

22-548

In the
Supreme Court of the United States

RANDALL E. ROLLINS,
Petitioner,

v.

STATE OF TEXAS; STATE COMMISSION ON JUDICIAL
CONDUCT; LINCOLN GOODWIN, *individually and in his
official capacity as Harris County Justice Court Judge;*
HARRIS COUNTY; TOMMY RAMSEY, *individually and
in his official capacity as Assistant Harris County Attorney;*
LASHAWN WILLIAMS, *individually and in her official
capacity as Harris County Civil Court at Law Judge,*

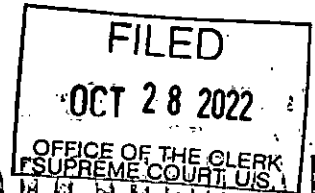
Respondents; and,

ERIC CARTER, *in individual and official capacity;*
KATHLEEN STONE, *in individual and official capacity;*
STATE OF TEXAS, HARRIS COUNTY and DOES 1-100,
Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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ORIGINAL

QUESTIONS PRESENTED

1. Did the court below err in not considering the issue that pro se litigants in Texas justice courts are treated unequally from all litigants in non-justice courts in violation of the equal protection clause of the Fourteenth Amendment and the due process clauses of the Fifth and Fourteenth Amendments?

2. Did the court below err in not considering the issue that pro se litigants in Harris County justice courts are treated unequally from all litigants in non-justice courts in Harris County in violation of the equal protection clause of the Fourteenth Amendment and the due process clauses of the Fifth and Fourteenth Amendments?

3. Did the court below err in not considering that the filing of a sworn affidavit of prejudice which is not referred to another judge deprives the challenged judge of personal jurisdiction over an affiant?

4. Did the court below err in not considering the fact that if a judge takes discretionary actions against a litigant without personal jurisdiction, that judge has waived judicial immunity and is subject to civil damages?

5. Did the court below err in not considering the issue that sovereign immunity violates the Constitution, that the United States has no sovereign, and that this British color-of-law anomaly merely serves to protect corrupt government agents and agencies and deny redress of grievances to Americans?

6. Did the court below err in not considering the issue that the "litigation exception" to the Texas Public

QUESTIONS PRESENTED--Continued

Information Act is unconstitutional, that it denies substantive due process and public information to litigants--especially en pro se litigants-- who have been denied discovery under Texas Rules of Civil Procedure 500.9?

PARTIES TO THE PROCEEDINGS

Petitioner

- Randall E. Rollins

Respondents in appeal No. 21-20482

- State of Texas
- State Commission on Judicial Conduct
- Hon. Lincoln Goodwin
- Harris County
- Tommy Ramsey, Esq.
- Hon. LaShawn Williams

Respondents in related appeal No. 22-20365

- Hon. Eric Carter
- Hon. Kathleen Stone
- State of Texas
- Harris County

CORPORATE DISCLOSURE STATEMENT

None of the parties are corporations.

LIST OF PROCEEDINGS

I. United States Court of Appeals for the Fifth Circuit

No. 21-20482

Randall E. Rollins, Plaintiff-Appellant, v.

State of Texas; State Commission on Judicial Conduct;
Lincoln Goodwin, *individually and in his official capacity
as Harris County Justice Court Judge*; Harris County;
Tommy Ramsey, *individually and in his official capacity as
Assistant Harris County Attorney*; LaShawn Williams,
*individually and in her official capacity as Harris County
Civil Court at Law Judge*, Defendants-Appellees

Date of Final Opinion: August 29, 2022

Date of *En Banc* Rehearing Denial: September 20, 2022

United States District Court for the Southern
District of Texas

Case No. 4:19-cv-1514

Randall E. Rollins, Plaintiff, v.

State of Texas, et al., Defendants

Date of Final Order: August 11, 2021

II. United States Court of Appeals for the Fifth Circuit

No. 22-20365

Randall E. Rollins, Plaintiff-Appellant, v.

Eric Carter, *in individual and official capacity*, Kathleen
Stone, *in individual and official capacity*, State of Texas,
Harris County and DOES 1-100, Defendants-Appellees

Date of Final Opinion: October 25, 2022

United States District Court for the Southern
District of Texas

Case No. 4:22-CV-1132

**Randall E. Rollins, Plaintiff, v.
Eric Carter, et al., Defendants
Date of Final Order: July 12, 2022**

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I. Re: Appeal No. 21-20482:

The decision of the Fifth Circuit Court of Appeals dated August 29, 2022, affirming the trial court's second decision granting all Defendants-Appellees' motions to dismiss with prejudice is set forth at App. 1a.

The second decision of the United States District Court (Eskridge, U.S.D.J.) dated August 11, 2021 granting all Defendants-Appellees' motions to dismiss is set forth at App. 6a.

The first decision of the United States District Court (Eskridge, U.S.D.J.) dated January 22, 2021 terminating all Defendants-Appellees' motions to dismiss is set forth at App. 5a.

II. Re: (Related) Appeal No. 22-20365:

The decision of the Fifth Circuit Court of Appeals dated October 25, 2022, affirming the trial court's decision granting all Defendants-Appellees' motions to dismiss with prejudice is set forth in App. 21a.

The decision of the United States District Court (Ellison, U.S.D.J.) dated July 12, 2022 granting all Defendants-Appellees' motions to dismiss with prejudice is set forth at App. 25a.

JURISDICTION

I. Re: Appeal No. 21-20482:

The basis for this Court's jurisdiction is contained in Art. III, Sec. 2 of the United States Constitution. The district court had jurisdiction pursuant to 28 U.S.C. § 1331 regarding a Federal Question. On August 29, 2022, the Fifth Circuit Court of Appeals entered both a decision and an untitled memorandum affirming the second decision of the United States District Court for the Southern District of Texas (Eskridge, U.S.D.J.) entered on August 11, 2021 which granted all Respondents' motions to dismiss.

[*The Fifth Circuit did not address the first decision of the United States District Court for the Southern District of Texas (Eskridge, U.S.D.J.) entered on January 22, 2021 that had previously terminated all Respondents' motions to dismiss.]

On September 20, 2022, the Fifth Circuit Court of Appeals entered a decision denying Petitioner's Motion for Rehearing En Banc filed September 9, 2022. This Court has jurisdiction after entry of a court of appeal's judgment under 28 U.S.C. § 1254(1) and after a requested en banc review under Supreme Court of the United States, Rule 13.3.

II. Re: (Related) Appeal No. 22-20365:

The basis for this Court's jurisdiction is contained in Art. III, Sec. 2 of the United States Constitution. The district court had jurisdiction pursuant to 28 U.S.C. § 1331 concerning a Federal Question. On October 25, 2022, the Fifth Circuit Court of Appeals entered a decision affirming the decision of the United States District Court for the

JURISDICTION--Continued

Southern District of Texas (Ellison, U.S.D.J.) entered on July 12, 2022 which granted all Respondents' motions to dismiss. This Court has jurisdiction after rendition of judgment under 28 U.S.C. § 1254(1).

Related Appeals, Single Petition

Both appeals, No. 21-20482 and No. 22-20365, raise identical questions of law in the appellate and in the two district courts; therefore, according to Supreme Court of the United States, Rule 12.4, a single petition for writ of certiorari covering all the judgments is sufficient.

**CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED****U.S. Const. art III, sec. 2**

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more states; between a State and Citizens of another State; between Citizens of different States; between Citizens of the Same State claiming lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED--Continued

U.S. Const., amend 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 twice put 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.

U.S. Const., amend VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

U.S. Const., amend XIV, Sec. 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED--Continued

process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

F. R. Civ. P. 11(b)

Representations to the Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
- (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
- (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

STATEMENT OF THE CASE

These two related lawsuits arise from Respondents Texas and Harris County's unconstitutional rules which routinely deny due process and equal protection to almost all en pro se Justice Court litigants seeking discovery and the recording of proceedings. These two lawsuits also arise from three judges who continued to make null and void discretionary judgments after being disqualified by Petitioner's timely and sufficient affidavits of prejudice which were never referred to another judge. These lawsuits also come as a result of a fourth Justice Court judge who colluded with a Respondent judge to deprive Petitioner of his constitutional right to discovery and the recording of court proceedings.

Regarding the first appeal, No. 21-20482, the Petitioner filed the original complaint on March 28, 2019, in Appellee Harris County's Precinct 2 Justice Court. Four of the original Defendants, who have since settled with Petitioner, had Petitioner's case removed to the United States District Court for the Southern District of Texas on April 24, 2019. The Petitioner filed an amended complaint on the removed case in the district court on June 10, 2019 followed by the last amended complaint filed June 8, 2020 which incorporated all the current Respondents.

Regarding the second appeal, No. 22-20365, Petitioner filed the original complaint on February 1, 2021 in the Precinct 2 Harris County Justice Court. Because Petitioner was repeatedly denied discovery and recording of proceedings, Petitioner filed affidavits of prejudice and complaints with the Respondent State Commission on Judicial Conduct. Petitioner's case went from Respondent

STATEMENT OF THE CASE--Continued

Harris County justice courts to its No. 3 civil court at law and ultimately to the United States District Court.

Through this labyrinthine journey, Petitioner was never granted his constitutional rights to due process and equal protection under the law. Petitioner was denied discovery and recording of proceedings, was denied an impartial judge, and was denied a jury trial in both related appeals.

The Southern District of Texas in both cases essentially ruled--by implication and omission--that Justice Court judges can deny requested discovery and the recording of proceedings to en pro se litigants and that due process and equal protection are not constitutional rights in justice courts in Texas and in Harris County. In essence, the district court supports the notion that requested discovery and recordings are "privileges" in Texas justice courts which can be denied, but are certainly not "rights."

Moreover, the Southern District of Texas in both cases heartily agreed with Respondents--by implication and omission--that judges can ignore disqualification by sworn affidavits of prejudice, that disqualified judges may continue to enter discretionary judgments even though their impartiality and jurisdiction have been properly challenged.

On September 8, 2021, a notice of appeal to the Fifth Circuit Court of Appeals was timely filed on appeal No. 21-20482. The Fifth Circuit Court of Appeals affirmed the judgment of the district court in a judgment and with a separate untitled memorandum on August 29, 2022. Petitioner filed a timely Petition for Rehearing En Banc on September 9, 2022 which was denied by the Fifth Circuit on September 20, 2022.

STATEMENT OF THE CASE--Continued

On July 18, 2022, a notice of appeal to the Fifth Circuit Court of Appeals was timely filed on related appeal No. 22-20365. On October 25, 2022, the Fifth Circuit affirmed the district court's judgment granting Defendants-Appellees' motions to dismiss. Both appeals raise identical issues of law and nearly-identical facts and parties.

REASONS FOR GRANTING THE PETITION**I. THE COURT BELOW ERRED BY NOT ADDRESSING THE THRESHOLD ISSUE OF THE CONSTITUTIONALITY OF CERTAIN TEXAS AND HARRIS COUNTY RULES.**

Petitioner initially raised the issues of the constitutionality of (1) Texas Rules of Civil Procedure, Rule 500.9; and of, (2) Harris County Justice Court Local Rule 1.7 in Respondent Harris County's justice courts. These same issues were again addressed in district court case No. 4:19-cv-1514 (Dkt # 11¹ and 84²); and also in district court case No. 4:22-cv-1132 (Dkt # 1).³ Petitioner also raised these issues in both Appellant's briefs to the 5th Circuit Court of Appeals (No. 4:19-cv-1514: Appellate Dkt: 10-18-2021; 12-03-2021), and (No. 4:22-cv-1132: Appellate Dkt: 08-19-2022; 09-26-2022).

(*The 5th Circuit uses dates, but not numbers, to indicate docket filings.)

Petitioner initially raised the issue of the constitutionality of Section 552.103(a) of Respondent Texas Public Information Act in district court case No. 4:22-cv-

¹ ROA.190.

² ROA.1133, 1135.

³ ROA.15,17.

REASONS FOR GRANTING THE PETITION--Continued

1132 (Dkt # 1).⁴ Respondent Texas passionately embraces this "litigation exception" which it uses to deny public records to en pro se litigants who have been unconstitutionally denied discovery under Texas Rules of Civil Procedure, Rule 500.9.

It is Petitioner's contention that had the appellate court ruled that requested discovery is necessary for due process in all Texas courts, Respondent Harris County's "litigation exception" defense would become moot. If en pro se litigants could have reasonable discovery in justice courts, they would not need to suffer needless delay and financial deprivation trying in vein to obtain at least some discovery via the above Texas Public Information Act.

If these three roadblocks⁵ to justice were determined unconstitutional, then en pro se litigants would at least begin to experience some meaningful due process and equal protection in Texas courts. The Texas courts, the district courts, and the appellate court apparently see no conflict with the Constitution. Petitioner strongly disagrees.

Texas Rules of Civil Procedure 500.9 allows justice court judges to deny requested discovery to en pro se litigants which is not the case for any other non-justice court litigant in Texas. Respondent Texas does not consider discovery a necessary constitutional right in its justice courts.

Likewise, according to the above Harris County Justice Court Rule 1.7, Respondent Harris County does not

⁴ ROA.18.

⁵ Texas Rules of Civil Procedure 500.9; Harris County Justice Court Rule 1.7, the "litigation exception" to the Texas Public Information Act

REASONS FOR GRANTING THE PETITION--Continued

consider the requested recording of proceedings a constitutional right in its justice courts. Respondents tacitly holler and pound the pulpit that a justice court judge's prejudices and errors of law might actually be publicly exposed if judges' remarks were recorded.

II. THE COURT BELOW ERRED BY NOT ADDRESSING THE ISSUE OF THE CONSTITUTIONALITY OF JUDGES IGNORING TIMELY AND SUFFICIENT AFFIDAVITS OF PREJUDICE AND WHO CONTINUE TO MAKE DISCRETIONARY JUDGMENTS.

Petitioner initially raised the issue of whether the two "trial" justice courts had personal jurisdiction over Petitioner to rule upon Respondents' discretionary motions in *Rollins v. Texas*, No. 184100550923 and in *Rollins v. Harris County*, No. 211100123453. Petitioner filed timely, sufficient and unrefereed affidavits of prejudice against a total of four judges three of whom ignored them. Three challenged Respondents continued to make discretionary judgments against Petitioner. After Petitioner filed a special appearance against the fourth Respondent, without any formal order or notation on the docket, this justice court judge "magically" disappeared from the case. This fourth judge did not recuse herself nor was she removed-- she just "vanished" from the docket. The Fifth Circuit, in opposition to Texas common law⁶, apparently agrees with

⁶ *Reeves v. State*, 114 Tex. 296, 302, 267 S.W. 666, 668 (1924) (quo warranto proceeding); *Buckholts Indep. Sch. Dist. v. Glaser*, 632 S.W.2d 146, 148 (Tex. 1982); *Wallace v. State*, 138 Tex. Crim. 625, 628, 138 S.W.2d 116, 117 (1940); *Gilbreth v. State*, 124 Tex. Crim. 465, 467, 63 S.W.2d 560, 561 (1933) (setting case for trial); *Taylor v. State*, 81 Tex. Crim. 359, 365, 195 S.W. 1147, 1150 (1917) (setting case for trial); *Oxford v. State*, 49 Tex. Crim. 321, 323, 94 S.W. 463, 464 (1906)

REASONS FOR GRANTING THE PETITION--Continued

the two trial courts allowing rogue judges to continue to make discretionary judgments post-affidavit without even referring to another judge for a sufficiency determination.

III. THE COURT BELOW ERRED BY NOT ADDRESSING THE NATIONAL ISSUE THAT THE ALLEGED DEFENSE OF SOVEREIGN IMMUNITY IS UNCONSTITUTIONAL: (1) SINCE THE UNITED STATES HAS NO SOVEREIGN; (2) SINCE THIS BENCH DOCTRINE DENIES CONSTITUTIONAL REDRESS OF GRIEVANCES TO LITIGANTS; AND, (3) THIS COURT IN *FITZPATRICK* HAS ALREADY OPENED THE DOOR TO THE DEMISE OF SOVEREIGN IMMUNITY.

The court below, the two district courts and Respondents have all ignored the enormous white elephant in the courtroom which is the archaic British doctrine of "sovereign immunity." This assault on freedom and civil rights is totally missing in the United States Constitution.⁷

Furthermore, this doctrine encourages governmental tyranny which was anathema to our founders. Sovereign immunity is a color-of-law fiat created by bench legislation to prevent people wronged by government abuse from obtaining redress of grievances. It is probably the most unconstitutional yet oft-cited doctrine in the volumes of American jurisprudence. Petitioner respectfully requests the Court abolish this cancerous doctrine in the interests of justice and preservation of our republic. This Court in *Fitzpatrick v. Bitzer*, 13, 427 U.S. 445 (1976) even questioned the constitutionality of state sovereign immunity in the case before it:

"...due process demands a remedy---state sovereign immunity notwithstanding. Rights for which the

⁷ See: App. 32a "Against Sovereign Immunity;" (see also Appendix A in opposed motion to supplement record in appeal No. 22-20365)

REASONS FOR GRANTING THE PETITION--Continued

Fourteenth Amendment itself provides a cause of action cannot be shielded from the courts."⁸

IV. THE COURT BELOW ERRED BY NOT ADDRESSING THE ISSUE THAT JUDGES DO NOT HAVE CARTE BLANCHE ABSOLUTE IMMUNITY WHEN THEY COMMIT *ULTRA VIRES* ACTS IN WANT OF EN PERSONAM JURISDICTION.

Even if the Court is unwilling to address the constitutionality of sovereign immunity at this time, Petitioner has raised the issue that if Respondents Texas and Harris County's judges refuse to refer when challenged by sworn affidavits, are they entitled to immunity? Do these judges have en personam jurisdiction in the instance of non-referral? Are these judges' post-affidavit discretionary orders and judgments all null and void? Should these judges be entitled to immunity when they ignore Constitutional proscriptions, case law and engage in *ultra vires* actions? Even Respondent Texas' common law dictates that these judges' post-affidavit judgments are all null and void.⁹ (*Petitioner is not questioning the clerical, ministerial or administrative jurisdiction of a presiding judge---just the judge's jurisdiction over the person of the affiant-litigant who has properly challenged the judge's impartiality.)

⁸ *Fitzpatrick v. Bitzer*, 13, 427 U.S. 445 (1976)

⁹ *Supra* at 5.

CONCLUSION

For the foregoing reasons, including a reconsideration of the constitutionality of sovereign immunity in furtherance of *Fitzpatrick*, of judges who ignore affidavits of prejudice, of governments with rules and laws that violate the Constitution, such as Texas' rule 500.9, Harris County's local rule 1.7 and the litigation exception to the Texas public records act, Petitioner respectfully requests this Honorable Court to grant Certiorari in the above-captioned case.

Respectfully submitted,



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