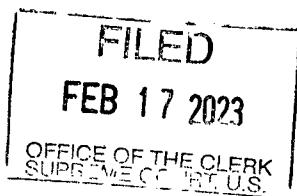


22-7028 ORIGINAL  
No. \_\_\_\_\_

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IN THE  
**Supreme Court of the United States**



ESTATE OF BETTY JANE MATLOCK, DECEASED, JOHN L DICKERSON, JR.,  
ADMINISTRATOR

CASE NO. CV-21-445

*Petitioner,*

v.

CHI ST VINCENT HOSPITAL, EMMANUEL TANCINCO, M.D., NIZAR  
MOHAMEDALI SULEMAN(DECEASED), M.D., ET AL.

*Respondents.*

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

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**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTION PRESENTED

This medical malpractice wrongful death claim brought by the Petitioner on behalf of the estate of Betty Jane Matlock which has been dismissed twice and the Petition for Review was also denied.

The Circuit Court and the Arkansas Court of Appeals alleges petitioner of committing an unauthorized practice and rules his complaint as nullity.

### **The Questions Presented are:**

September 10, 2021, around 4:30pm. Just before entering the courthouse too pick up transcripts, the Honorable Judge Ralph C. Ohm exit the building and we had a less than three (3) minutes conversation. He said “he was proud of me for appealing his verdict and will be praying the Arkansas Court of Appeals will turn things around”. I asked was he serious and he said yes and reminded me he was a believer also! We shook hands and said GOD bless you to each other. If the judge had any doubts or concerns about his ruling, why didn’t he just write a letter to the Arkansas Court of Appeals on my behalf?

(2) why are the Arkansas laws of the land 28-48-102, Ark. Code Ann. 16-62-101(a)(1) and Ark. Code Ann. 16-62-102(b), which support the rights for the administrator of the estate being completely ignored by the Arkansas Court of Appeals and the Arkansas Supreme Court?

(3) Why wasn’t motion to correct on record investigated when error was made by the original Circuit Court reporter and petitioner requested she be recused in preparing his paperwork before submitting to the Arkansas Court of Appeals?

(4) Why didn’t the Arkansas Court of Appeals Remand the claim back to the Circuit Court instead of dismissing it with prejudice?

Although they were not raised in the Circuit Court at the May 27<sup>th</sup>, 2021 hearing:

(5) Why were petitioner’s Substantive Due Process and Procedural Due Process Rights Violated?

### **Substantive Due Process**

#### **Preliminary question: State Action**

**Public functions:** if a private entity is performing a task that has been traditionally, exclusively performed by the government, the Constitution applies (*Marsh v. Alabama*: privately run town, exception applied) – very narrow (*Jackson v. Metropolitan Edison*:

exception did not apply)

**Entanglement:** if the government affirmatively authorizes, encourages, or facilitates unconstitutional conduct, the Constitution applies. Either the government must stop what it's doing, or the private conduct will have to comply with the Constitution. (*Shelley v. Kramer*: courts cannot enforce racially restrictive covenants; *Burton v. Wilmington Parking Auth.*: there is state action when the government leases premises to a restaurant that racially discriminates) – courts have never laid down a specific ruling as to how much entanglement is required for state action, but this is the basic rule.

1. **Is it fundamental?** Yes

a. Traditional

i. definition of liberty (*Allgeyer v. Louisiana*)

ii. deeply rooted

iii. traditionally protected

b. Closely related (Whether or not the constitutional interest is so intimately related to a fundamental right that you cannot exercise the fundamental right without protecting the constitutional interest.) – only used in *San Antonio ISD v. Rodriguez*

2. **Has there been a deprivation/infringement?** Yes

a. Traditional

i. direct and substantial interference

ii. theory of culpability (state of mind)

Depends whether legislation or executive official/person

**Legislation:** If fundamental right, presumed to be arbitrary and capricious under strict scrutiny; if social/economic under *Carolene Products*, rational basis, presumed not to be arbitrary and capricious (Post-*Lochner*)

**Executive Official/Person:** prove arbitrary and capricious by showing shocks the conscience (intent, opportunity to deliberate, AND in light of deliberation, the decision manifests reckless indifference/gross indifference/lack of care for the complaining party) – no presumption (p. 1146-47)

iii. liberty, property, life

3. Is there sufficient justification for the infringement? (compelling for strict scrutiny, legitimate for rational basis)

4. Is the means sufficiently related to the purpose? (Least restrictive for strict scrutiny, reasonable for rational basis; rational basis presumed from *Carolene Products*)

\*Rational basis: there must be a rational relationship between the legislation and a legitimate government interest/purpose.

### **Procedural Due Process**

Preliminary question: Has there been a substantive violation? Yes. If not, no procedural due process

analysis

1. Is there a substantive right? Yes

2. Is there a deprivation? Yes

a. direct and substantial

- b. theory of culpability: “something greater than negligence”
  - c. liberty or property interest (already proven in 1)
- 3. What procedure is due?
  - a. If fundamental, full adjudicatory hearing
  - b. If non-fundamental, *Mathews v. Eldridge*
    - i. the private interest at stake in the administrative action;
    - ii. the risk of an erroneous deprivation of this interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and
    - iii. the government’s interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail.

- 1- The Special Administrator Procedural Due Process Rights under both the Arkansas and United States Constitution were violated when the lower Court refused to allow a claim to be brought without the assistance of an attorney. The Determination of whether or not to have an attorney is one that is within the purview of only the administrator.
- 2- The Special Administrators Substantive due process rights, under both the Arkansas and United States constitution, were violated when the lower court determined that only

with the aid of an attorney may he proceed. In doing so the Court has forced the estate and the Special Administrator to share in the proceeds of contemplated action against their desire to do so.

3- Even if the court determined that neither the Procedural or Substantive due process rights of the Special Administrator were violated the court abused its discretion in not allowing for an amendment of the claim that would include claims that the estate had that were inside of the statute of limitations.

**PARTIES TO THE PROCEEDIND BELOW**

Edwin L. Lowther Jr., Wright, Lindsey, & Jennings LLP.

CHI St. Vincent Hospital., Emmanuel Tancinco, M.D., Nizar Mohamedali Suleman(Deceased), M.D., Et Al.

**RULES 29.6 STATEMENT**

Petitioner John L. Dickerson Jr., Administrator is not an attorney. Petitioner is the brother of decedent and his actions are within the capacity of the administrator to protect the estate.

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## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner respectfully seeks a writ of certiorari to review the judgment of the Arkansas Court of Appeals and the Arkansas Supreme Court.

### **OPINIONS BELOW**

**A. The Arkansas Court of Appeals and the Circuit Court Erred In Granting Summary Judgement In Favor Of Defendant Based Upon**

Its Erroneous Interpretation of Ark. Code

1. Henson v. Cradduck, 2020 Ark. 24, 6-7, 593 S.W.3d 10, 15 (2020), reh'g denied (Apr. 2, 2020)
2. See id. at 6-7, 593 S.W.3d at 15; Davenport v. Lee, 348 Ark. 148, 160, 72 S.W.3d 85, 94 (2002).

**B. The Arkansas Court of Appeals and the Circuit Court Erred In Denying Summary Judgement In Favor of Plaintiff Based Upon Its Erroneous Interpretation of Ark. Code Ann.**

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1. Henson, 2020 Ark. at 7, 593 S.W.3d at 15

MIKE MURPHY, Judge

John Dickerson, Jr., appeals the decision of the Garland County Circuit Court dismissing the wrongful-death action he brought on behalf of the estate of Betty Matlock against the appellees. We dismiss this appeal because we do not have jurisdiction over it.

The underlying allegations are that Matlock sustained medical injury and died while being treated at the CHI St. Vincent in Hot Springs in 2019. The appellees moved for judgment on the pleadings and provided three arguments supporting dismissal. One of the arguments was that Dickerson's status as a nonlawyer filing a pro se complaint on behalf of the estate rendered the complaint a nullity.

Arguments were heard on the appellees' motion, and on June 1, 2021, the circuit court issued an order granting the motion and dismissing the complaint with prejudice because Dickerson, as a nonlawyer, was not authorized under Arkansas law to file a pro se

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complaint on behalf of the estate. Dickerson timely appeals. In this pro se appeal, Dickerson argues that the circuit court erred in dismissing his complaint. Specifically, he argues that, in dismissing the complaint, he was not afforded due process.

However, like in the underlying litigation, in filing this appeal, Dickerson again

engages in the unauthorized practice of law.

An administrator acting on behalf of an estate does so in a fiduciary capacity. *Henson v. Cradduck*, 2020 Ark. 24, at 6–7, 593 S.W.3d 10, 15. A person who is not a licensed attorney and is acting as an administrator cannot practice law in matters relating to his or her trusteeship on the theory that they are practicing for themselves. *Id.* In bringing a suit for wrongful death, a personal representative acts only as a “trustee of conduit,” and any proceeds recovered are held in trust for the benefit of the beneficiaries and not the estate. *Id.* And just as a complaint in such a situation is a nullity, so is the notice of appeal. See, e.g., *Memphis Wrecking Co. v. Dir.*, 2021 Ark. App. 29, at 2. Because the notice of appeal and subsequent filings made by Dickerson are null and void, we lack jurisdiction over the matter and dismiss the appeal.

Dismissed.

GLADWIN and BARRETT, JJ., agree.

## **JURISDICTION**

The Arkansas Court of Appeals entered judgement on June 1<sup>st</sup>, 2022 and denied rehearing on September 29<sup>th</sup>, 2022. The application for an extension to file for a writ of certiorari was granted by Justice Kavanaugh, who on December 13<sup>th</sup>, 2022, extended the time to and including February 19<sup>th</sup>, 2023.

## **STATEMENT**

As I stated on record May 27<sup>th</sup> 2021 before The Honorable Circuit Judge Ralph C Ohm...I'm not an attorney, I'm a street preacher who loves The LORD and my beloved late sister (RT pages 9, 10, 11)! My argument is not as someone attempting to practice law without a license but a grieving brother acting only within the capacity as the court appointed administrator to protect the estate. Arkansas Code 28-48-102, Ark. Code Ann. 16-62-102(b) and Ark. Code Ann. 16-62-101(a)(1).

Being forced between two (2) evils: petitioner had to either file a claim in the court and hoped the judge would extend the Statute of Limitation or simply not file anything and the claim will never be heard.

Therefore with only ten (10) days remaining on the two (2) years Statue of Limitation and the refusal of fifty-four (54) attorneys not accepting the case. I asked an Oklahoma lawyer who I knew me from the past to draw up a formal complaint to file in the Garland County Circuit Court and he did it as a donation to my street ministry.

Prior to filing the complaint, I had several months of delays in being appointed as administrator due to former judge and his clerk. There was an election going on that I had no knowledge of but praises be unto Jehovah GOD...On January 13<sup>th</sup> 2021, The Honorable Circuit Judge Cecilia Dyer appointed me as administrator/representative without restrictions and waived all bond fees, hallelujah!

I had to have all these documents in order to move forward in filing and collecting Ms. Matlock's medical records.

Respondent Edwin L Lowther, Jr., on March 31, 2021 at 11:19am., stated in his Argument Part IV of the Defendants' Brief in Support for Judgement on the Pleadings in the first paragraph on page three (3) of nine (9). The executor or administrator of the estate can act on behalf of the estate and cited two (2) of the exact laws of Arkansas in which Petitioner will be using in his defense. Those laws are as followed: Ark. Code Ann. 16-62-102(b) and Ark. Code Ann. 16-62-101(a)(1). From time to time, I would call Mr. Lowther seeking legal advice because I have zero knowledge

about the law! He would be kind enough to tell me, there will be a conflict of interest and for legal reasons only, he could not help me.

However, in the heart of respondents' attorney Mr. Edwin L Lowther Jr., he knows I'm not trying to practice law without a license. As a matter of fact, when I learned co-respondent Dr. Nizar Mohamedali Suleman ended his own life on February 2, 2022, on the following Monday I sent a sincere caring and respectful email to Mr. Lowther expressing my deepest sympathy. Because I know personally the pain and suffering that comes with losing a love one and I also know, all lives matter to Jehovah GOD! Mr. Lowther replied back with thanks and said he did not know Dr. Suleman was dead. February 28<sup>th</sup> thru March 9<sup>th</sup>, 2022, Mr Lowther and I engaged into another dialogs of emails with me telling him, out of my love and compassion for my Savior And LORD Jesus The Christ, I forgave Dr. Suleman for over medicating my sister Betty Jane Matlock causing/hasting her death on February 20<sup>th</sup>, 2019. Before ending the dialog between us Mr. Lowther said "he respects me and didn't doubt that my convictions could change CHI St. Vincent's otherwise".

## STATEMENT OF THE CASE AND THE FACTS

There was a breach in contract with co-respondents Nizar Mohamedali Suleman(Deceased), M.D., and Emmanuel Tancinco, M.D. on the care and treatment Ms. Matlock received at the CHI St. Vincent Hospital in Hot Springs Arkansas on February 20,2019.

Chief Medical officer Jessica Whitley, M.D., of Kepro (Quality Improvement Organization) stated her concerns regarding Ms. Matlock healthcare at CHI St. Vincent Hospital.

The overall peer review shows, the excessive continuous amounts of Fentanyl, Propofol and Morphine DID NOT meet their applicable professional standards of healthcare. Ms. Matlock's medical records noted in December 16, 2010, her allergic reactions to Morphine but it was totally disregarded by Emmanuel Tancinco, M.D., (co-respondent). The six pages professional peer reviewer has been included as an Appendix.

Further thereto and with, Dan Schneider, RPH., The pharmacist of the Netflix Docuseries. His signature letter and professional opinion states, "there was no documentation of pain or agitation, or other such condition that Ms. Matlock would need continuous pain medication and sedation medication.

The combination fentanyl, propofol and morphine can cause severe respiratory depression which can contribute to and surely hasten her death". This letter of opinion is included as an Appendix.

Co-respondents had estimation of forty-four minutes (44) too correct their error when the final dose of morphine was given at 12:07pm and vital signs ending at 12:51pm but did nothing to save Ms Matlock's life.

## **REASONS FOR GRANTING THE WRIT**

It will reveal and prove too the world...The Goodness of The LORD Is Still in The Land of The Living, Hallelujah! It will all reveal, The United States Supreme Court has Equal Justice for all including a nobody such as myself.

## **REQUEST FOR RELIEF**

Petitioner respectfully requests and prays, The United States Supreme Court to reverse the judgment of the Arkansas Court of Appeals and the Circuit Court granting the Defendants' Motion for Summary Judgment and enter an order granting Estate of Betty Jane Matlock Motion for Summary Judgment and, thereafter, the case should be remanded for a determination of damages in order that petitioner may prevail on his claim.

In the alternative, the Petitioner respectfully requests and prays, The United States Supreme Court to reverse the judgment of the Arkansas Court of Appeals and Circuit Court granting the Defendants Motion for Summary Judgment and remand this claim to the Circuit Court for a hearing on the merits.

## CONCLUSION

Petitioner respectfully requests and prays, The United States Supreme Court will hear his constitutional arguments as the administrator and not as someone attempting to practice law without a license.

Petitioner respectfully requests and prays, The United States Supreme Court finds his Constitutional Rights were violated.

Petitioner respectfully requests and prays, The United States Supreme Court will not dismiss his petition for publicly acknowledging his Love And Faith in the LORD Jesus Christ.

Petitioner also respectfully request and prays, The United States Supreme Court will grant his writ of certiorari.

Respectfully submitted,

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