23-6133

No._____

IN THE SUPREME COURT OF THE UNITED STATES

JACQUELYN REAVES

PO BOX 93

PELHAM, NORTH CAROLINA 27311

Petitioner,

v.

MONMOUTH UNIVERSITY; JOANNE JODRY;GEORGE KAPALKA; GREY DIMMENA; NINA ANDERSON; CHARLENE DIANA; MARYANNE NAGY;FRANCA MANCINI; NEPTUNE CITY POLICE; KEITH MITCHELL; MICHAEL VOLBRECHT; EDWARD KIRSCHENBAUM;MONMOUTH UNIVERSITY POLICE; JEFFREY LAYTON; WILLIAM MCELRATH; MONMOUTH MEDICAL CENTER; DALE RAFINELLO; ANTHONY TRECHTA; AMINA CHOWDHURY; MATTRHEW GELLER; VIRGINIA KINNEMAN; TRENTON PSYCHIATRIC HOSPITAL; PATRICK ERVILUS; ROBERT WOOD JOHNSON UNIVERSITY HOSPITAL; JAMES MCCALLUM; ROBERT CAVELLA; KATIE OZOLINS; JACQUELINE SOBOTI

Respondent(s).

On Petition of Writ of Certiorari to the Supreme Court from the Third Circuit Court of Appeals and District Court

PETITION FOR WRIT OF CERTIORARI

QUESTION PRESENTED

The following question is presented:

Should respondents be criminally and civilly liable for hate crime(s), false imprisonment, racial discrimination, persecution, emotional distress, and misconduct after intentionally conspiring to commit several misdeeds against Petitioner that violated her body and civil liberties, in the absence of proper investigation, without adequate legal justification, representation, restitution or trial, when individuals who are charged with committing acts of violence against others are awarded a public defender and entitled to trial by jury.

Furthermore, it is justifiable for the Court to hold Petitioner to the same statutory and legal standards as attorneys, entities, and other individuals who have not been dehumanized and excessively drugged antipsychotics against her over the course of two years (which permanently rendered her mentally incapacitated), in addition to the added threats of revictimization by both officers of the law and court, void of legal representation.

Finally, it is defensible for the Court of Appeals to dismiss Petitioner's true and valid claims of bestial cruelty against her based-on "jurisdiction" when there were not jurisdictional defects in her appeal, absent of the Third Circuit properly addressing the issues of dismissal of her complaint at level of the District Court when events that led up to her claims were so egregious they required attention and deserved proper review and action.

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I. PETITION FOR A WRIT OF CERTIORARI

Jacquelyn Reaves petitions the Court for a writ of certiorari to review the judgement of the United States Court of Appeals, Third Circuit, and the United States District Court in her case.

II. OPINIONS BELOW

The Court of Appeal's dismissal and order denying en banc review is attached as Appendix A. The District court's orders for dismissal are attached as Appendix B.

III. JURSIDICTION

The Third Circuit denied Petitioner's appeal on April 27, 2023, and denied en banc review on July 6, 2023. *See Appendices A*. The United States District Court's orders for dismissal are attached hereto. *See Appendices B*. This petition is timely filed pursuant to Supreme Court Rule 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

IV. STATUTORY PROVISIONS INVOLVED

This case involves 28 U.S. Code § 1658, U.S. 28 U.S.C. § 1295, 18 U.S. Code § 3771. The text of this statute is contained in Appendix C.

V. STATEMENT OF THE CASE

A. Introduction

Petitioner was brutalized multiple times at the hands of the respondents and several others beginning at the age of 33, predicated on her race and hate in the absence of prosecution of the offenders. In 2015, Respondents Jodry, Dimenna, Nagy, and Dianna, in conjunction with Monmouth University Police acquired a family picture of Petitioner, with her niece (who is

white, age 4 in the photo), and her dog. Jodry filed a false police report against Petitioner at Neptune City Police Department and alleged to respondents Mitchell and Vollbrecht that Petitioner's niece was Jodry's daughter, and that Petitioner's dog was Jodry's dog. Jodry also told Mitchell and Vollbrecht Petitioner suffers from mental illness as is attached in Appendix D.

In the absence of speaking to Petitioner, Vollbrecht and Mitchell illegally searched Petitioner's apartment while she attended graduate school at Monmouth University, they acquired and shared Petitioner's personal information to Monmouth Medical center, they called Long Branch Police department and told them to 'pick Petitioner up' if they saw her, and they charged Petitioner with harassment and misconduct. From there, respondents conspired with Mitchell and Vollbrecht to show up at a meeting between Petitioner and Diana on campus, where Petitioner was attacked by Mitchell and Vollbrecht, shoved against a wall which damaged her jaw and teeth, they violently twisted Petitioner's arms behind her back dislocating her shoulder, and forcefully bound her wrists with handcuffs severely bruising her arms and body. After Petitioner was handcuffed and Petitioner questioned what was happening, Mitchell and Vollbrecht told Petitioner they knew all they needed to know, then dragged Petitioner to an unmarked police car, impetuously pushed her into the backseat which caused her to hit her head, and transported Petitioner directly to Monmouth Medical Center. *See Appendices D.*

Upon arrival at Monmouth Medical, Petitioner was stripped naked by respondents Rafaniello, Vollbrecht and hospital security, strapped to a hospital bed and was force injected sedatives and antipsychotics based on conspiracy and the fraudulent statements Jodry made to police, predicated on Petitioner's race and a faulty investigation, the result of which rendered Petitioner unemployed, homeless, and permanently disabled. *See Appendices D.*

Petitioner was held against her will at Monmouth Medical by respondents Geller, Kenneman, Sobati, Trachta, and Choudhury, and drugged antipsychotics for over a month before she placed in a straight-jacket and transferred to Trenton Psychiatric, where she was relentlessly force drugged antipsychotics for an additional two months at the hands of respondent Ervilus. Upon release, Petitioner was confused, disoriented, in fear, suicidal, and cathartic. Later Petitioner underwent even more torment and dehumanization when she was obligated to stand against the false changes in Court presented by Mitchell, and Vollbrecht, based on Jodry's unfounded and false allegation, with all three respondents present in the court room - the charges were dismissed in August of 2015. *See Appendices D.*

This series of similar events replayed themselves intermittently for a total of six months over the course of two years (between 2015 and 2017) in Monmouth and Somerset County at RWJ University Hospital where Petitioner detained by police, stripped by security, locked into tiny rooms in the psychiatric ward at RWJ at the direction of respondent McCallum, assaulted with syringes, force injected antipsychotics on order by McCallum and Cavella, every time Petitioner attempted pursue civil action and criminal prosecution against the offenders (respondents) in the absence of proper legal representation, with no prior history of mental illness. Also, within this same timeframe, respondent Kirschenbaum of Neptune City Police called Toms River police and sent them to Petitioner's mother's house to detain Petitioner Ocean County after she was chased out of Monmouth County by Long Branch police department in retaliation. *See Appendices D.* Petitioner was told by police she would be arrested if she ever returned to Monmouth University as is attached in Appendix E.

Petitioner presented these claims to Monmouth County Prosecutor's Office, and the Office of the Attorney General on a criminal level, with both offices refusing to investigate.

B. **Statement of Proceedings**

In 2016, Petitioner filed suit against the Monmouth County Prosecutor's Office, among others, in district court for culpability; yet the prolonged maltreatment, physical attacks, humiliation, and forced drugging of antipsychotics at RWJ, Summit Oaks, Greystone Psychiatric, and St. Francis (based on her complaints to police and her family picture), gravely impacted Petitioner's mental capabilities, and the case was dismissed without prejudice since she was unable to effectuate service as attached in Appendix F. Although, Petitioner motioned from Pro Bono counsel at the district, the Court never addressed her motion or appointed counsel on behalf of Petitioner. And, while Monmouth Medical accepted service, the district granted opposing counsel's motion to dismiss Petitioner's claims since did not furnish an affidavit of merit[1] when she could prove the entity and staff's actions deviated from professional standards –

[1] *Hubbard v. Reed*, 168 N.J. 387, 774 (N.J 2001). The New Jersey Supreme Court articulated the common knowledge exception to the affidavit of merit statute. The common knowledge exception applies in cases where "the threshold of merit should be readily apparent from a reading of the plaintiff's complaint," Id. at 395, and where "the carelessness of the defendant is readily apparent to anyone of average intelligence and ordinary experience", *Natale v. Camden Cnty. Corr. Facility*, 318 F. 3d 575, 579-80 (3d Cir. 2003) (quoting Rosenberg by *Rosenberg v. Cahill*, 99 N.J. 318, 326, 492, (1985)).

issues which could readily be determined by a jury without the assistance of a medical expert[2][3][4][5][6]. Similarly, Petitioner also had no knowledge of a Ferriera conference[7].

In 2022, in the more recent case, the United States District Court of New Jersey vacated default against defendants, denied Petitioner's motions for default judgement, and granted dismissal of Petitioner's claims on motion by opposing counsel based on the precedent of res

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[2] *McBride v, Cnty. Of Atl.*, Civ. No. 10-2723, U.S. Dist. LEXIS 82656, 2011 WL 3236212. In common knowledge cases, a plaintiff "will not need expert testimony at trial to establish the standard of care or deviation therefrom."

[3] *Sanzari v. Rosenfeld*, 34 N.J. 128, 142 (1961). Thus, the common knowledge exception applies when "the issue of negligence is not related to technical matters peculiarly within the knowledge of medical...practitioners." In this case, the Petitioner has made allegations of tort, malpractice, negligence and violations of her civil and constitutional rights against respondents which falls squarely into the intended application of the "common knowledge" exception, N.J.S.A 2A:53A-2.

[4] *Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015). Addresses the standard for excessive force governed by the objective reasonableness standard that asks whether the force was excessive in light of the "facts and circumstances of the particular case." Id. at 2470-73. Factors that may be relevant to this determination include: the relationship between the need to use force and the amount of force used; the extent of the plaintiff's injury; any efforts made to temper or limit the amount of force; and the severity of security and police actions. In such situation where Petitioner raises a claim that her Fourteenth Amendment rights were violated due to respondents' use of excessive force the affidavit of merit is neither required nor appropriate.

[5] *Washington v. Harper*, 494 U.S. 210 (1990). The Supreme Court stated that a person, even when detained against his will, retains "a significant liberty interest in avoiding the unwanted administration of antipsychotic drugs."

[6] *Estate of Chin v. Saint Barnabas Med. Ctr.*, 160 N.J. 454 (N.J.1999). Common knowledge is sufficient to enable a jury to use ordinary understanding and experience to determine a defendant's negligence without the specialized knowledge of experts.

[7] *Fink v. Thompson*, 167 N.J. 551, 559 (2001). The primary purpose of the AOM is to "require plaintiffs in malpractice cases to make a threshold showing that their claim is meritorious, in order that meritless lawsuits readily could be identified at an early stage of litigation." In actions arising out of professional malpractice, plaintiffs are required to obtain and serve an AOM within a maximum of 120 days from the date of the filing of an answer to a complaint. See N.J.S.A. 2A:53A-27. The sanction for failing to serve an AOM in compliance with the statute is a finding that the complaint "fails to state a cause of action." N.J.S.A. 2A:53A-29. The New Jersey Supreme Court has held that "[a] dismissal for failure to comply with the statute should be with prejudice in all but exceptional circumstances." *Cornblatt v. Barow*, 153 N.J. 218, 242 (1988). In order to identify and alleviate issues relating to the AOM, the court will hold what is known as a Ferreira conference, which was established in the New Jersey Supreme Court decision of *Ferreira v. Rancocas Orthopedic Assocs.*, 178 N.J. 144 (2003). In Ferreira, the New Jersey Supreme Court required that "a case management conference be held within ninety days of the service of an answer in all malpractice actions." Id. at 154. The purpose of the conference is for the court to address all discovery issues, including the AOM, and to serve as a reminder of the obligation as well as to facilitate early identification of any deficiency in an AOM that has already been served. See id. at 155.

judicata and failure to state a claim (see Appendix D)[8][9][10][11][12][13][14][15]. On appeal, the clerk of the United States Court of Appeals dismissed Petitioner's claims based on jurisdiction when there

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[8] A Rule 8(a) dismissal is appropriate only when, after multiple amendments, and Petitioner's complaint is "essentially incomprehensible" such that it cannot be said to give fair notice of the claims. See *United States v. Lockheed Martin Corp.*, 328 F.3d, 374, 376, 378 (7th Cir. 2003). Respondents styled their 12(b) and 12(b)(2) arguments as challenges to Petitioners' standing in her suit. See *Walk at Broadlands Homeowner's Ass'n v. Openband at Broadlands*, LLC, 713 F. 3d, 175, 181-82 (4th Cir. 2013). When determining whether they have met this burden the court will accept as true all material allegations of the complaint and construe the complaint in favor of the [plaintiffs]." Id. Dismissal under Rule 12(b)(6) is proper only when the complaint lacks a cognizable legal theory or does not allege facts that, when taken as a whole, raise the claim for relief above mere speculation. *Bell Atlantic Corp. v Twombly*, 550 U.S. 544, 555-56 (2007); *Coleman v. Md. Ct. of App.*, 626 F. 3d 187, 190 (4th Cir. 2010). As with standing, the court will assume all factual allegations are true and draw all reasonable inferences in favor of Petitioner. *Edwards v. City of Goldsboro*, 178 F. 3d 231, 244 (4th Cir. 1999). When, as here, a 12(b)(6) motion is used to test the sufficiency of the complaint in a civil rights case, the court will be "especially solicitous of the harms alleged." The Rule 12(b)(6) test has been revised in recent years. In *Conley v. Gibson*, 355 U.S. 41 (1957), the Supreme Court stated the interplay between Rule 8 (pleading) and Rule 12(b)(6) as follows: "[T]he accepted rule [is] that a complaint should not be dismissed for failure to state a claim unless if appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." 355 U.S. at 45-46. *In Bell Atlantic Corporation v. Twombly*, 55 U.S.544 (2007), the Court noted questions raised regarding the "no set of facts" test and clarified that "once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint," id. at 563. It continued: "Conley, then described the breadth of opportunity to prove what an adequate complaint claims, not the minimum standard of adequate pleading to govern a complaint's survival." In *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), the Court further elaborated on the test, including this statement: "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." Id. Where a complaint is inadequate, leave to amend the complaint is common. See e.g. *Butt v. United Brotherhood of Carpenters & Joiners of America*, No. 09-4285, 2010 WL 2080034 (E.D. pa. May19, 2010). Accordingly, respondent's motion would be considered properly filed only "where plaintiff's complaint is 'unintelligab[le] (sic), not where a complaint suffers from 'lack of detail.'" *Epos Tech.*, 636 F. Supp. 2d at 63 (citations omitted). The simplified notice pleading standard relies on liberal discovery rules and summary judgement motions to define disputed facts and to dispose of unmeritorious claims. See *Swierkiewicz*, 534 U.S. at 512. Indeed, courts have found that if the information sought by the motion is obtainable through discovery, the motion should be denied. See, e.g. *Towers Tenant Ass'n v Towers Ltd. Pship*, 563 F. Supp. 566, 569 (D.D.C. 1983) (denying motion for a more definite statement because details such as "dates, times, names and place" are "the central object of discovery, and need not be pleaded)".

[9] *Roth v. Jennings*, ---F.3d.---,2007 WL 1629889, at *11 (2d Cir. June 6, 2007). In making this determination, the Court "must accept as true all allegations set out in plaintiff's complaint, draw inferences from those allegations in the light most favorable to plaintiff, and construe the complaint liberally." "The bottom-line principle is that 'once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint." *Twombly*, 127 S. Ct. 1955, 1960. "This rule applies with particular force where the plaintiff alleges civil rights violations....." *Thompson v. Carter*, 284 F.3d 411, 416 (2d Cir.2002) (quoting *Chance v. Armstrong*, 143 F3d 698, 701 (2d Cir. 1998). Further, the Supreme Court has held that the liberal notice pleading standard applies equally to *Monell* claims. See *Leatherman v. Tarrant County Narcotics Intelligence & Coordination Unit*, 507 U.S. 163, 167-69 (1993).

[10] *American Booksellers Ass'n*, 484 U.S. at 392 (quoting *Warth v. Seldin*, 422 U.S. 490, 499 (1975) (citations omitted). To bring a cause of action in federal court requires that there be some "threatened or actual injury resulting from the putatively illegal action".

[11] See *Munson*, 467 U.S. at 967-968 (citing *Village of Schaumberg v. Citizens for a Better Environment*, 444 U.S. 620, 637 (1980). In matters of the First Amendment rights, facial invalidation is called for where: [a] a statute imposes a direct restriction on protected First Amendment activity, and where the defect in the statue is that the

were no jurisdictional deficits present, and perversely failed to address the merits of the dismissal by the district court. Petitioner's request for en banc hearing for reconsideration of dismissal was also denied by the majority judicial vote by the Third Circuit.

VI. REASONS FOR GRANTING THE WRIT

The Third Circuit's decision – deeming the Petitioner's appeal to have jurisdictional issues when none exist – permits the racist vein that throbs in the country to permeate through the judicial system in New Jersey, in the absence of addressing the merits of Petitioner's case and baseless

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means chosen to accomplish the State's objectives are too imprecise, so that in all its applications the statute creates an unnecessary risk of chilling free speech."

[12] Facial challenges such as these by nature ask the Court to enjoin a law even as to parties not before the Court, and to necessarily provide litigants a standing to assert rights for themselves in fairness, in the absence of witness tampering, see 18 U.S. Code 1512(a)(2). The right to bring facial challenge ensures the affected party will not have to self-censor their speech until each possible application of the statue is litigated on a case-by-case basis. *See ACLU I, 929 F. Supp. At 867 &n.3*; *American Library Ass'n v. Pataki.* Moreover, the issue preclusion and claim preclusion do not apply since Petitioner's complaint filed in 2022 accurately includes respondents that caused her harm from 2015 through 2017. Res judicata and collateral estoppel are inapplicable are inapplicable since the assaults against Petitioner were influx, and it is incomprehensible for Petitioner to raise claims of illegality prior to their occurrence. Furthermore, the doctrine of collateral estoppel "recognizes that limits on litigation are desirable, but a person should not be denied a day in court unfairly." *Gottsch v. Bank of Stapleton*, 235 Neb. 816, 837, 458 N.W. 2d 443, 457 (1990) (quoting *Vincent v. Peter Pan Bakers, Inc.*, 182 Neb. 206, 207, 153 N.W. 2d 849 (1967). The doctrine of collateral estoppel recognizes that limits on litigation are desirable, but a person should not be denied a day in court unfairly." Four conditions must exist in order for the doctrine of collateral estoppel to apply: (1) The identical issue was decided in the prior action, (2) there was a judgement on the merits which was final, (3) the party against whom the rule is applied was a party or in privity with a party to the prior action, and (4) there was an opportunity to fully and fairly litigate the issue in the action. *Bisgard v. Johnson*, 3 Neb. App. 198, 525 N.W. 2d 225 (1994). Collateral estoppel cannot be applied to bar the claims asserted by persons who have not had their day in court.

[13] A private right of action entitles a private party other than the government to bring a lawsuit to enforce a right. The Fourth Amendment confers an implied right of action against federal officials who conduct unlawful searches or seizures, *Bivens v. 6 Unknown Named Agents of Fed. Bureau of Narcotics*, 403 US 388 (1971). Thus, an individual can sue for damages to vindicate their Fourth Amendment right even though the text of the amendment does not expressly authorize such suits. If a statue creates a right yet does not necessarily enforce it, then Courts find the statue implies a right to sue even in criminal matters.

[14] In *Cefaratti v. Aranow*, the Connecticut Court of Appeals draws an important distinction between "continuous wrong" and "continuous treatment". The "continuous wrong" exception tolls the statute of repose when the plaintiff proves that the physician: "(1) committed an initial wrong upon the plaintiff; (2) owed a continuing duty to the plaintiff that was related to the original wrong; and (3) continually breach that duty." *Witt v. St. Vincent's Medical Center*, 746, A.2d 753 (Conn.2000). It is recognized that the statute of limitations may not bar certain continuous claims, but "[i]n order for the continuing claim doctrine to apply, the Plaintiff's claim must be inherently susceptible to being broken down into a series of independent and distinct events or wrongs, each having its own associated damages." *Brown Park Estates v. United States*, 127 F. 3d 1449, 1458 (Fed. Cir. 1997).

dismissal at the level of the District Court. Equally important, the Court of Appeal and the District Court's approach to the judicial system only endorses an inequitable societal result that further depraves the rights of indigent victims and minorities, since it rewards respondents for criminality and delinquence and attempts to bar Petitioner's allegations from review without sound legal foundation or retribution. The Supreme Court has an obligation to address this misconduct.

VII. CONCLUSION AND PRAYER FOR RELIEF

This Court should grant certiorari to review the Third Circuit's judgement in Petitioner's case, and dually afford her other such relief justice requires.

Respectfully Submitted,

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