

No. 21-6013

SUPREME COURT OF THE UNITED STATES

ZACHARY SCOTT REED,

Petitioner,

v.

MICHAEL R. DIXON, JR., et al.,

Respondent.

On Petition for a Writ of Certiorari to  
the United States Court of Appeals  
for the Eighth Circuit

ORIGINAL

**PETITION FOR A WRIT OF CERTIORARI**

FILED

OCT 12 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

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## **I. QUESTION PRESENTED**

If a district court applies qualified immunity to a case upon adopting a factual basis containing a clear error of fact, with such clear error being directly material to the application of qualified immunity, and such a ruling is later appealed both to the district court and the court of appeals, but both courts still refuse to acknowledge or correct the clear error and instead dismiss a plaintiff's appeal in a one paragraph unpublished opinion devoid of any legal reasoning, does the failure of the district court and the appellate court to ensure an earlier legal decision is fair and just and subsequent disregard of a pro se plaintiff's appeal constitute a violation of the plaintiff's right to due process?

## **II. LIST OF PARTIES AND RELATED CASES**

The Parties to this matter are as follows:

1. Michael R Dixon, Jr represented by Michael G Berry & Lauren Briggs
2. Adam C. Bennett represented by Michael G Berry & Lauren Briggs
3. Patrick J. Boatman represented by Michael G Berry & Lauren Briggs
4. Vernon D McKague, Jr. represented by Michael G Berry & Lauren Briggs
5. Osage County represented by Michael G Berry & Lauren Briggs
6. Vincent S. Vanderfetz represented by Michael G Berry & Lauren Briggs
7. Scott G. Parish represented by David S. Baker

The Related Cases to this matter are as follows:

- A. Reed v. Dixon, Et. Al., 2:19-cv-04178-MDH, U. S. District Court for the Western District of Missouri. Judgment entered August 13, 2020.
- B. Reed v. Dixon, Et. Al., No. 20-2707, U. S. Court of Appeals for the Eighth Circuit. Judgement entered May 11, 2021. Petition for Rehearing denied July 14, 2021.

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## **VI. OPINIONS BELOW**

It is unknown if the orders of the United States District Court for the Western District of Missouri dated on April 20, 2020 and August 14, 2020 are published. The judgement and opinion of the 8th Circuit Court of Appeals dated May 11, 2021 is unpublished. It is unknown if the denial of the petitioners Petition for Rehearing on July 14, 2021 is published.

## **VII. JURISDICTION**

Mr. Reeds' petition for rehearing in the 8th Circuit Court of Appeals was denied on July 14, 2021. Mr. Reed invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the 8th Circuit Court of Appeals denial of Mr. Reed's petition for rehearing.

## **VIII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

United States Constitution, Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## IX. STATEMENT OF THE CASE

In the instant case, based upon information and belief, law enforcement officers fabricated evidence to be used against the plaintiff in a criminal case which was later dismissed. The decision of the 8th Circuit Court of Appeals to affirm the District Court's decision to extend the protections of "qualified immunity" to law enforcement officers who knowingly and intentionally violate not only a citizen's constitutional right to due process but also federal and state law results in a travesty of justice, undermines public faith and confidence in law enforcement and the judicial system, and indicates at best a failure to conduct a thorough "de novo" review of the *pro se* Plaintiff's 1983 action and at worst an abuse of discretion by both the District Court and by this Court.

It is unclear how the 8th Circuit Court of Appeals had concluded that "qualified immunity" applied since the *unpublished* opinion rendered by the 8th Circuit Court of Appeals stated only as follows:

"Zachary Reed appeals the district court's dismissal of his 42 U.S.C. § 1983 action. After careful de novo review of the record, see *Plymouth Cty. v. Merscorp, Inc.*, 774 F.3d 1155, 1158-59 (8th Cir. 2014) (standard of review), we find no error warranting reversal. Accordingly, we affirm. See 8th Cir. R. 47B."

Since no additional legal reasoning beyond that of the District Court has been cited in the opinion by the 8th Circuit Court of Appeals, it would appear that the 8th Circuit Court of Appeals had adopted in full the legal reasoning used by the

District Court, which is itself based upon a clearly erroneous finding of fact, as the District Court found that “qualified immunity” was applicable on the basis that such claims were barred due to the “Heck Doctrine”, since “All of Plaintiff’s allegations arise out of his underlying criminal proceedings. With the exception of Plaintiff’s claims arising out of his pretrial confinement (Counts VI and VII of Plaintiff’s Amended Complaint), as discussed below, Plaintiff’s claims arise out of the search and seizure and prosecution of Plaintiff.”

This is a clear error of fact, since some claims made by the Plaintiff were not in any way related to the Plaintiff’s criminal conviction and thus any bars imposed due to “Heck Doctrine” does not apply to those counts. The fact that such a clear and obvious error has not yet been acknowledged, addressed, and resolved at this stage of litigation tends to indicate a possibility that this Plaintiff’s *pro se* arguments may not have even been read by the District Court or by the 8th Circuit Court of Appeals, much less considered when rendering a judicial decision.

## **X. REASONS FOR GRANTING THE PETITION**

This case involves multiple exceptionally important constitutional questions with nationwide implications and a panel decision that conflicts with precedents from this Court. The panel decision of the 8th Circuit Court of Appeals effectively extends the protections of “qualified immunity” to law enforcement officers who knowingly, intentionally, and unlawfully fabricate evidence to be used against an

accused in a criminal prosecution. The panel decision additionally extends bars to litigation created by the “Heck Doctrine” to issues entirely independent and unrelated to a criminal conviction.

This Court should grant the petitioner’s Petition for a Writ of Certiorari to ensure that the Supreme Court’s reassurance and precedents apply with full force in the 8th Circuit in regard to applications of both “qualified immunity” and “Heck Doctrine”, as well as to correct clearly erroneous findings of fact and resulting errors of law. A failure to do so will result in injustice and serve as an example for the increasing need for law enforcement accountability, the abolishment of overextension of “qualified immunity” in cases where such immunity is not warranted and only serves to prevent citizens from holding law enforcement officers and government officials accountable for their unlawful, unconstitutional, and immoral actions, and the increasing need for substantial judicial system reform.

The Supreme Court’s decision in Heck v. Humphrey was intended to limit bars to litigation to such issues related to a criminal conviction – not to extend those bars to entirely unrelated matters which do not in any way pose a threat to the validity of a conviction for nothing more than the purposes of judicial convenience.

## XI. CONCLUSION

For the foregoing reasons, Mr. Reed respectfully requests that this Court issue a writ of certiorari to review the judgment of the 8th Circuit Court of Appeals.

DATED this 12th day of October, 2021.

Respectfully submitted,



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