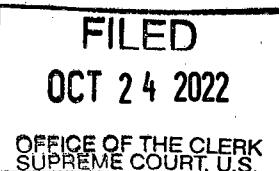


ORIGINAL

No. 22-*b7b*

SUPREME COURT OF THE UNITED STATES



Bonnie Carter,
Petitioner,

v.

State of Florida Department of Children and
Families and Agency for Persons with Disabilities,
Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

Bonnie Carter
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Petitioner

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I. Question Presented for Review

Whether the *Younger* abstention doctrine requires dismissal of constitutional and federal claims arising from false reports and other lies told by state agents in a state guardianship proceeding where a party has been effectively any recourse to redress numerous wrongs committed by the state.

(i)

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Broward County Circuit Court judge removed Andrew from my care for 16 months and placed him in a group home where Andrew's health declined significantly, causing me a great deal of emotional distress. Following a mediated settlement and repeated evaluations which concluded that I did not suffer from MSBP, Andrew was finally returned to his home; however, this was not the end of DCF's interference in our lives, as DCF's harassment and intimidation of me continued for years before the protective services case was finally terminated.

In 2007, several years after the termination of the 1997 protective services case, a care provider employed by Respondent, Agency for Persons with Disabilities ("APD"), made a false report of sexual abuse against me. Despite the fact that there were never any observations of abuse and the APD reporter was not even present when the alleged conduct

Constitutional Provisions

United States Constitution, Amendment XIV.....1

IV. Petition for Writ of Certiorari

I, Bonnie Carter, the mother of an adult disabled person who was wrongfully removed from her custody and care based upon false information, respectfully petition this Court for a writ of certiorari to review the judgment of the Eleventh Circuit Court of Appeals.

V. Opinion Below

The decision of the Eleventh Circuit Court of Appeals denying my direct appeal is reported as *Bonnie Carter v. State of Florida, Department of Children and Families*, No 21-13128 (11th Cir. July 26, 2022).

VI. Jurisdiction

My direct appeal was denied on July 26, 2022. I invoke this Court's jurisdiction under 28 U.S.C. § 1254(1), having timely filed this petition for a writ of

certiorari within ninety days of the Eleventh Circuit Court of Appeals' judgment.

VII. Constitutional Provisions Involved

United States Constitution, Amendment XIV:

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.

VIII. Statement of the Case

This case arises from a Florida guardianship proceeding involving my autistic son, Andrew Bromberg. In the course of those proceedings, false

and defamatory information was reported by Respondents which led to my removal as Andrew's guardian.

Since 1997, Respondent, Florida Department of Children and Families ("DCF"), has engaged in a repeated pattern of making false and defamatory accusations against me. DCF's interference with my family began when a DCF behaviorist falsely alleged that I was abusing Andrew based solely on the fact that Andrew had not been fully toilet trained even though Andrew is developmentally disabled due to autism. Agents of DCF further falsely alleged that I suffered from Munchhausen Syndrome by Proxy ("MSBP") despite the fact that no evaluation of me by any trained medical professional concluded that I actually suffer from this disease, which I do not. Based solely upon the allegations of DCF, and in the absence of any supporting medical evidence, a

occurred, Andrew was again moved to a group home under DCF supervision. While in the group home, Andrew's health again deteriorated, and he actually suffered sexual abuse. Ultimately, Andrew was again returned home to his family.

In 2016, I was appointed Andrew's guardian; however, Respondents' abusive conduct continued as agents of APD continued to publish false information in annual reports indicating falsely that I suffered from MSBP. Ultimately, in 2018, my letters of guardianship were revoked based upon false reports of abuse and neglect, and Andrew was again moved to a group home.

Since being removed from Andrew's care, I have only been permitted brief, supervised visitation with my son. Despite an initial court order providing for monthly visitation, my visitation rights continue to be further curtailed at the direction of agents of the

Respondents, to the point where I have been able to spend less than two hours with Andrew for the entire year of 2021. Meanwhile, Andrew's health has deteriorated as it has every prior time he has been placed in a group home. Nonetheless, the courts of the State of Florida have not offered me any recourse, consistently siding with and following the directions of attorneys and agents for Respondents, ignoring evidence of Respondents bad faith actions.

IX. Reasons for Granting the Writ

The abstention doctrine set forth in *Younger v. Harris*, 401 U.S. 37 (1971) states that federal courts should abstain from interfering in a state proceeding where (1) the state proceeding constitutes an ongoing state judicial proceeding; (2) the proceedings implicate important state interest; and (3) there is an adequate opportunity in the state proceedings to raise constitutional challenges. 31

Foster Children v. Bush, 329 F.3d 1255, 1274 (11th Cir. 2003). The first part of the *Younger* abstention doctrine is to protect state courts from federal interference. However, there is authority stating that extraordinary circumstances may justify an exception to the *Younger* abstention doctrine when the state court cannot fully and fairly adjudicate the constitutional issues and the Plaintiff presents an extraordinarily pressing need for immediate federal equitable relief. *Kugler v. Helfant*, 421 U.S. 117, 124-25 (1975). To find an exception to the *Younger* abstention for extraordinary circumstances, the court must find that an extraordinarily pressing need for immediate federal equitable relief exists, and that if relief is not granted, irreparable injury to the plaintiff will result. *Rowe v. Griffin*, 676 F.2d 524,530 (11th Cir. 1982). It has also been held that bad faith and harassment are exceptions to the *Younger* abstention.

Middlesex County Ethics Committee v Garden State Bar Association, 457 U.S. 423, 429 (1982). Finally, federal courts have held that the *Younger* abstention does not apply to a federal action for monetary damages. *Lewis v. Beddingfield*, 20 F.3d 123 (5th Cir. 1994).

In the instant case, I have filed a section 1983 claim seeking monetary damages which I have no avenue to recover in the guardianship proceeding currently pending in state court. Thus, it was improper for the trial court to dismiss my claim pursuant to the *Younger* doctrine. *See id.* (“This Court has held that the *Younger* abstention doctrine is not applicable to a claim for damages.”); *see also Doby v. Strength*, 758 F.2d 1405, 1406 (11th Cir. 1985)(applying *Younger* and ordering a stay, rather than dismissal of a section 1983 damages claim).

Additional exceptions to *Younger* also apply here as there has been a pattern of bad faith and harassment by the state court and the Respondents against me. In the guardianship proceedings in state court, one presiding judge has recused herself due to bias against me; and the court's rulings denying me, an interested person, as the mother of the Ward, the right to participate in hearings before the court show that bias. Respondents' actions of continuously defaming me by stating that I have MSBP, even after being presented with psychological reports stating that the diagnosis is false, have been in bad faith. Respondents have also continued a pattern of harassment of me based on the false and defamatory actions against me, which deny me access to my son, a disabled adult, and deprive my family of our constitutional rights to be together. This harassment by Respondents, who are agencies of the State of

Florida, includes false reports of psychological issues; false reports of abuse; continued denial of necessary services for the Ward causing me to incur legal fees to set aside the denials; and lastly, removing Andrew from my care and placing him in a group home all while denying me access to him and violating my fundamental rights as a parent.

In addition to the bad faith and harassment of me by the Respondents, there are extraordinary circumstances present in this case. If a federal injunction is not entered against the Respondents, their pattern of behavior will continue, and Andrew will continue to deteriorate in their care. Since my son was wrongfully removed from my care due to the Respondents' tortious conduct, his physical condition and mental competency have drastically decreased. He is no longer able to perform basic functions, such as bathing, dressing, and toileting, that he was able to

perform under my care. Andrew has suffered severe language deterioration, constant sore throats, and an inability to properly chew his food resulting in malnutrition. Since his removal Andrew has been in four different group homes, subject to two Baker Acts,¹ and been hospitalized three times, having been overmedicated, suffered a fractured kneecap, and a knocked-out tooth. I have observed both the physical changes and the decrease in cognitive function in my son since he was removed, and these observations have caused me substantial physical and emotional distress. I have suffered short term memory loss, difficulty breathing, and other physical injuries caused by the observation of Respondents' treatment of my son. These circumstances rise to the level of

¹ Every person with a disability should be protected by Title III ADA laws. During 2020 and 2021, Andrew was placed in a work program during which he was not given a Non-violent Crisis Intervention Person as support, to which he was entitled under Title III of the ADA. Due to this, Andrew suffered physical injury and two Baker Acts.

extraordinary circumstances as defined in *Rowe*. See *Rowe v. Griffin*, 676 F.2d 524, 530 (11th Cir. 1982).

Despite the fact that the *Younger* doctrine clearly should not apply in this case, the Eleventh Circuit erroneously affirmed the decision of the trial court and foreclosed any hope I have of being compensated for the damages caused by the State or being reunited with my son. The Eleventh Circuit went a step further and concluded that the State of Florida is entitled to sovereign immunity despite repeated malicious lies told about me by agents of the State of Florida in numerous court proceedings. Contrary to the conclusion of the appellate court, the State is not entitled to sovereign immunity under the circumstances present in this case, which include malicious lies that resulted in irreparable harm to my family. The Eleventh Circuit decision in this regard creates a conflict with the Ninth Circuit's decision in

Hardwick v. Cnty. of Orange et. al., 844 F.3d 1112 (9th Cir. 2017), which upheld a substantial verdict in favor of a similarly situated family as mine despite the fact that the state was claiming entitlement to the same immunities the State of Florida and its agents are claiming in this case.

This case presents a clear example of the abuse of power engaged by States in guardianship courts across the county. This Court should exercise its jurisdiction and grant this petition to correct the wrongs committed by the lower court and affirmed by the appellate court. All I want is my day in court as I have been repeatedly denied the opportunity in every court I have been in from presenting evidence of all the harm my son has suffered at the hands of the State of Florida. Despite 20 circuit court cases, nine district court cases, two federal court cases, one Florida Supreme Court case, and one Eleventh Circuit case,

my family continues to be denied our constitutional right to be together free from governmental intrusion as guaranteed by the Fourteenth Amendment of the United States Constitution. This a case about inclusivity, which includes Andrew's rights to make choices about where and with whom he lives, his opportunities to work, his opportunities to make friends and be inclusive in his community. If this appeal fails, Andrew will never have these freedoms and will be forced to live the rest of his life as a ward of the state. Under my care, Andrew was on his way to becoming a self-sufficient member of our society. Based on malicious lies, he was removed from my care and has deteriorated. Every effort I have made to seek redress for this wrong has been denied. My right to petition as a self-litigant has been denied and I have no further recourse to save my son. It would be an oxymoron for me to hire an attorney to petition this

Court for the right to self-litigate. This Court is my last hope and I am pleading that you help me to return my son to his family.

X. CONCLUSION

For all the foregoing reasons, I respectfully request that this Court issue a writ of certiorari to review the judgment of the Eleventh Circuit Court of Appeals.

Respectfully Submitted,

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Petitioner