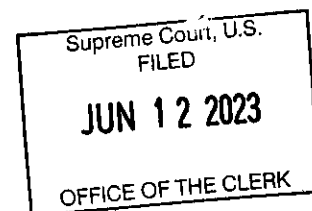


No. 23-142



In The
Supreme Court of the United States

JOE L. ADAMS JR.,

Petitioner,

vs.

ROYAL PARK NURSING AND REHABILITATION,

Respondent.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Fourth Circuit**

PETITION FOR WRIT OF CERTIORARI

JOE L. ADAMS JR.
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QUESTIONS PRESENTED

1. Did the court of Appeal Err in Affirming the District Court Decision regarding Jurisdiction over Nursing Home Abuse Cases.
2. Did the court of appeals err in their decision to not extend jurisdiction due to the violations of the Nursing Home Abuse Act being the eventual cause of Death for Mr. Joe L. Adams Sr.
3. Does the Federal government have jurisdiction in nursing home abuse cases that violate the "Nursing Home Act" when the abuse is the direct primary cause of Death?
4. Did the court of appeals err by not allowing the case to be heard and appoint a lawyer to the pro se litigant suffering reliving the abuse and injuries over and over.
 - a. Plaintiff contends that reliving the abuse pictures has been one of the most painful experiences and hopes the Superior Court will allow this case to move forward.
5. Did the court err in not holding Royal Park Nursing and Rehabilitation responsible for its violations of the Federal Nursing Home Reform Act (NHRA) of 1987.
6. Did the court err in not holding Royal Park Nursing and Rehabilitation responsible for the painful abuse and eventual slow death of Mr. Joe L. Adams Sr. due to Pressure Ulcers?

QUESTIONS PRESENTED – Continued

7. Did the Appeals Court Err in its decision not to allow a court appointed attorney to this case since the Plaintiff had very low income and proceeding Pro Se to fight for his parent?
8. Did the Appeals Court Err in its Denial for a reconsideration based on the fact that the Nursing Home Reform Act is a Federal Act as well as Medicaid is a Federal Program?
9. Did the District Court Err in not acknowledging the Les Ipsa Loquitur motion submitted by the plaintiff?

LIST OF PARTIES

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

RELATED CASES

Federal District Court of North Carolina Charlotte

Joe L. Adams Jr. vs Royal Park Nursing and Rehabilitation

3:20-cv-00634-RJC-DSC Judgement 9-28-2021

Federal Court of Appeals 4th Circuit Richmond Virginia

Joe L. Adams Jr. vs Royal Park Nursing and Rehabilitation

Case No. 21-2278 Judgement 1-18-2023 Rehearing Denied 3-14-23

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SUPREME COURT OF THE UNITED STATES
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 United States court of appeals appears at App. 1 to the petition and is unpublished.

The opinion of the United States district court appears at App. 5 to the petition and is unpublished.



JURISDICTION

The date on which the United States Court of Appeals decided my case was January 18, 2023.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 14, 2023, and a copy of the order denying rehearing appears at App. 25.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).



STATUTORY PROVISIONS INVOLVED**42 U.S. Code § 1983 – Civil action for deprivation of rights**

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress

...

42 U.S.C. § 1396r *et seq.* ("FNHRA")

The United States Court of Appeals for the Seventh Circuit ("Federal Appeals Courts") held in its opinion dated July 27, 2021 that the Federal Nursing Home Reform Act (FNHRA), 42 U.S.C. § 1396r *et seq.*, provides a private right of action that may be redressed under 42 U.S.C. § 1983.

N.C.G.S 108A-101(m)

§ 108A-101. Definitions. (a) The word "abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, . . .

42 CFR § 483.12 – Freedom from abuse, neglect, and exploitation

The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.

42 U.S. Code § 3058i –

Prevention of elder abuse, neglect, and exploitation

S.178 – Elder Abuse Prevention and Prosecution Act**42 CFR § 483.25 – Quality of care subpart “b”**

- I. (b) Skin integrity – (1) Pressure ulcers. Based on the comprehensive assessment of a resident, the facility must ensure that – sub parts (i) & (ii)
- II. Prevent the development of pressure sores, and if a resident has pressure sores, provide the necessary treatment and services to promote healing, prevent infection, and prevent new sores from developing (42 CFR §483.25).

Gorgi Talevski vs Valparaiso Care and Rehabilitation
No. 2:19 CV 13



STATEMENT OF THE CASE

Plaintiff brings this case to the Supreme Court of the United States as a last resort as all the appeals and all the request for rehearing are all exhausted. The Plaintiff brought this action to the District Court of North Carolina because his father was subjected to severe abuse at Royal Park Nursing and Rehabilitation. My father was locked inside Royal Park Nursing during the pandemic. He did not have Covid. The facility slowly was being taken over by covid infection and the patients and visits were all cut off. No one was allowed inside the facility. The plaintiff did not see his father from February of 2020 till around October 13, 2020. When the plaintiff was able to see his father he was astonished at the condition his father was in and how neglected and abused he was. At that time the plaintiff was not aware of any Bed Sores that were present as the reason that Royal Park sent my father to Atrium Health of Charlotte is because he pulled out his feeding tube and required hospitalization to replace it. When the nursing home called they said that my father was being transported to the emergency room and I immediately took off from South Carolina to get a glimpse of my dad and to hug him. When I finally was allowed to see my father he was reported to have severe Sepsis infection. I began to look at my father and opened his mouth and saw my father's mouth in the worse condition I had ever in my life seen a person's mouth. He had this paste on his tongue. This was because they never brushed his teeth or gave him any mouth care. The covering of this yellow paste was

inside the top of my fathers mouth and on his tongue. See Image #1 and Image #2 on App. 41.

Image #3 on App. 42 is a picture of what they showed me was under my dads buttocks. This is a photograph of the bed sores and there were more under the bottom of his body where he was lying.

I had the Nurse to allow me to see my fathers bed sores that they were explaining to me were so bad and this is what I saw the first time I saw my dad. The sores continued to progress and the hospital continually warned me that this condition would end my fathers life. Royal Park Nursing and Rehabilitation is only 12.7 miles from Atrium Health where they have a Specialized Wound Care building where they only take care of Pressure Ulcers. My father was never allowed to leave the facility and they kept his condition a secret from the onset of Stage I to the Final Stage IV that is inoperable. This is among the many things that they did to my dad. They abused him. Here is a recount of all the incidences that occurred that cause the plaintiff to take the case to federal court as the Medicaid Program paid for all my fathers care. His hands were wounded from the IV's blowing out or pulling them out to fast.

From the months of September through February the Ulcers would continue to get worse and worse. They began to get more and more ulcers each time he would return to the facility. There were no other facilities that would take my father in his base line condition so we had to wait. The sores became deeper

and spread to his penis scrotum. See Image #4 through Image #7 on App. 42-44.

At the time the Attending doctor at Royal Park of Mathews continued to misdiagnose my fathers condition administering Insulin when he was non diabetic. Insulin retards the healing of sores so my fathers bed sores would never show improvement and continued to grow.

Paintiff contends that Royal Park Nursing and Rehabilitation were in violation of the Nursing Home Reform Act as well as committed criminal abuse by breaking my dads nose and fracturing his eye when they pushed him out of his bed in September of 2017. That is also included in the filing of this case.

REASONS FOR GRANTING THE PETITION

Plaintiff begs the court and pleads with the court to grant the Petition as it is the last resort for justice for my father. The plaintiff saw that the violations were federal and after exhausting all the letters and calls to the Department of Social Services the plaintiff decided to go ahead and file a lawsuit regarding the suffering my father was under at the time. We still had hope that since he was finally released from Royal Park Nursing and Rehabilitation that the doctors at CMC Atrium would be able to treat the ulcers and help my father recover. During the onset of the lawsuit the staff and the doctors got very nasty. They refused to speak and would not allow me to see my father other than

through the window. This type of abuse could have been avoided and the bed sores would have never been able to go to the stages that they did if Royal Park Nursing and Rehabilitation had alerted the family that there were issues with Bed Sores but they did not. They just allowed my father to lay back in the back of the Nursing Home on the Rear Hall where they put all the covid patients during the Pandemic. My father was put there as well even though he had a private room and no room mate. He had been clear of covid for a long time but became positive.

Plaintiff believes that this type of abuse needs to be put to the forefront of our justice system because we are all going to get old and it is no ones right to abuse us after working for our entire lives. My father did not have a criminal record and had never left his family. He was a Very Great Father and I do miss him. I have tried to go to all the agencies and even made a trip to Raleigh to speak directly to Medicaid regarding the abuse that had been happening. I tried and tried to find another High Skill nursing facility but they didn't want to take my dad because of his size. I will never forget my fathers suffering and his trials with Royal Park Nursing and Rehabilitation. So far they are getting away with Murder as on my fathers death certificate it reads that his primary cause of death was infection from Bed Sores. The bed sores were so bad and there was so much wrong at the same time with the time they took to get him to the hospital.

I feel that I have tried and tried but it seems no one wanted to listen to me at all and were so eager to

get rid of the case. I was especially glad to hear the recent verdict for people with loved ones in nursing homes and hope that it will apply to my case as well. My father also had dementia and Alzheimer's and could not speak. He had aphasia. During the time while I fought for my father at my hardest I wrote a letter called "Please Help My Dad". I submitted it to the District Court as Document 2. I have included a copy of the document as it contains the prior suffering of my fathers back to the date when he got his nose broken and his eye was damaged. I wrote the letter and sent it to DSS and to everyone I could at the time. I was able to submit a color copy to the district court.

The plaintiff contends that the district court never mentioned any of my fathers suffering or any of the injuries that my father had in any of their correspondence. I also noticed that the attorneys from Royal Park Nursing and Rehabilitation also did not mention anything regarding the injuries or bed sores that took my fathers life. I feel that the Supreme Court is the Highest and most Righteous of all Courts. Here in the South there are Challenges for African Americans to get justice but I do believe that appealing to the Supreme Court may get the attention of the people that can help. My father was a good man and no person deserves to go into a nursing home and be abused to the level that my father was. They allowed my father to go through all the stages of Bed Sores 1-4 and never sent my father out to the specialist while the bed sores were in the earliest of stages. The Nursing Home Reform act was violated and may more of the federal rules were

also violated by the defendant. The defendant has not even contacted our family to pay their remorse for killing my father. They have gone on to the next patients and have never looked back.

I have filed all the appeals and pleadings that I could. I went to the State court and was told that after the wounds caused my father to die that my case was no longer a abuse case but a wrongful death case and that the time in the Appeals process unfortunately had expired the time to file for Wrongful Death. So I am filing this Writ of Certiorari to see if the court will grant it and this case can be heard. I may have made some mistakes in my fight but I am hoping that I may have a lawyer to come in and help me with the statutes and all the legal procedures that have been the hardest part of trying to submit documents and complaints to the court. The plaintiff has submitted some pictures of my father but all the pictures are in the District Court and have been filed. I did ask that the documents are sealed so there has been a lot of issues with getting case information to submit.

I apologize to the Supreme Court if my Writ falls short of luster. I have never done one before and hope the court forgives me for any error in form or spelling. I am doing the vey best that I can on getting this together and sending it in on time.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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