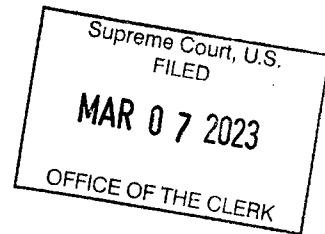


22-6979
NO. _____



IN THE

SUPREME COURT OF THE UNITED STATES

Ivey McCray, PETITIONER

vs.

William D. Jones, et al, RESPONDENTS

____ ON

PETITION FOR A WRIT OF CERTIORARI

TO

THE UNITED STATES COURT OF APPEALS
FOR THE THIRD DISTRICT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether Petitioner has right of action to recover Social Security Retirement Benefits taken by administrative offsets on behalf of a private party who is alleged to be a non tanif, Title IV- D party where no funds are owed the state in violation of the non alienation clause of 42 USC § 407.
2. Whether a child support order transmitted interstate for enforcement whose actions with the Social Security Administration garnished retirement benefits, pursuant to the comity clause, shields Defendant from liability for reimbursement of funds.
3. Whether Petitioner's complaint alleging garnishment gave sufficient notice to the legal action against Defendants.
4. Whether the complaint's allegations of 14th Amendment violations regarding state action occurring after the tolling of New Jersey's statute of limitation for state action should not have been dismissed where doe defendants are alleged.

PARTIES TO PROCEEDING

1. William D. Jones, Respondent/Defendant
2. Carla Tention, Respondent/Defendant, as Director of Essex County Child Support Agency
3. There are no corporate entities involved

RELATED CASES

1. McCray v. Jones, No..2-21-cv-3937, U.S. District Court for Third District of New Jersey. Judgment entered December 10, 2021.
2. McCray v. Jones, No.21-3294, U.S. Court of Appeals Third Circuit. Judgment entered December 7, 2022.

OPINIONS BELOW

1. McCray v. Jones, No..2-21-cv-3937, U.S. District Court for Third District of New Jersey. Judgment entered December 10, 2021. Unpublished. Appendix B.
2. McCray v. Jones, No.21-3294, U.S. Court of Appeals for the Third Circuit. Judgment entered December 7, 2022. Unpublished. Appendix A.

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Opinion, filed December 7, 2022.

APPENDIX B District Court of New Jersey.
Third Division - Newark
Opinion and Order filed December
10, 2021.

JURISDICTION

The Supreme Court has jurisdiction to review this writ under 28 U.S. Code §1254, regarding a final judgment entered on December 7, 2022, by the United States Court of Appeals, Third Circuit.

STATEMENT OF CASE

Petitioner filed a complaint seeking reimbursement of Social Security retirement benefits garnished for child support pursuant to a private order where no state funds were owed. The District Court dismissed the complaint with prejudice pursuant to two perfunctory 12B motions by defendants who alleged the complaint was a state action, an attempt at retro modification, and lacked causes of actions against defendants because they did not personally take the money.

The District Court dismissed the complaint with prejudice, Appendix B, page 3, agreeing there were no facts alleging wrongdoing by the defendants, because the real

parties at fault were the federal government and California. Consequently, the causes of action could not sustain any legal theory to sue the defendants.

The real issue is not lack of facts but a presumption, even if there was an abundance of details,¹ the defendants could not be responsible for the acts of others; the Social Security for dispensing the money and the Alameda County Child Support Services who received the order to enforce, complying with obligations under the comity clause and UIFSA.

The Third Circuit Court of Appeals opinion [Appx A] decided by two judges affirmed the dismissal with prejudice, while the third, stated in a footnote would have remanded for dismissal without prejudice [Appx A, Pg.4].

This Court takes to task each allegation regarding lack

¹

Petitioner has sent several FOIA requests to Essex County Probation Department; Director of Essex County Probation, New Jersey State Probation, director, New Jersey Court Administrator; Alameda County Child Support Services, the Social Security Administration, all were unresponsive except the last letter from Essex County Courts stating they would not comply.

of facts, circumventing the initial reason for the complaint, that defendant, may not have been eligible for the garnishments, and all actions taken were illegal. None of the defendants' pleadings, or lack of on appeal addressed whether he was a qualified Title IV D in the first instance, or that state funds were owed. Here, not possible because they were paid to defendant Jones.

31 CFR §285.1 allows administrative offset for child support debt per 42 U.S.C. § 654 (5) consistent with the 1996 Debt Collection Improvement Act for qualified debt owed a state. Here, the debt was a private action, that utilized state agencies to circumvent discovery, to garnish the benefits.

The prejudicial dismissal creates a defense for private actions where third parties are engaged. Thus the basis for the prejudicial dismissal is not lack of details as to how defendants were involved in the taking, which is apparent if you submit orders to others to follow, but they cannot be held accountable for the actions taken by others on their

behalf. This legal argument is not required of a complaint, per FRCP 8.

Private action suits are common for unjust enrichment. The involvement of a third party generally does not absolve the enriched party from reimbursement.

To deny the right to sue defendants where others are allowed under similar circumstances is a violation of the due process and equal protection clause of the 14th Amendment.

The Appeals Court dismisses the 14th Amendment allegations because the individuals were not state actors under the New Jersey statute of limitations. State action was involved when defendant Tention who oversees the qualifications of parties for title IV D status, director of a New Jersey state child support enforcement agency under the umbrella of the New Jersey Department of Human Services, which sends reports to the federal government, as well, Essex County is a state agency. The complaint alleged does, although not named, had potential culpability under this cause of action. It should not be dismissed.

REASONS FOR GRANTING THE WRIT

If it means anything, the garnishments were illegal, terminated by the Social Security Administration in 2019. The court's opinion creates a defense for actions prohibited by law. A complaint's duty is to allege facts that a wrong has occurred seeking remedy for which defendants have an understanding of the suit against them. Not prove the case before discovery. The opinions essentially says there is no wrong, because another did the deed on their behalf, not considering if they were entitled.

Plaintiff is not knowledgeable of how many others are subject to this practice, but her garnishments occurred for nine years. There is a probability this is a continuing practice to accommodate private support orders, as Title IVD cases, not owing money to the state.


CONCLUSION

The Petition for Writ of Certiorari should be granted. The dismissal with prejudice was draconian where there were

sufficient allegations Plaintiff was injured by the actions of
Defendants to circumvent federal law.

Respectfully submitted

Dated:

A handwritten signature in black ink, consisting of a stylized 'I' followed by a large, circular flourish that loops back to the start of the signature.

Ivey McCray, In Pro Per