

ORIGINAL

21-6850
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

DEC 20 2021

OFFICE OF THE CLERK

Jacques Paul Villafana -- Petitioner

vs.

Henry Thomas Padrick, Jr. -- Respondent

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Jacques Paul Villafana, pro se
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QUESTION PRESENTED

I. Whether a state court's denial of a mandatory hearing on a post-conviction motion was unconstitutional, invoking federal question jurisdiction in a district court and not appellate review of the state court's decision of the post-conviction motion in the district court?

LIST OF PARTIES

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

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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

The opinion of the Court of Appeals (App., 1a) was unpublished.

JURISDICTION

The judgment in the Court of Appeals was entered on August 26, 2021. A petition for Rehearing En Banc was denied on October 19, 2021. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Pertinent statutory provisions are reprinted in the appendix to the petition. See App., E and F.

STATEMENT OF THE CASE

Petitioner Jacques Paul Villafana (Villafana) filed a post-conviction motion in the circuit court for the City of Virginia Beach for a Scientific Analysis of Human Biological Evidence under Code of Virginia § 19.2-327.1. In his Motion, Villafana requested testing of (1) Bloodstain/bloodsplatter analysis; (2) Tool-mark analysis; and (3) Forensic Psychologist to opine whether [Villafana] gave a false confession. See ECF No. 1, at 7.

The Commonwealth's Attorney responded, conceding that the Blood-stain/bloodsplatter analysis was the only piece of evidence that met the statute's requirements, but opposed the other pieces of evidence. *Id.* at 4-6.

The Circuit court then denied Villafana's Motion on August 10, 2018, without a hearing, for the following reasons:

The motion fails to comply with the requirements of § 19.2-327.1; On September 27, 2016, a previous motion for scientific testing of the handgun was withdrawn since it was moot because the handgun to be tested was been destroyed; the request for a scientific analysis by a forensic psychologist is not a claim upon which relief can be granted under § 19.2-327.1; The request for appointment of counsel is denied since the motion fails to meet the threshold requirements of § 19.2-327.1 and therefore is not deemed filed pursuant to § 19.2-327.1.

Id at 7.

Subsequently, Villafana filed a 42 U.S.C. § 1983 action. In his complaint, Villafana complained that "Judge Padrick, acting under the color of state law, violated [his] Fourteenth Amendment -- Due Process -- right. Villafana's liberty interest violation occurred when Judge Padrick denied [him] a hearing on his motion. The Blood-stain/bloodsplatter analysis that Villafana motioned for was human biological evidence. Therefore, Villafana should have been granted a hearing according to section 19.2-327.1. Judge Padrick's ruling caused Villafana to suffer irreparable harm. The ruling ... prevented Villafana from utilizing state procedures to obtain a reversal of his convictions, such as, a writ of actual innocence based on biological evidence." *Id.* at 1-3.

REASONS FOR GRANTING REVIEW

Villafana presented an independent claim in the district court. He challenged the Respondent's denial of his procedural due process right: Villafana was entitled to have a hearing on his post-conviction motion for the Bloodstain/bloodsplatter analysis. See App., F. (The court shall, no sooner than 30 and no later than 90 days after such motion is filed, hear the motion. D. The court shall, after a hearing on the motion, set forth its findings specifically as to each of the items enumerated in subsection A and B and either (i) dismiss the motion for failure to comply with the requirements of this section or

(ii) dismiss the motion for failure to state a claim upon which relief can be granted or (iii) order that the testing be done.)

The Respondent, however, denied Villafana the hearing on the Motion. Villafana's § 1983 claim did not seek appellate review of the state court's decision; rather, his claim was a collateral attack. Villafana attacked the state court's procedural due process violation when it refused him a hearing on the Motion. Villafana's claim, then, gave rise to the district court's original jurisdiction to hear his civil action. Therefore, the district court and the Court of Appeals got it wrong to deny Villafana's claim as barred under the Rooker-Feldman doctrine.

Federal law states that "the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

Furthermore, § 1331 is a grant by Congress to give federal courts jurisdiction over parties "to vindicate federal rights." Home Depot U.S.A., Inc. v. Jackson, 139 S.Ct. 1743, 1746 (2019). Federal rights preempts any state court action. In fact, this Court has said that "even though state law creates [a party's] cause of action, its case might still 'arise under' the laws of the United States if a well-pleaded complaint established that the right to relief under state law requires resolution of a substantial question of federal law." Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 13 (1983).

Villafana's § 1983 claim raised a substantial issue of federal law: Violation of his procedural due process right when the state court denied him a mandatory hearing under state law. His cause of action was essential, and therefore, fell within § 1331. See Gully v.

First National Bank, 299 U.S. 109 (1936)(To bring a case within the statute, right or immunity created by the Constitution or laws of the United States must be an element, and an essential one, of the plaintiff's cause of action.)

Villafana's § 1983 claim never challenged the state court's decision of the Motion. Instead, he raised an independent claim regarding the denial of the Mandatory hearing; and since Villafana's § 1983 claim was a collateral attack and not for appellate review, § 1331 conferred subject matter jurisdiction upon the district court.

Finally, in one of the cases that established the Rooker-Feldman doctrine, this Court held that to the extent the respondents challenged the constitutionality of the Rule, which was used to deny their admission to the bar, a district court could have subject matter jurisdiction over their complaint because no review of final state-court judgment was required. D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983).

Similarly, Villafana's complaint sought review of a procedural due process right violation guaranteed by the state statute and not a review of the final state-court judgment. Therefore, the Respondent's denial of the mandatory hearing invoked the federal question jurisdiction, and the district court should have heard Villafana's complaint.

CONCLUSION

District courts have subject matter jurisdiction whenever the federal question, according to § 1331 is invoked. Villafana's complaint invoked the federal question and should have been heard. WHEREFORE, Villafana prays that this Court reverses the lower courts'

decision with remand.

Date: December 20, 2021

Respectfully Submitted

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