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SUPREME COURT, U.S.A.

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Docket No. 22-~~0005~~

IN THE

SUPREME COURT OF THE UNITED STATES

Andrew D. Simpson — PETITIONER

VS.

Carl Davis, doing business as Davis Construction — RESPONDENT

And

Thomas J. Vilsack, in his official Capacity

Tommy James, in his official capacity as

Area Director of the Monticello Area office _____ RESPONDENTS(S)

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

PETITION FOR REHEARING

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Preamble

Pursuant to Rule 44.1 of this Court, Petitioner Andrew Simpson, Defendant and Cross claimant, respectfully petitions for a rehearing of the denial of a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit.

The Eighth Circuit denial to answer the questions of "Attorney for the mentally ill", this is a stall tactic to continue the status quo. By not answering questions, the Eighth Circuit is not giving my case and others with mental disability finality, fairness and due process to the law. Without proper

representation people with mental illness are being denied access to Americans with Disability Act and other constitutional rights.

Although my case of denial of Attorney is generated by the court in the originating case (02CV-21-81-3), same originating case spurning this writ for certiorari, currently in the lower court, is on course to be back in this court, if the questions presented to the Eight Circuit on the right to representation for the mentally ill is neglected again.

This petition shows how denial to representation in the Eight Circuit for the mentally ill is a lynching tool used for dismissal of the possibility of fairness and justice to the disabled mentally ill. The results are lower courts and Attorneys in the Eighth Circuit are weaponizing these denials and denying equal access to the law for the disabled mentally ill.

CERTIFICATION

These intervening circumstances of substantial or controlling effect are substantial grounds not previously presented.

PETITION FOR REHEARING

The original certiorari petition asked this Court to resolve 3 Federal Questions as stated:

1. When acting under 28 USC1915 Informa paupers, "Do a mental illness, qualify as an "exceptional circumstance" for appointment of council?
2. Does a mentally ill person have Right to legal Representation?
3. Can a District Court Terminate a mentally ill person's Attorney, without appointing representation?

The above Federal Questions are constitutionally appropriated for the Court as stated below:

Article III, Section 2, Clause 2:

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

This case was removed to Federal Court by United States Department of Agriculture (Copy Attached). Because of my active disability (Exhibit 1 and 2), I pray for the Courts Patients and understanding.

The Supreme Court has recognized two primary reasons for the limitation on advisory opinions. First, the Court has explained that the “implicit policies in Article III” and separation-of-powers principles confine federal courts to assessing the validity of actions by the other branches of government only in the context of a case or controversy. Second, the advisory opinion limitation promotes the prudential consideration that federal courts should decide legal questions in the context of an active, adversarial dispute. The Supreme Court has concluded that courts operate best when confronted with disputes that involve “a clash of adversary argument exploring every aspect of a multifaceted situation embracing conflicting and demanding interests.”

(“[T]he federal courts established pursuant to Article III of the Constitution do not render advisory opinions. . . . ‘[C]oncrete legal issues, presented in actual cases, not abstractions,’ are requisite.”). Flast, 392 U.S. at 96–97 (1968) (quoting United States v. Fruehauf, 365 U.S. 146, 157 (1961)). See also Golden v. Zwickler, 394 U.S. 103, 108 (1969)

The Constitutional and Statutory Bars have been met in my present case. I have a concrete legal disability issue before this Supreme Court. These questions presented is an actual ongoing case between myself and the United States Department of Agriculture, I am seeking equal access to the law.... 28 USC 1915 (e)(1)....,not in abstraction, but for use in the above conflict resolution. I have raised the Issue of Representation because of my Disability in the Arkansas Western District Court, The United States Court of Appeal 8th Circuit and now in this Court.

The Judicial system denial to myself and other Low income disabled persons with a Mental Illness access to Constitutional Statue 28 USC 1915 (e)(1) is a denial of my right to equal access to due process *14th Amendment* of the law and a denial to the Americans with Disability Rehabilitation Act.

28 U.S.C. § 1915 - U.S. Code - Unannotated Title 28

(e)(1) The court may request an attorney to represent any person unable to afford counsel.

These systemic acts of denial have been at the very least heart wrenching to me and denial to Constitutional right to life, liberty and the pursuit of happiness as the United States Constitution grants to me and all its Citizens.

It is My Prayer, that this Court Reverse it's denial and issue answer to the above Federal Questions.

By: 
Andrew Simpson
140 UZ Tucker Rd.
Hamburg Arkansas 71646

IN THE CIRCUIT COURT OF ASHLEY COUNTY, ARKANSAS

CARL DAVIS,
d/b/a DAVIS CONSTRUCTION CO.

PLAINTIFF

V. CASE NO. 02CV-21-86-3

ANDREW SIMPSON; and

THOMAS J. VILSACK, in his official
capacity as Secretary of Agriculture; and

TOMMY JAMES, in his official capacity as
Area Director of Monticello, Arkansas Area
Office of USDA Rural Development Agency

DEFENDANTS

NOTICE OF FILING OF NOTICE OF REMOVAL

A Notice of Removal from State Court in the above-entitled cause, a copy of which is attached hereto and incorporated herein and marked as "Government's Exhibit 1" was filed in the United States District Court for the Western District of Arkansas, Fort Smith Division, on the 21st day of October, 2021.

Respectfully submitted,

DAVID CLAY FOWLKES
ACTING UNITED STATES ATTORNEY

By: /s/ Candace L. Taylor

Candace L. Taylor
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CERTIFICATE OF SERVICE

I, Candace L. Taylor, Assistant U.S. Attorney for the Western District of Arkansas, do hereby certify that on this the 22nd day of October, 2021, I mailed a true and correct copy of the foregoing Notice of Filing of Notice of Removal to:

Julius Kearney, Sr.
Attorney for Plaintiff
P.O. Box 6606
Pine Bluff, AR 71611

Ron Goodman
Attorney for Defendant Andrew Simpson
515 Oak, Suite A
Conway, AR 72032

/s/ Candace L. Taylor
Candace L. Taylor
Assistant United States Attorney

IN THE UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

CARL DAVIS,
d/b/a DAVIS CONSTRUCTION CO.)
Plaintiff)
v.)
ANDREW SIMPSON,)
Defendant)
And)
THOMAS J. VILSACK, in his official)
Capacity as Secretary of Agriculture, and)
TOMMY JAMES, in his official capacity)
Defendant)

Case No. 21-1049 SOH

NOTICE OF REMOVAL

This Notice of Removal is filed on behalf of Defendants, Thomas J. Vilsack, in his official capacity as Secretary of the Department of Agriculture, and Tommy James, in his official capacity as Area Director of the Monticello, Arkansas Area Office of the United States Department of Agriculture Rural Development Agency. The undersigned Assistant United States Attorney appears on behalf of the Defendants and respectfully notifies this Court and states support of such removal as follows:

1. On July 7, 2021, the Plaintiff, Carl Davis, filed in the Circuit Court of Ashley County, Arkansas, a Complaint for Breach of Contract by Individual Defendant and For Interpleading Funds Held by Government Defendants ("Complaint") which is captioned *Carl Davis, d/b/a Davis Construction Co. v. Andrew Simpson and Thomas J. Vilsack, in his official capacity as Secretary of Agriculture and Tommy James, in his official capacity as Area Director of the Monticello, Arkansas Area Office of USDA Rural Development Agency*. The state court



case number is 02CV-21-86-3. The Rural Development Agency (Rural Development) is an agency within the United States Department of Agriculture (USDA). A copy of the state court Complaint in Case No. 02CV-21-86-3 is attached hereto as Exhibit A.

2. On September 13, 2021, an answer to the complaint was filed on behalf of Rural Development and USDA. A copy of the answer is attached hereto as Exhibit B.

3. On September 28, 2021, Defendant Andrew Simpson (Simpson) filed a Counterclaim against Plaintiff Carl Davis, d/b/a Davis Construction, and a Crossclaim against Defendants Thomas J. Vilsack and Tommy James in their official capacities as representative and employee of the United States Department of Agriculture (USDA) and USDA Rural Development Agency (Rural Development). A copy of the Crossclaim is attached hereto as Exhibit C.

4. An agency of the United States is the defendant in this Crossclaim and received notice of the Crossclaim through the electronic filing on September 28, 2021.

5. On October 7, 2021, Plaintiff Carl Davis filed a Motion to Dismiss Counterclaim or in the Alternative Answer to Counterclaim. A copy of the Motion is attached hereto as Exhibit D.

6. Simpson alleges that USDA and Rural Development caused damages to Simpson by "distributing [Simpson's] loan funds without his approval, for failure to follow U.S.D.A. guidelines and regulations in the administration of its loan program, for failure to provide an inspector on the Simpson project, for pain, suffering and mental anguish caused by the delay in the completion of his house and for all other relief to which he may be entitled."

7. This Notice of Removal is filed pursuant to 28 U.S.C. § 1442(a)(1) as Simpson has filed a civil action against the "United States or any agency thereof or any officer (or any

persona action under that officer) of the United States or of any agency thereof," in an official capacity.

WHEREFORE, the United States of America prays this action filed in the Circuit Court of Ashley County, Arkansas, be removed from that state court to the United States District Court, pursuant to 28 U.S.C. § 1442.

Dated October 21, 2021.

Respectfully submitted,

DAVID CLAY FOWLKES
ACTING UNITED STATES ATTORNEY

By: /s/ Candace L. Taylor
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CERTIFICATE OF SERVICE

I, Candace L. Taylor, Assistant U.S. Attorney for the Western District of Arkansas, hereby certify that on October 21, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to CM/ECF participants and by United States Postal Service as indicated below.

Julius Kearney, Sr.
Attorney for Plaintiff
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Pine Bluff, AR 71611

Ron Goodman
Attorney for Defendant Andrew Simpson
515 Oak, Suite A
Conway, AR 72032

/s/ Candace L. Taylor
Candace L. Taylor
Assistant United States Attorney