

21-7608

Number:

In The Supreme Court Of The United States

*Rufus Lamar Dawin Spearman, including any and all derivations; and/or variations in spelling, Petitioner vs. State of Michigan, Gretchen Whitmer Governor; MDOC: Department of Corrections, Heidi E. Washington Director; LHP: Corrections Mental Health Program, Jennifer Faha Mental Health Director Designee; Anne M. Landala; [Unknown] H-ayju; Aleksandra Wilanowski; Louy Masuga; Esmail Emami; Kyle D. Wood; Nelo-ly Chapin, respondents.

Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Sixth Circuit

Petition For Writ Of Certiorari

*Rufus Lamar Dawin Spearman
cui Generis In Propria Persona; Sovereign
Prisoner Identification Number: A-320836
Michigan Department of Corrections (MDOC)
Saint Louis Correctional Facility (SLF)
8585 N. Erswell Road
Saint Louis, Michigan (48880-923699)
989-681-6444

FILED

APR 06 2022

OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

Questions Presented

1. Whether under Washington v. Harper, 494 U.S. 210, 110 S.Ct. 1028, 108 S.Ct. 2d 178 (1990), state employees, staff, agents, etc., can involuntarily admit me into their LHP, and involuntarily medicate me with antipsychotic medications, when I have no history of being a danger to myself, others, or property as a result of mental illness, and no history of being unable to take care of myself regarding the activities of daily living?

2. Whether under Rule 28 of the Federal Rules of Appellate Procedure (Fed. R. App. P.), the court of appeals' refusal to consider my due process and free religious exercise claims was a clearly erroneous decision and/or contrary to law?

3. Whether under Hensley v. City of Columbus, 557 F.3d 693, 697 (6th Cir. 2009), Defendant's Janala and Harju's initial fraudulent mental health referral, and the resulting involuntary treatment orders that relied on that referral, constituted a continuous violation?

4. Whether under Washington v. Harper, 494 U.S. 210, 110 S.Ct. 1028, 108 S.Ct. 2d 178 (1990), the Defendant's intentional misrepresentation of information, fabrication of facts, and falsifying documents to have me involuntarily admitted into the LHP, and involuntarily medicated, amounted to a criminal act and also violated my due process rights to refuse unwanted mental health treatment?

5. Whether under Alford v. Detroit Bd. of Educ., 431 U.S. 209, 234-2-

Questions Presented (continued)

35 (1977), the Defendant's intentional misrepresentation of information, fabrication of facts, and falsifying documents to have me involuntarily admitted into their UHP and involuntarily medicated, for the purpose of suppressing and/or forcing me to relinquish my religiously based parapsychological beliefs, opinions, and ideas by labeling these First Amendment expressions as delusions, violated my free religious exercise rights under the First Amendment and the Religious Land Use and Institutionalized Persons Act (42 U.S.C. § 2000cc)?

6. Whether under Wilkins v. Gaddy, 559 U.S. 34, 37, 130 S.Ct. 1175, 1178, 175 L.Ed. 995, 999 (2010), the Defendant's intentional misrepresentation of information, fabrication of facts, and falsifying documents to have me involuntarily admitted into their UHP, and involuntarily medicated constituted a criminal act and violated my right to be free from cruel and unusual punishment?

7. Whether under Thaddeus X v. Blatter, 175 F.3d 378, 394 (6th Cir. 1999) (en banc), the Defendant's intentional misrepresentation of information, fabrication of facts, and falsifying documents to have me involuntarily admitted into the UHP, and involuntarily medicated in retaliation for and to disrupt my litigating the Daniel H. Heyns, et al. lawsuit, and engaging in other protected activity, constitutes unlawful retaliation?

8. Whether under Flamer v. Brennan, 511 U.S. 825, 837, 114 S.Ct. 1970 (1-

Questions Presented (continued)

994), the Defendant's State of Michigan and Michigan Department of Corrections can be sued in a Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, action and held liable for "knowingly acquiescing" to the unconstitutional behavior of their subordinates, and "persistently violating their statutory duties to investigate, correct, and prevent" further violations?

9. Whether under Ericson v. Pardus, 551 U.S. 89, 94, 127 S.Ct. 2197, 2200, 1167 S.Ct. 2d 1081, 1086 (2007), my pleadings in the district court (i.e., complaint [which is actually titled "Verified Amended Complaint With Jury Trial Demand. Oral Argument Requested"]; and motion to alter or amend the judgment, order, or proceeding) states any claim?

List Of Parties

All parties appear in the caption on the cover page.

Related Cases

*Rufus L. Spearman v. Gretchen Whitmer, et al., Number: 2:20-EU-000185, United States District Court for the Western District of Michigan Northern Division. Judgment entered October 15, 2020. Order denying motion to alter or amend judgment, order, or proceeding entered January 13, 2021.

*Rufus Lamar Edwin Spearman v. Gretchen Whitmer, Governor, State of Michigan, et al., Number: 21-1182, United States Court of Appeals for the Sixth Circuit. Order entered November 10, 2021. Order denying petition for rehearing en banc entered January 05, 2022.

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In The
Supreme Court Of The United States

Petition For Writ Of Certiorari

I, respectfully pray that a writ of certiorari issue to review the judgment below.

Opinions Below

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is unpublished.

Jurisdiction

The date on which the United States court of appeals decided my case was November 10, 2021. A timely petition for rehearing was denied by the United States court of appeals on January 05, 2022, and a copy of the order denying rehearing appears at Appendix C.

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

Constitutional And Statutory Provisions Involved

This petition for a writ of certiorari involves Article I in addition to and amendment of the Constitution of the United States of America; Article VIII in addition to and amendment of the Constitution of the United States of America; and, Article XIV in addition to and amendment of the Constitution of the United States of America. It also involves the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. §2000cc.

The text of these provisions are attached as Appendix E to this petition, and are stated in pertinent part(s).

Statement Of The Case

Now comes, I, ~~Refus~~ Rufus Lamar Spearman, hereinafter, also referred to as either me, my, myself, and/or I, also the Petitioner in these proceedings, and am a Newcaulian African American, 42 year young, single, heterosexual, Male, being unlawfully detained as a prisoner by the People of the State of Michigan, and Michigan Department of Corrections (MDOC), and am proceeding with this "Petition For A Writ Of Certiorari" without the assistance of an attorney, counsel, or lawyer.

In my district court pleadings (i.e., verified amended complaint, and motion to alter or amend the judgment, order, or proceeding) I alleged that I requested an investigation of the MDOC, its employees, and inmates by the Civil Service Commission, and the Legislative Corrections Ombudsman's Office, because the MDOC, its employees, and inmates were, inter alia, subjecting me to retaliatory harassment and segregated confinement because of the Spearman v. Heyns, et al., 2:15-LV-15-RHB-JP21, lawsuit I had filed, and a subsequent preliminary injunction / temporary restraining order motion. Within a week of writing to the Civil Service Commission I was released from segregation. Then, a couple days later, when I wrote to healthcare seeking a medical evaluation, and medical science information concerning my religiously based parapsychological beliefs, opinions, and ideas, Defendants ~~Donald~~ Donald, Hays, and the Officers covertly retaliated again by intentionally falsifying facts, misrepresenting my peaceful expression of requesting medical science information, fabricated a HQT score, and then a mental health referral, and had me involuntarily admitted into the MDOC's EMHP, and forcibly medicated with antipsychotic drugs that resulted in psychological and physical in-

Statement Of The Case (continued)

jury.

When I was transferred to the Chippewa Correctional Facility (CHF), Defendants Widenowski, Masuga, Emami, Wood, Chapin, and Faha renewed the involuntary treatment and forced medication based on the bogus referral initiated by Defendants Dandala and Harju, and yet again, classified my religiously based parapsychological beliefs, opinions, and ideas as delusions.

When I was transferred to the Brooks Correctional Facility (CHF) Qualified Mental Health Professionals (QMHP) considered my objections and protestations to the drugs I was being forced to accept, and thoroughly reviewed my files and institutional records in search of supportive reports and/or other documents for the involuntary treatment referral, which is automatically triggered when a previous treatment order expires. Upon doing so, they found that the reasons alleged for the previous involuntary treatment orders were false and "unsubstantiated." Dr. Jia Khan immediately discontinued the antipsychotic drugs in March of 2018, and when the previous involuntary treatment order expired on May 04, 2018, I was discharged from the QMHP on or about May 25, 2018.

The district court dismissed my complaint ~ at the screening stage ~ on the basis that I failed to state a claim. Specifically, the district court held that I failed to allege that Defendant's Whitmer or Washington engaged in any active unconstitutional behavior. That my claims against Defendant's Dandala and Harju regarding the initial placement of me in the QMHP, and the concurrent prescription for Haldol are barred by the statute of limitations. That I failed to allege facts

Statement Of The Case (continued)

to support my conclusion that the UH Defendants retaliated against me because I filed a complaint against officials at another prison more than a year earlier. That I did not allege that I was denied the protections afforded by INSOR policy. That I failed to allege facts showing I received grossly inadequate care and failed to demonstrate that the Defendants acted with deliberate indifference. Then lastly, held that I failed to allege that my sincerely held religious belief requires me to remain drug free.

Despite filing an appellate brief, in which I specifically stated that I was appealing the various claims that I presented in the district court, the court of appeals stated that the only claim I was appealing was the Eighth Amendment deliberate indifference claim, and held that I did not appeal my due process and free religious exercise claims. The court of appeals affirmed the district court's dismissal of my complaint.

Basis For Federal Jurisdiction

This case raises a question of interpretation of the free religious exercise clause of Article I in addition to and amendment of the Constitution of the United States of America, and Bill of Rights. It also raises a question of interpretation of the cruel and unusual punishment clause of Article VIII in addition to and amendment of the Constitution of the United States of America. Furthermore, it also raises a question of interpretation of the due process clause of Article XIV in addition to and amendment of the Constitution of the United States.

Basis For Federal Jurisdiction (continued)

ates of America. The district court had jurisdiction under the general federal question jurisdiction conferred by 28 U.S.C. § 1332.

Reasons For Granting The Petition

A. Refusal or Failure to Consider Certain Claims.

In the various pertinent sections of my appellate brief I stated the following:

"Statement Of The Case ~ '[...] I, am appealing from the judgment / orders / opinions of the United States District Court for the Western District of Michigan, dated October 15, 2020, and January 13, 2021 [...] Specifically, the district court dismissed Defendants [...] on the grounds that I presented insufficient facts to state a retaliation claim; did not state a due process claim because I did not allege that the Defendants violated MDOC policy; [...] and did not state a First Amendment or 42 U.S.C. 1983 claim because I did not allege facts showing that remaining drug free was required by my religion Nuxukubi.'" (Appellate Brief, Sheets three and four of eighteen).

"Summary Of Argument ~ The United States Supreme Court's decision in Washington v. Harper, 494 U.S. 210, 110 S. Ct. 1028 (1990); and MDOC Policy Directive (PD) 04.06.183, which provides greater protection, only permits the Defendants to involuntarily medicate me where I present a present danger to myself, others, and when the medication is needed. Because I alleged the Defendants had misrepresented and fabricated the information and documents used to involuntarily admit me into the CMHP, and to involuntarily medicate me, in retaliation for suing them and continuing to complain to outside authorities, and because I submitted a declarat-

Reasons For Granting The Petition (continued)

ion and exhibits in support of my factual allegations with my motion to alter or amend, the district court incorrectly held the pleadings did not state a cause of action." (Appellate Brief, Sheet six of eighteen).

"Argument Point One - Since under Bell Atlantic Corporation v. Twombly, 550 U.S. 544, 570 (2007), I needed only allege 'enough facts to state a claim that is plausible on its face,' and because I provided enough factual matter, with supporting exhibits, sufficiently alleging the Defendants had unlawfully retaliated against me by forcing me to accept unwanted mental health treatment, the district court incorrectly held my claims did not contain enough specific factual allegations."

"[...] In my claims for relief, Id. at pp. 9-11 of 12, I claimed the Defendants' actions violated my rights under Hellfire Act and the First Amendment, CCF Num. 1, 'Complaint', pp. 5-6, 9-10 of 12. Their actions violated my Eighth Amendment right not to be subjected to cruel and unusual punishment, Id. at pp. 7-8, 10-11 of 12. And that their actions violated my rights to refuse unwanted treatment under the Fourteenth Amendment, Id. at pp. 7-8, 11 of 12." (Appellate Brief, Sheets eight and nine of eighteen).

"[...] My complaint and motion to alter or amend, states the claim that the Defendants violated my constitutional and federal rights, when they fabricated information and documents which were used

Reasons For Granting The Petition (continued)

to have me involuntarily admitted into the CMHP, and involuntarily medicated for retaliatory reasons. At a minimum, the fact that I was not a 'present' danger to myself or others made the involuntary treatment unlawful. 11D01-PD04.06.183(b). Accordingly, the district court erred in dismissing my complaint and subsequent pleadings on the basis that they failed to state a claim." (Appellate Brief, sheets twelve and thirteen of eighteen).

The aforementioned statements in the identified sections of my appellate brief clearly expressed my intent to appeal the district court's dismissal of my First Amendment, 8th Amendment, Fourteenth Amendment claims. So, why did the court of appeals say, "Spearman does not appeal the district court's dismissal of his due process and Free Exercise claims and appeals only his Eighth Amendment deliberate indifference claims against Whitmer and Washington"? Well, I too presented this same question to the panel of judges (Karen Nelson Moore, Ronald Dee Hilman, and Raymond M. Kethledge) that presided over my appeal in a subsequent petition for en banc panel rehearing. Unfortunately, although this original panel had the opportunity to review my petition for rehearing, and then circulated my petition for rehearing to the full court, that question was not answered. (See, Appendix C).

Reasons For Granting The Petition (continued)

B. Conflicts with Decisions of Other Courts.

1. Refusal or Failure to Consider Certain Claims.

The court of appeals' refusal or failure to consider all of the claims I identified in my appellate brief was directly contrary to Federal Rules of Appellate Procedure, Rule 28; see, Hamani v. Ashcroft, 378 F.3d 554, 558-559 (10th Cir. 2004).

2. Statute of Limitations.

The holding of the courts below that Defendant's Sanjala and H. Briggs bogus mental health referral, which resulted in my involuntary admission into and treatment by the UHP, was a discrete act, and that the continuation of subsequent involuntary treatment orders based on the same bogus facts and information were separate incidents, and were barred by the statute of limitations, is directly contrary to the holding of four federal circuits. see, Heard v. Sheehan, 253 F.3d 316, 320 (7th Cir. 2001) (adopting continuing wrongs rule for §1983 suits) and cases cited; accord, Shomo v. City of New York, 579 F.3d 176, 181 (2d Cir. 2009) (following Heard v. Sheehan); Hensley v. City of Columbus, 557 F.3d 1693, 1697 (10th Cir. 2009); Tilber v. Cigna Corp., 89 F.3d 1423, 1430, 1431 (10th Cir. 1996).

Reasons For Granting The Petition (continued)

3. Right to Refuse Treatment.

The court of appeals did not address my appeal of the district court's dismissal of my due process claim. However, the district court held that I did not state a due process claim because I did not allege the Defendants violated their own policy directive, by denying me procedural due process protections. This holding is directly contrary to the holding of this Court and two federal circuits. See, Washington v. Harper, 494 U.S. 210, 227, 110 S. Ct. 1028 (1990); Haul v. Lorton, 928 F.2d 784, 785 (7th Cir. 1991); Bee v. Greaves, 910 F.2d 686, 687-688 (10th Cir. 1990).

4. Free Religious Exercise.

The holding of the courts below that I failed to state the claim that the Defendants violated my free religious exercise rights under the First Amendment and RLUIPA, because my allegations were conclusory, are contrary to the holdings of this Court and four federal circuits. See, Thomas v. Review Board, Indiana Employment Security Division, 450 U.S. 707, 714, 101 S. Ct. 1425 (1981); Seader v. Belmont, 393 F.3d 1126, 1131 n.6 (10th Cir. 2004); Ford v. McLinnis, 352 F.3d 582, 590-591 (2d Cir. 2004); Martirelli v. Dugger, 817 F.2d 1499, 1504 (11th Cir. 1987); Malach v. Yogi, 592 F.2d 197, 208 (3d Cir. 1979).

Reasons For Hearing The Petition (continued)

5. Misuse of Force.

The holding of the courts below that my Eighth Amendment claim calls for the application of a "deliberate indifference to serious medical needs" standard is misplaced. The district court sought to apply the standard articulated in Kramer v. Wilkinson, 302 F. App'x. 391, 400-401 (6th Cir. 2008), and the court of appeals sought to apply the standard articulated in Harrison v. Ash, 539 F. 3d 510, 518 (6th Cir. 2008). I, never alleged the Defendants were deliberately indifferent to my medical needs, but rather, that the Defendants intentionally used involuntary mental health treatment as a weapon, for retaliatory reasons. That is to say, that much like someone might misuse a chemical agent for retaliatory reasons, see, Sweets v. Morgan, 308 F. 3d 868, 873 (8th Cir. 2002), the Defendants misused antipsychotic medication to fry my brain and discombobulate my mind, in an effort of deterring and preventing me from engaging in protected conduct. As such, the lower courts holdings are directly contrary to the holdings of this Court and three federal circuits. See, Hudson v. McMillian, 503 U.S. 1, 6-7, 112 S. Ct. 995 (1992); accord, Wilkins v. Gaddy, 559 U.S. 34, 37, 130 S. Ct. 1175, 1178 (2010) (per curiam); see, Bashawille v. Mulvaney, 411 F. 3d 45, 47-48 (2d Cir. 2005) (quoting and discussing jury instructions); Johnson v. Breeden, 280 F. 3d 1308, 1313-1316 (11th Cir. 2002) (same); Pellray v. Chambers, 43 F. 3d 1034, 1037 (6th Cir. 1995).

Reasons For Granting The Petition (continued)

6. Unlawful Retaliation.

The holding of the courts below that a retaliation claim is not stated - at the screening stage - when temporal proximity is the only evidence provided of the Defendants retaliatory motive is directly contrary to the holding of six federal circuits. See, McElroy v. Sopac, 403 F.3d 855, 858 (7th Cir. 2005) (per curiam); Allen v. Thomas, 388 F.3d 147, 149 (5th Cir. 2004); Nays v. Springborn, 575 F.3d 643, 650 (7th Cir. 2009); Bennett v. Hord, 343 F.3d 133, 138-139 (2d Cir. 2003); Hines v. Lomez, 108 F.3d 265, 268 (9th Cir. 1997); Smith v. Maschner, 899 F.2d 940, 947-949 (10th Cir. 1990); Abulnazz v. Cole, 169 F. Supp. 2d 177, 197-198 (S. Mass. 1999); Espinal v. Hord, 558 F.3d 119, 129 (2d Cir. 2009); Muhammad v. Close, 379 F.3d 413, 417-418 (6th Cir. 2004) (stating that temporal proximity alone may be significant enough to constitute direct evidence of retaliatory motive).

7. Deliberate Indifference.

The holding of the courts below that the State of Michigan, Gretchen Whitmer Governor, and MISO Department of Corrections, Heidi E. Washington Director can not be held liable for persistently violating their statutory duties to investigate, correct, and prevent further constitutional violations is directly contrary to the holding of this Court and four federal circuits. See, Farmer v. Brennan, 511 U.S. 825, 837, 114 S.Ct. 1970

Reasons For Granting The Petition (continued)

(1994); see also, Al-Hidd v. Ashcroft, 580 F.3d 949, 964-965 (9th Cir. 2009); accord, Harvey v. Martinez, 2010 WL 519852, *16-8 (N.D. Pa., February 01, 2010) (citing pre-label supervisory liability standards); Wathan v. Schirio, 2009 WL 2632719, *1 (D. Ariz., Aug. 25, 2009); Hay v. Coruso, 2009 WL 223-0935, *3 (E.D. Mich., July 22, 2009).

8. Pleading requirements - Stating a Claim.

The holding of the courts below that my district court pleadings (i.e., complaint and motion to alter or amend the judgment, order, or proceeding) did not state any claim upon which relief could be granted is directly contrary to the holding of this Court and six federal circuits. See, Erickson v. Pardus, 551 U.S. 89, 94, 127 S.Ct. 2197 (2007) (per curiam); Hughes v. Howe, 449 U.S. 5, 9, 101 S.Ct. 173 (1980) (citing Haines v. Kerner, 404 U.S. 519, 520-521, 92 S.Ct. 594 (1972) (per curiam) (pro se complaints are entitled to liberal construction)); Finley v. Huss, 723 Fed. Appx. 294, 297-298 (6th Cir. 2018); Billman v. Indiana Dept. of Corr., 56 F.3d 785, 789-790 (7th Cir. 1995) (Posner, L.J.); accord, Rodriguez v. Plymouth Ambulance Service, 577 F.3d 816, 821 (7th Cir. 2009); Ekston v. Parker, 363 F.3d 229, 233 n.6 (3d Cir. 2004); Warren v. District of Columbia, 353 F.3d 36, 38 (D.C. Cir. 2004); Dellauro v. Harland, 222 F.Supp.2d 86, 89 (D. Me. 2002); Preston v. New York, 223 F.Supp.2d 452, 461 (S.D. N.Y. 2002), aff'd 87 Fed. Appx. 221 (2d Cir. 2004) (unpublished).

Reasons For Granting The Petition (continued)

C. Importance of the Question's Presented.

In this petition for writ of certiorari I present several important questions. Because these questions are inextricably intertwined they present a fundamental question of the interpretation of this Court's decision in Washington v. Harper, 494 U.S. 220, 227, 110 S.Ct. 1028 (1990). These questions are of great public importance because it affects the right to consent to, or refuse unwanted mental health treatment of every competent adult in all 50 states, the District of Columbia, and practically every city and county jail. Considering the State of Michigan's move toward incarcerating more and more individuals with alleged mental illness, rather than treating them in community placement, guidance on this question is also of great importance to prisoners, because it affects the structural framework from which a fair hearing can be had, when one has been falsely accused of suffering from a mental illness, and false information and documents are being used.

This issue's importance is enhanced by the fact that I was never able to pursue my case in the district court due to an erroneous dismissal at the screening stage.

Conclusion

For the foregoing reasons, certiorari should be granted in this case.

* 2 3 4 5 6 7 8 9 10

April 04, 2022