

No. 22-7473

RU In The United States Supreme Court

IN RE RAJ K. PATEL,
from all capacities,

Supreme Court U.S.

FILED

JUL 13 2023

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~~Plaintiff Appellant~~ Petitioner.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Federal Circuit in No. 23-113.

PETITIONER'S MOTION FOR RECONSIDERATION OF JUNE 26TH ORDER

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QUESTIONS PRESENTED

- I. Whether the filing bar is inconsistent with Nat'l Hockey League v. Metro. Hockey Club, Inc., 427 U.S. 639, 640 (1976) because Petitioner's conduct does not rise to "callous disregard" or "flagrant bad faith" because Petitioner has followed all duties owed to the United States Court of Federal Claims and other local, state, and federal courts. In Re Raj K. Patel, No. 1:23-af-07028-UNJ (C.F.C. 202_).
- II. Whether the filing bar preventing the docketing of the complaint is unconstitutional because it is overly broad and not narrowly tailored, only after four (4) complaints. Gay v. Chandra, 682 F.3d 590, 592, 594 & 595 n. 2 (7th Cir. 2012); Tarkowski v. Robert Bartlett Realty Co., 644 F.2d 1204, 1208 (7th Cir. 1980) (pro se litigants are allowed to replead); Fed. R. App. P. 40; Henry v. United States, 360 F. App'x 654, 656 (7th Cir. 2010); Support Sys. Intern., Inc. v. Mack, 45 F.3d 185, 186 (7th Cir. 1995) (filing bars must be narrowly tailored); and Reed v. PF of Milwaukee Midtown, LLC, 16 F.4th 1229 (7th Cir. 2021) (2-year filing bar only). Bennett v. Office of the Clerk for the U.S. Dist. Ct. for the E. Dist. of Wis., No. 16-cv-333-PP (E.D. Wis. Mar. 25, 2016) ("The defendant cannot force the plaintiff into federal court, then claim that his case must be dismissed because he violated what amounted to a filing bar."). Glass v. Berryhill, 734 F. App'x 372, 374 (7th Cir. 2018).

LIST OF PARTIES

1. Raj K. Patel, Appellant-Petitioner.
2. United States.
3. United States Court of Appeals for the Federal Circuit.
4. United States Court of Federal Claims.
5. The Honorable Elaine D. Kaplan, Chief Judge of the C.F.C.
6. Elizabeth B. Prelogar, Solicitor General of the United States.

RULE 29.6 CORPORATE DISCLOSURE

Not applicable. Raj Patel has no parent corporation and no publicly held company owns 10% or more of their stock.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Federal Circuit appears at Addendum A to the petition and is unpublished. See also Add. B.

The opinion of the United States Court of Federal Claims has not been issued.

JURISDICTIONAL STATEMENT

The jurisdiction of the United States Court of Federal Claims was founded upon 28 U.S.C. Section 1491(a).

The jurisdiction of the United States Court of Appeals for the Federal Circuit is founded upon 28 U.S.C. Section 1295(a)(3), and is based upon the judgment entered on March 7, 2023.

The jurisdiction of the Supreme Court of the United States is founded upon 28 U.S.C. Section 1254 and Section 1651, and is based upon the judgment entered on March 7, 2023 and April 25.

STATEMENT OF THE CASE

The United States Court of Federal Claims instituted an ambiguous filing bar that was later modified but still expands to all future filings and including cases that arise from different transactions or occurrence. In Re Raj K. Patel, No. 1:23-af-07028-UNJ (C.F.C. 202_). The C.F.C. acted inconsistent with Nat'l Hockey League, 427 U.S. at 640 because Petitioner's conduct could not have possibly risen to the level of "callous disregard" and "flagrant bad faith." Nat'l Hockey League, 427 U.S. at 640.

Unlike other filing bars, the C.F.C.'s does not expire.

Patel has always successfully complied with C.F.C. and other local, state, and federal rules.

Petitioner filed a complaint, see Add. C., on December 1, 2022 demanding relief under the Big Tucker Act and the CARES Act and the American Recuses Plan Act ("ARPA"). 28 U.S.C. § 1491(a).

Chief Judge Elaine Kaplan denied leave to file the complaint.

Petitioner Patel seeks mandamus, or another recharacterized remedy from this court, to allow the filing of the complaint. See also 28 U.S.C. § 1651.

This motion to reconsideration this court's June 26th order denying writ follows.

FACTUAL BACKGROUND

- I. Patel has filed a total of four (4) complaints, and only one (1) of which is not docketed.
- II. Patel has been adhering to the dates, law, and rules applicable to pro se plaintiffs and petitioners.
- III. No filing sanctions have been issued by any local, state, and federal courts. Cf. In Re Patel, 22-mc-24-TWP (S.D.I.N. 202_), rev'd, No. 22-2251 (7th Cir. 2023),

remanded, Raj K. Patel v. Univ. of Notre Dame du Lac, No. 49D05-2206-CC-019517

(Ind. Super. Ct., Marion Cnty. 202_).

RULES

Filing a grievance is a privilege that has extended to all persons and things since the ratification of the United States Constitution. See e.g., Dred Scott v. Sandford, 60 U.S. 393 (1856). Filing bars are only permitted once counsel or pro se plaintiffs have shown a “callous disregard of responsibilities...owe[d] to the Court and to their opponents.” Nat’l Hockey League, 427 U.S. at 640. Filing bars have only been permitted if the conduct constituting “callous disregard” rises to “flagrant bad faith.” Id.

Like, here, the Big Tucker Act, 28 U.S.C. § 1491(a) allows for claims to be predicated on a money-mandating statute, including CARES Act and ARPA.

The Constitution and Ordered Liberty requires that the corporate persons be treated equally and duly. U.S. const. amend. V & XIV. Ordered Liberty will always aid in tipping the scales of justice so “[p]leadings [are] construed so as to do justice.” RCFC 8(e). C. Conduct U.S. JJ. Canons 1-3.

“Federal courts have a ‘virtually unflagging obligation...to exercise the jurisdiction given them.’” Colo. River Water Conservation Dist. v. United States, 424 U.S. 800, 817 (1976). “Demonstrating [the C.F.C.’s] jurisdiction is generally a low bar.” Columbus Reg’l Hosp. v. United States, 990 F.3d 1330, 1341 (Fed. Cir. 2021). The FTCA support jurisdiction in the C.F.C. Taylor, 959 F.3d at 1081. See 28 U.S.C. § 2680(h). 28 U.S.C. § 1500.

“The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). “An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.” 28 U.S.C. § 1651(b).

And, when this court or a federal court questions the necessary facts or claims, the Supreme Court requires that a “reasonable opportunity” be given to “adequately” acquire “evidence adduced at trial.” Crist, 995 F. Supp. at 12; Gladstone, 441 U.S. at 115 n. 31 cited in Tinton Falls Lodging Realty, 800 F.3d at 1364. RCFC 8(e).

Matters regarding Ordered Liberty, including filing a RCFC 3 civil action, are reviewed for “abuse” of discretion. U.S. const. amend. I, II, V, & XIV. Teague v. Lane, 489 U.S. 288, 296, 315 (1989) & Precision Specialty Metals, Inc. v. United States, 315 F.3d 1346, 1350 & 1354 (Fed. Cir. 2003).

REASONS TO RECONSIDER

The C.F.C.’s filing bar is inconsistent with Nat’l Hockey League, 427 U.S. at 640 and should be overturned because Petitioner’s conduct is not a “callous disregard of responsibilities...owe[d] to the Court and to their opponents” that rises to “flagrant bad faith.” Id.

1. The perpetual filing bar should be vacated.

The Nat’l Hockey League court decided that lower courts must find a “callous disregard” and “flagrant bad faith” for a filing bar to be validly issued against a litigant. Nat’l Hockey League, 427 U.S. at 640. Here, the C.F.C. obviously did not find neither a “callous disregard” nor “bad faith” because Patel has not violated any rule or regulation of the C.F.C. (or any other lower court) and because the filing bar was unjustly issued only after three (3) complaints which were both sua sponte dismissed. Therefore, the C.F.C.’s filing bar is inconsistent with the law of Nat’l Hockey League, and the filing bar should be vacated.

Unlike the filing bar-at-hand, filing bars are only held permissible if they are narrowly tailored and do not conflict a statute-of-limitation, ignorant of whether the

lower court will grant leave from the filing bar. Here, board and here six (6) year statute of limitation. Colo. River Water Conservation Dist., 424 U.S. at 817.

Filing a grievance is a constitutional privilege that has extended to all persons and things since the ratification of the United States Constitution, and Congress has aided this privilege and right by creating the specialty court of the C.F.C. See e.g., Dred Scott, 60 U.S. at 393. The harm that follows from Patel's unequal treatment from the CARES Act and ARPA were foreseeable, natural, and reasonable. Crist, 995 F. Supp. at 12; Gladstone, 441 U.S. at 115 n. 31 cited in Tinton Falls Lodging Realty, 800 F.3d at 1364. RCFC 8(e). Therefore, this court should allow for litigation either by vacating the filing bar or by reversing and remanding. 28 U.S.C. § 1651.

Along with the very high constitutional floor that generally governs filing bars, for here, Congress has constitutionally raised the very high constitutional floor specifically for religious inquiries. 42 U.S.C. §§ 2000bb et seq. See Burwell v. Hobby Lobby Stores, Inc., 573 U.S. 682, 737 (2014) (Kennedy, J., concurrence) (explaining civ. & pol. rts. pursuits) and Colo. River Water Conservation Dist., 424 U.S. at 817. International law also aids Petitioner in allowing the complaint because it is curtailed around a benefit or social corporation with inherent goals of political enterprising or aiding in those efforts. Int'l Covenant of Civ. & Pol. Rts. (effective 1992) (mandatory authority); and Int'l Convention on the Elimination of All Forms of Racial Discrimination (effective 1994) (mandatory authority); and Int'l Covenant on Econ., Soc. & Cultural Rts. (effective 1977) (mandatory executive agreement). Vectrus Servs. A/S, 164 Fed. Cl. at 767 (citing Valentine, 299 U.S. at 10 ("Moreover, the Supreme Court explained that "[i]t is a familiar rule that the obligations of treaties should be liberally construed so as to give effect to the apparent intention of the parties.")) (citing Restatement (Third) of Foreign Relations Law). Ignoring these treaties and rules would be unreasonable. Valentine, 299 U.S. at 10.

Therefore, to honor Congress' constitutional regulations on the C.F.C., this court should reverse the filing bar. Crist, 995 F. Supp. at 12; Gladstone, 441 U.S. at 115 n. 31 cited in Tinton Falls Lodging Realty, 800 F.3d at 1364. RCFC 8(e).

And, because the United States Constitution has a policy against filing bars and such have only been issued after filing of hundreds of complaints and because the C.F.C.'s filing bar does not expire, the court should remand with instructions or mandamus to file the complaint-at-bar. U.S. const. amend. VIII. Gay, 682 F.3d at 592, 594 & 595 n. 2; Tarkowski, 644 F.2d at 1208 (pro se litigants are allowed to replead); Fed. R. App. P. 40; Henry, 360 F. App'x at 656; Support Sys. Intern., Inc., 45 F.3d at 186 (filing bars must be narrowly tailored); and Reed, 16 F.4th at 1229 (2-year filing bar only). Bennett, No. 16-cv-333-PP (E.D. Wis. Mar. 25, 2016) ("The defendant cannot force the plaintiff into federal court, then claim that his case must be dismissed because he violated what amounted to a filing bar.") (here, the unequal act by Congress forces Petitioner into court). Due Process also requires the same because the filing bar, which will cause the statutes-of-limitations to become effective, is too "harsh" and "extraordinarily harsh." Glass, 734 F. App'x at 374. Crist, 995 F. Supp. at 12; Gladstone, 441 U.S. at 115 n. 31 cited in Tinton Falls Lodging Realty, 800 F.3d at 1364. RCFC 8(e). Therefore, this court should reverse the filing bar, and allow for litigation in the C.F.C.

CONCLUSION

Reverse. Grant § 1651 mandamus either to the C.F.C. or the Fed. Cir. to allow the filing of the complaint.

Respectfully submitted,

Rama CCCX

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