

22-6722

No. _____

ORIGINAL

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

KENNETH TAYLOR CURRY — PETITIONER

vs.

VANCOUVER HOUSING AUTHORITY and
ROY JOHNSON in his Official and
Private Capacity, Joint and Several. -- RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI TO

THE SUPREME COURT STATE OF WASHINGTON

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Is Goldberg v. Kelly, 397 U.S. 254 (1970) the law at Washington State respecting the mandate pre-determination hearing before a needs based Housing Choice Voucher is rescinded?

Petitioner says that Goldberg is the law and answers the foregoing question with a yes.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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OTHER	

IN THE
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits appear at Appendix _____ to the petition and is unpublished.

The opinion of the Court of Appeals for the State of Washington appears at Appendix B to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided my case was October 12, 2022. A copy of that decision appears at Appendix A.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution. Amendment XIV Section 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 process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

* * *

28 U.S. Code § 1257(a)

28 U.S. Code § 1331

STATEMENT OF THE CASE

On or about December 25, 2014 — Vancouver Housing Authority, Executive Director Roy Johnson issued to Petitioner Kenneth Taylor Curry, a written notice that Curry's Housing Choice Voucher is rescinded effective immediately. Curry did not have a pre-determination hearing.

REASONS FOR GRANTING THE PETITION

It is un contradicted that Curry's Housing Choice Voucher property interest has been rescinded without any pre-determination hearing. Goldberg v. Kelly, 397 U.S. 264, 266 - 271 (1970) requires a pre-determination hearing respecting needs based transfer payment programs. Ressler v. Pierce, 692 F.2d 1212, 1216 (9th Cir. 1982) affirms that due process pre-determination hearing does apply in needs based government housing programs. Housing Choice Voucher is such a program.

Respondents are not just offending our United States Constitution, their order that rescind Curry's Housing Choice Voucher is ab initio void. Violating our constitution issued the said void order. Consult: Hays v. Louisiana Dock Co., 452 NE 2d 1383 (Ill. Appeal 5 Dist. 1983) Any allegation of a post-determination hearing

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is also a null and void.

Curry's injury is from the void order independant
1 of any court judgment. Long v. Shore Bank Development
2 Corp., 182 F. 3rd 548 (C.A. 7., Ill. 1999). This is a
3 distinct issue that state court has not remedied. The
4 void issue has not been raised at any other court than
5 at the State of Washington Superior Court, Court of
6 Appeals and Supreme Court.

7 Where there is an absence of jurisdiction, all pro-
8 ceedings are a nullity . . . and may be rejected upon
9 collateral attack. Sanchez v. Hester, 911 SW 2d 173
10 (Tex App., Corpus Christi 1995) Moreover, No sanction
11 can be imposed absent proof of jurisdiction. Thompson,
12 v. Tolmie, 27 U.S. 157 (1829) And the proponent of the
13 rule has the burden of proof. Griffith v. Frazier, 12
14 U.S. (9 Cranch) 9 (1814), 3 L. Ed. 471.

15 In that Curry has challenged jurisdiction, it must
16 be proven. Stanard v. Olsen, 74 S. Ct. 768 (1954). Not
17 only is recoupment from a subsequent housing subsidy
18 an equal protection denial. Hagan v. Lavine, 415 U.S.
19 533 (1974). Vacating and setting aside an ab initio
20 void order does not re-litigate or destroy any right of
21 respondents. Lindgreen v. Lindgreen, 58 Wn App 588
22 (1990)⁵.

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Post-determination hearing never cure a denied pre-determination hearing. Such a denial is always actionable. Even where an adequate post-determination hearing was provided and regardless of whether deprevation was justified. *Clements v. Airport Authority of Washoe County*, 69 F. 3d 321, 328 (9th Cir. 1995). At a pre-determination hearing, Vancouver Housing Authority has the burden of production, burden of persuasion and the preponderance of evidence standard. Post-determination hearing shift the burden to Curry who must then by clear and convincing evidence convince a hearings officer to over rule a rescinded Housing Choice Voucher.

The Washington State Court is in conflict with our national state Court due process standard regarding assisted housing. Housing Choice Voucher applicants and participants expect the approximate 4,000 housing agencies to respect due process. It is necessary to affirm the state of Goldberg as alive this some fifty years post its arrival. Older americans, disabled persons and many of our national children expect this courts help and today.

20

CONCLUSION

21 The petition for a writ of certiorari should be granted.

22 Respectfully Submitted. 12-31-2022. /s/ Kenneth Taylor Curry

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