the courts actions of a court in a particular case, then Rooker-Feldman does not apply.

If there were any lingering doubt about the matter, the Supreme Court dispelled it in Skinner. In Skinner, the Court held that Rooker-Feldman does not apply when a federal plaintiff challenges the constitutionality of a rule of decision that was applied against him in state court. Skinner, 562 U.S.

at 532 ("Skinner does not challenge the adverse CCA decisions themselves; instead , he targets as unconstitutional the Texas statute they authoritatively construed. As the Supreme Court explained in Feldman, and reiterated in Exxon, a state-court decision is not reviewable by lower federal courts, but a statute or rule governing the decision may be challenged in a federal action.") (citations omitted); see also Alvarez v. Attorney Gen. for Fla., 679 F.3r 1257, 1263 (11th Cir. 2012) ("Skinner stands for the unremarkable proposition that the existence of a state court judgment interpreting or relying upon a statute does not bar a federal court from entertaining an independent challenge to the constitutionality of that statute.").

II. ROOKER – FELDMAN also should not apply because Randall Winslow made a procedural due process and other constitutional claims argument.

When a federal plaintiff alleges that a state has denied due process, and other unconstitutional claims, its illogical to suggest that his rights were vindicated or upheld in the state courts. Rooker-Feldman does not require federal plaintiffs to take heroic measures to press constitutional arguments before state courts. That concern animates other doctrines, such as abstention and preclusion. For Rooker-Feldman purposes, however, federal plaintiffs are entitled to take

state procedures as they are written. If as here the procedure is inadequate, then they can file a federal lawsuit and allege as much. They need not ask a state court to use its own powers of judicial review to correct the procedural deficiency. See Skinner, 562 U.S. at 563 n.11

A court does not deprive a plaintiff of due process or contract claim when it makes a wrong decision. However, it does deprive a plaintiff of due process and freedom to contract claim when a decision results from a process that is constitutionally defective.

Indeed, a due process claim and contract claim that one has been injured by inadequate or defective procedures is another independent claim, of the type in Exxon. 544 U.S. at 293.

This court should recognize that procedural due process and contract claims are exempt from Rooker-Feldman and because if they are not, the right to receive due process would be severely circumscribed. Procedural rights are, almost by definition, only violated by courts. Granted, the executive branch can take action that violates procedural due process, but under most statutory schemes, courts are at least nominally available to review such actions, though their review is often highly deferential. In this case, of course, there was no review at all. Even taking the district courts and and U.S. Third Circuit's view of the facts, the Pennsylvania

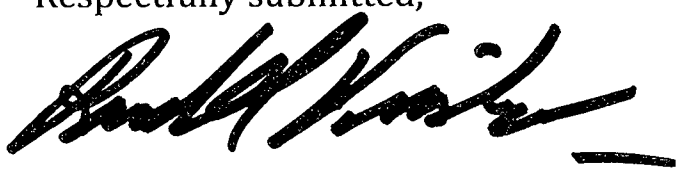
court was at most, engaged in a ministerial act. If the mandatory issuance of a court order is enough to trigger Rooker-Feldman, and lack of standing as the court below held, then procedural due process would largely be outside the scope of federal protection. That result would neuter one of the foundations of our constitutional order.

CONCLUSION

The United States 3rd Cir. Court's Rooker-Feldman ruling and lack of standing should be reversed because it erroneously deprives plaintiffs of a federal forum for their constitutional claims and forces them to remain in the very system that violates their constitutional rights in the first instance. In reversing the court below, this court should clarify, in a published opinion, (1) that Rooker-Feldman does not apply when plaintiffs are challenging the validity of a statute or rule, and (2) that Rooker-Feldman should not apply when plaintiffs have alleged a violation of the constitutional right to contract and procedural due process, so that plaintiffs in future cases are not wrongfully denied the protection of the federal courts.

The petition for certiorari should be granted.

Respectfully submitted,



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