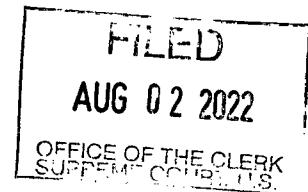


No. 22-5311

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



WILLIE A. KEY,

PETITIONER,

vs

MEDICAL UNIVERSITY OF SOUTH CAROLINA
&
U.S. DEPARTMENT OF VETERANS AFFAIRS,

RESPONDENTS.

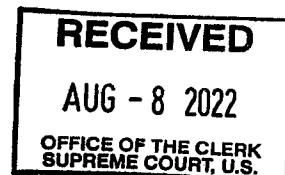
On Petition For Writ Of Certiorari
To the South Carolina Court of Appeals

PETITION FOR WRIT OF CERTIORARI

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QUESTION(S) PRESENTED

1. Whether the Court of Common Pleas erred in refusing to file petitioner's complaint on the ground of *lack of jurisdiction*?
2. Whether the South Carolina Court of Appeals erred in refusing to hear petitioner's appeal on the ground of *lack of jurisdiction*?
3. Whether the Small Claims Court unfairly deprived appellant of his filing fee?

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Medical University of South Carolina

U.S. Department of Veterans Affairs

RULE 29.6 STATEMENT

None of the petitioners is a nongovernmental corporation. None of the petitioners have a parent corporation or shares held by a publicly traded company.

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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
(None of the Below Courts Ruled on the Merits of the Case)

The opinion of the highest state court, the Supreme Court of South Carolina, to review the merits appears at **Appendix C** to the petition and is unpublished.

The opinion of the South Carolina Court of Appeals appears at **Appendix A** to the Petition and is unpublished.

The opinion of the Court of Common Pleas for the Ninth Judicial Circuit of South Carolina, Charleston County appears at **Appendix B** to the Petition and is unpublished.

The opinion of the Small Claims Court for Charleston County appears at Appendix D and is unpublished.

JURISDICTION

The date on which the highest South Carolina court decided my case was June 8, 2022. A copy of that decision appears at **Appendix A**.

The jurisdiction of this court is invoked under 28 U.S.C. § 1257(a) and the First Amendment to the U.S. Constitution.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment I to the U.S. Constitution:

Congress shall make no law ... abridging ... the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment XIV to the U.S. Constitution:

... No state shall ... deny to any person within its jurisdiction the equal protection of the laws.

S.C. Code Ann. §15-78-30(a):

“Agency” means the individual office ... including a state-supported governmental health care facility, school, college, university or technical college, which employs the employee whose act or omission gives rise to a claim under this chapter.

S.C. Code Ann. §15-78-50(a):

Any person who may suffer a loss proximately caused by a tort of the State, any agency, a political subdivision, or a governmental entity, and its employee acting within the scope of his official duty may file a claim as herein after provided.

S.C. Code Ann. §15-78-100(b).

Jurisdiction for any action brought under this chapter is in the circuit court and brought in the county in which the act or omission occurred.

STATEMENT OF THE CASE

This case arose out of a dispute between petitioner and respondents where petitioner was billed for services performed by respondent MUSC after being referred to MUSC by respondent VA, pursuant to an agreed arrangement between the respondents. Neither respondent claimed responsibility for the erroneous billing, leaving petitioner responsible for paying the bill.

On August 3, 2021 petitioner filed an action alleging Negligence in the Court of Common Pleas for the 9th Judicial Circuit (Charleston County) along with a Motion and Affidavit to Proceed In Forma Pauperis. Petitioner named both Medical University of South Carolina (MUSC) and Ralph H. Johnson VA Medical Center as defendants.

On August 12, 2021 the Court of Common Pleas, Honorable Judge Roger Young, citing “lack of jurisdiction” absent any explanation, directed petitioner to file the complaint in Small Claims court (Appendix B).

On August 26, 2021, as directed, petitioner filed the action in Charleston City Small Claims Court. The Small Claims court required petitioner to pay ninety dollars (\$90.00) filing fee. On October 29, 2021 the Small Claims court, Honorable Martelle Morrison, dismissed petitioner’s complaint, citing “lack of jurisdiction” (Appendix D).

On November 11, 2021 petitioner appealed both decisions to the S.C. Court of Appeals. The Court of Appeals dismissed the appeal on the ground of “lack of jurisdiction” (Appendix A). On December 8, 2021 petitioner filed a Motion to

Reinstate (Petition to Rehear the Dismissal) (Appendix F). On March 1, 2022 the court denied the petition.

On March 18, 2022 petitioner filed a Writ of Certiorari with the Supreme Court of South Carolina. On June 8, 2022 the court denied the Writ (Appendix C).

REASONS FOR GRANTING THE PETITION

WHERE THE SUPREME COURT OF SOUTH CAROLINA DENIED REVIEW OF PETITIONER'S WRIT OF CERTIORARI, IT SANCTIONED A DEPARTURE BY ITS LOWER COURT FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS MANDATED BY S.C. STATUTORY LAW AS TO CALL FOR AN EXERCISE OF THIS COURT'S SUPERVISORY POWERS.

1. **Whether The Court Of Common Pleas Erred In Refusing To File Petitioner's Complaint On The Ground Of Lack Of Jurisdiction?**

The South Carolina Tort Claims Act provides as follows:

S.C. Code Ann. §15-78-30(a) provides in part:

“Agency means ... a state-supported governmental health care facility, school, college, university, or technical college, which employs the employee whose act or omission gives rise to a claim under this chapter.”

Thus, where respondent MUSC is a state-supported university, it is an agency within the meaning of §15-78-30(a).

S.C. Ann. §15-78-50(a) provides in part:

“Any person who may suffer a loss proximately caused by a tort of the state, an agency, ... may file a claim as hereinafter provided.”

Thus, persons described therein may bring a claim against respondent MUSC, a state agency.

S.C. Ann. §15-78-100(b) provides:

“Jurisdiction for any action brought under this chapter is in the circuit court and brought in the county in which the action or omission occurred.”

Therefore, the Court of Common Pleas for Charleston County had jurisdiction to hear petitioner's complaint and erred in refusing to accept the complaint.

2. Whether The South Carolina Court Of Appeals Erred In Refusing To Hear Petitioner's Appeal On The Ground Of Lack Of Jurisdiction?

In its Dec. 01, 2021 order dismissing petitioner's appeal for lack of jurisdiction, the Court of Appeals stated that, "This appeal arises out of an order of the magistrate court." — this is incorrect.

Petitioner's appeal arose out of "lack of jurisdiction" orders of both the Court of Common Pleas (Common Pleas) initially and Magistrate Court (Small Claims) subsequent to that, as clearly noted in the caption and argued in petitioner's Notice of Appeal (Appendix E) and Brief and Motion to Reinstate.

It would have been futile to appeal Small Claims' decision to dismiss for lack of jurisdiction to Court of Common Pleas, where it was originally filed and dismissed *sua sponte* for lack of jurisdiction with directions to file it in Small Claims court. Therefore, petitioner appealed to the Court of Appeals naming both courts as respondents.

But for Common Pleas claiming lack of jurisdiction and directing petitioner to file his action in Small Claims Court, petitioner would have appealed directly to the S.C. Court of Appeals.

Where petitioner originally filed this action in the Court of Common Pleas, Common Pleas departed from state statute and accepted and usual course of judicial proceedings where it claimed lack of jurisdiction and directed petitioner to file his claim in Small Claims court — the S.C. Supreme Court and the Court of Appeals should have held accordingly.

Common Pleas knew or should have known that it had jurisdiction to hear an action where Medical University of South Carolina is a party. *Proveaux v. Medical University of South Carolina*, 326 S.C. 28;482 S.E.2d 774 (1997); *Jeter v. South Carolina Dept. of Transportation*, 358 S.C. 528 (Ct. App. 2004).

In the instant case Common Pleas denied petitioner the right to petition the government for redress of grievances by claiming lack of jurisdiction in a case where it clearly had jurisdiction.

If Common Pleas is allowed to continue to dismiss cases statutorily within its jurisdiction and misdirect plaintiffs where to file their cases without correction or consequence, it would discourage citizens from seeking redress in the courts.

The minor effect of Common Pleas action complained of herein is petitioner having to pay the cost of treatment out of pocket, but the greater affect is to deny petitioner access to the courts.

3. Whether The Small Claims Court Unfairly Deprived Appellant Of His Filing Fee?

Where the Small Claims court subsequently dismissed petitioner's claim after requiring him to pay a filing fee, petitioner posits that he was unfairly deprived of his \$90 filing fee.

Fairness in this regard dictates that, upon being offered the complaint, Small Claims court should have immediately viewed the *Caption* for parties. Upon noticing that the defendants were governmental agencies and, therefore, pursuant to state law, it lacked jurisdiction of the matter, the court should have declined to accept the

complaint for filing instead of first requiring payment of a filing fee.

Whether the courts acted in concert or individually, their actions, complained of herein resulted in petitioner being denied access to South Carolina's courts, in violation of the First and Fourteenth Amendments to the U.S. Constitution.

CONCLUSION

Clearly, the Court of Common Pleas' dismissal of petitioner's complaint for lack of jurisdiction goes against state statute and the S.C. Courts unlawfully denied petitioner access to their courts.

Based on the above arguments, petitioner asks this Court (1) to grant the Petition for a Writ of Certiorari; (2) order the Court of Common Pleas to accept petitioner's complaint for filing; and (3) order the Small Claim Court to refund petitioner's ninety dollars (\$90.00) filing fee.

Respectfully submitted,

August 3, 2022.

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