

Supreme Court, U.S.
FILED

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No. 22-156

In the Supreme Court of the United States

DAVID FENNELL, *Petitioner*,

v.

ROB BONTA, *Respondent*.

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

PETITION FOR WRIT OF CERTIORARI

August 8, 2022

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ORIGINAL

QUESTIONS PRESENTED

Is California's anti-SLAPP law which allows California to ban Republicans from assembling and running for office as a "matter of public interest" in violation of the U.S. Constitution's Right to Assemble?

Does California's anti-SLAPP law which redefines Federal white-collar crime and political influence peddling as legal as a "matter of public interest" cause a conflict between California and Federal law that needs to be decided by the highest court?

Can you apply California's anti-SLAPP law against Republicans and not Democrats or does that violate the U.S. Constitution's equal protection clause?

Similar anti-SLAPP laws have been struck down in other states as unconstitutional as it deprives citizens access to a jury trial; shouldn't the California anti-SLAPP law be struck down on similar grounds?

PARTIES TO THE PROCEEDINGS

The Petitioner is David Fennell.

Respondent is Rob Bonta, in his capacity as California Attorney General.

RELATED CASES

Fennell v. Bonta, U.S. Northern District No. 20-cc-01522-JCS

Fennell v. Bonta, U.S. 9th Circuit No. 20-16487

Fennell v. CAGOP San Mateo County Superior Court CIV492126

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Petitioner, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

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JURISDICTION

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STATUTORY PROVISIONS INVOLVED

Pertinent Provisions include *Davis v. Cox* 183 Wn.2d 269, 351 P.3d 862 (2015), *Mobile Diagnostic Imaging, Inc. v. Hooten*, 889 N.W.2d 27, *Leiendecker v. Asian Women United of Minn.*, 895 N.W. 2d 623, 637–38 (Minn. 2017), California Code

of Civil Procedure § 425.16, and the U.S. Constitution

STATEMENT

The Petitioner David Douglas Fennell is a Silicon Valley entrepreneur who is also a life long Republican and current Candidate for California Lieutenant Governor 2022 and is a certified candidate for the June 7, 2022, Primary.

For over a decade he has also acted as a whistleblower to Federal investigators on some of the largest white-collar and political crimes in Silicon Valley history (ie. Solyndra, Theranos). Since white-collar crime follows the money, it should surprise no one that the Petitioner's home county of San Mateo County where his family has lived since the 1970s now has the most white-collar crime of any of the 3,143 counties of the United States.

Investigators indicate there is now over \$100 Billion in fraud in the "Wall Street West" areas of Silicon Valley which has generated over \$3 Trillion in wealth. Roughly 10% of Silicon Valley's wealth is now based on antitrust activity such as Theranos where Tech and SEC data are openly faked. The handful of billionaire political donors committing the white-collar crime are also connected to political RICO operations which block any candidates who would investigate the fraud from running for office. Senator Dianne Feinstein's

office has been instrumental in blocking investigations and assisting in and appointing Judges who would block a Republican or Progressive from challenging the aging 88 year old Senator in the Primary.

What would surprise most Americans is how open the faking of data and political influence peddling is conducted at the cocktail parties and political fundraisers in the wealth locations of Silicon Valley such as Atherton, Hillsborough, Woodside, etc.

The reason the fraud is conducted so openly is the Democrat controlled State Senate has passed and amended laws such as California's anti-SLAPP law California Code of Civil Procedure 425.16 which has been amended to make white-collar and political crime in the eyes of the California Courts and California Investigative Agencies legal.

Anti-SLAPP "Strategic Lawsuits Against Public Participation" laws were originated by University Professors and Environmental lawyers Penelope Canan and George W. Pring who created the law to prevent real estate developers from filing expensive lawsuits against environmental groups seeking to stop development.

After being sponsored by State Senator Bill Lockyer and supported by the American Civil Liberties Union (ACLU) California Code of Civil Procedure 425.16 was passed into law into 1992.

In 1997, the law was expanded with the Unconstitutional provision regarding matters of “public interest.”

In an argument which is baffling the young Federal investigators California Democrat legislators have expanded the law from helping environmentalist and redefined everything as “public interest” including white-collar crime and banning Republicans from running for office.

The surreal argument in the lower courts goes as follows:

Isn't what Republicans do of “Public Interest?”

Then under the public interest clause of anti-SLAPP banning Republicans from running for office and having them arrested for attempting to run for office is allowed under anti-SLAPP.

Isn't tech and banking data “public interest?”

Therefore faking FDIC and SEC data is allowed under anti-SLAPP.

Because white-collar crime is now legal in California under the “public interest” clause of California Code of Civil Procedure 425.16 the Attorney General of California Rob Bonta and his predecessors such as Kamala Harris instructed their District Attorneys in Silicon Valley not to take police reports for white-collar crime without a court order such as a Writ of Mandate..

In other States political crimes are often handled by the Secretary of State; however, the Democrat

controlled California Secretary of State will not investigate white-collar crime without a court order. But, you can never get a court order because the individuals committing the fraud will argue everything related to elections falls under anti-SLAPP.

The anti-SLAPP law has caused a legal crisis for Federal investigators as the way Federal investigations work in other 49 States is when an individual finds white-collar or political crime they go to the local police to take a police report and if the local police need help or the complaint involves Federal Issues the FBI, FDIC, FEC or other agencies are asked by the local police for help.

But, under the "public interest" clause no one takes police reports for white-collar crime unless they get a court order. If you go to the FBI they send you to the local police or California Secretary of State who tell you to file a lawsuit to get a court order to get them to File a Police report. You have to sue the California Secretary of State and the individuals committing the crime who typically then threaten and libel the whistleblower when they found out they are being reported. The white-collar criminal simply files a CCP 425.16 Motion with the court and the Judge stops all Discovery and refuses to give a police report and the white-collar criminal's attorney gets hundreds of thousands in fees from the whistleblower who simply wanted a police report. The criminal operation just continues as if nothing happened

and no one else in Silicon Valley wants to report crime.

When you go to Silicon Valley cocktail parties in Atherton it is like a big joke where everyone is not bragging about new tech but how much they evaded law enforcement by using political connections with state legislators and local judges. No offense to this court, but the politically connected Stanford billionaire who the Petitioner is trying to have arrested for his role in Theranos has been meeting with classmate clerks at the US Supreme Court.

There is a very open discussion that since Stanford does not investigate Stanford that the Silicon Valley white-collar criminals will use their Stanford connections inside agencies and courts to block investigations. How much of this is true or how much is being said to discourage whistleblowers is hard to tell.

The Petitioner in this case gained legal standing when he uncovered a money laundering and political influence peddling operation in 2008 while hooking up computers at a Republican campaign office in California. The files showed that individuals in the office were not Republicans but were paid Democrat operatives committing FDIC bank fraud and were being paid to block Republicans from running against Dianne Feinstein, Kamala Harris, etc.

The Petitioner went to the local police with the evidence of fraud and the local police in Silicon

Valley seemed aware that Democrats were inside GOP offices in California and approved of the practices. The bank fraud was clearly illegal but the fact that these paid operatives were inside campaign offices without the funds being disclosed also broke election law and was reported to the California Secretary of State. However, both the police and Secretary of State explained that they do not take police reports or do investigations without a court order and that they also would not cooperate with the FBI.

After being libeled and threatened with violence by the white-collar criminals he filed a lawsuit to get a police report.

The white-collar criminals filed a CCP 425.16 Motion with the court and the original Judge, who failed to mention his son was the lead attorney on Dianne Feinstein's staff denied an investigation and ruled that the white-collar criminals could continue their operations and awarded their attorneys legal fees.

The white-collar criminals took the CCP 425.16 ruling and filed with Federal and State investigators as proof that they had not committed FDIC bank fraud or political influence peddling and therefore the FBI, FPPC, etc. should not investigate.

This was done to confuse young investigators who are not attorneys.

The young investigators have never been in a court room and with all due respect many only have military backgrounds and their only knowledge of the law in many cases is what they see on Judge Judy. So, when investigators see a judge has ruled against the petitioner and the white-collar criminals state that the Judge found no bank fraud or political influence peddling, they fail to act. But, the reality is the paper trail in the original case confirmed the bank fraud which cost tax payers \$58 Million. The Judge ruled that bank fraud fell under the public interest clause of CCP425.16 and therefore he would not issue an order for a police report or writ of mandate and that it was acceptable to keep libeling and threatening the Petitioner.

The CCP 425.16 has cause a problem for Federal agents because they don't like to have their whistleblower threatened but there seems to be no way to protect them when the courts have defined whistleblowing as a matter of public interest and therefore threatening them legally. Federal agents advised the Petitioner to take the death threats seriously given he was reporting on billions in fraud and he moved out of his home in San Mateo County do an undisclosed location.

For 13 years the Petitioner has come across white-collar and political fraud in Silicon Valley and being a good Catholic and Eagle Scout he reports the fraud to the police or California Secretary of state who then tell him to get a court

order for a police report and the white-collar criminal's attorneys file a CCP 425.16 and argue that white-collar crime is a matter of public interest and the Petitioner again tries Federal agents who send him back to the police who send him back to the courts and they file another CCP425.16 against him and he never gets a police report.

The Petitioner has legal standing because over a 13-year period, he has had roughly 20 different CCP 425.16 filings against him in court for the Petitioner simply trying to get an investigation for white-collar crime.

This has been made complicated by the fact that the Petitioner cooperated with the FBI on providing information against his own attorneys for their role in Solyndra and now no lawyer will represent him in Silicon Valley which is why he has been reduced to filing pro se.

Since nobody is doing anything about white-collar crime in Silicon Valley he decided to run for office as Republican for the position of California Lieutenant Governor.

However, as he travels across the state, he has found himself subject to arrest and now you have Democrat donors committing fraud using the "matter of public interest" clause to arrest political opponents.

With the argument:

Isn't what Republicans do a "matter of public interest?"

Therefore, arresting Republicans is a "matter of public interest" clause of CCP 425.16. This has made for some bizarre moments with the police who are being told to arrest a candidate who is simply try to attend his own Republican events while Democrats posing as Republicans are allowed to attend.

This arresting of Republican political opponents trying to attend their own Republican convention seems to be a bridge too far as it would seem to violate the Constitutional Right to assemble and equal protection clause.

You have ACLU attorneys putting Democrats in Republican offices but clearly the San Francisco Bay Area judges would not rule it is a "matter of public interest" if NRA members tried to put paid Republicans inside Democratic Party offices.

Anti-SLAPP laws have been found unconstitutional in Minnesota and Washington and after meetings in Federal buildings the Petitioner was instructed how to file to challenge the Constitutionality of California's anti-SLAPP provision. Though this process has been complex as the Petitioner has also seemed to have lost many of his original contacts in Federal buildings and agencies as they seem to have taken early retirement due to COVID.

Just days ago, the Petitioner was informed that he was not going to be allowed to speak at the California Republican Convention in April 2022 though his Democrat competitor posing as a Republican would be allowed.

When the Petitioner asked why, an attorney cited the public interest clause of California's anti-SLAPP Statute once again renewing his standing to challenge the constitutionality of the law.

It should be noted that this court does not have to strike down the entire statute, just the added "matter of public interest" clause that is unique to California's anti-SLAPP statute which is what is allowing white-collar crime, political influence peddling and the legal blocking of Republican candidates in California.

REASONS FOR GRANTING THE WRIT

California's anti-SLAPP Statute's matter of "public interest" clause is casting such a wide net that there is virtually nothing that could not be seen in the eyes of a lower court judge as a matter of "public interest."

Requiring a court order has caused a complete breakdown of Federal investigations and since white-collar crime and political influence peddling can be deemed a matter of "public interest" it creates an environment in Silicon Valley where no white-collar crime, political or election law is being enforced which, aside from creating a white-collar

crime epidemic, is causing American voters to be deprived the opportunity to run for office and to choose the candidate of their choice.

The arresting of political opponents is a step too far for any law. In a period when this country is clamoring for open and fair elections this case must be heard and this petition granted as banning Republican political opponents from attending their own events as a "matter of public interest" violates the Constitution's right to assemble and equal protection.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



David Fennell

August 8, 2022