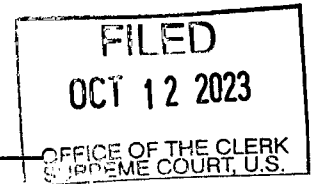


23-6306

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



DEVON AUSTIN EARL,
Petitioner

vs.

BRANDON HARRIS, et., al.,
Unserved Non-Party
Defendants/Appellees/Respondents

ON PETITION FOR WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Devon Austin Earl,
In Propria Persona
301 West 39th Street
Apartment 1
Wilmington, DE 19802
(302) 897-2012
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QUESTIONS PRESENTED FOR REVIEW

1. Petitioner, employed for 20 years at the University of Delaware, was arrested by University Police, under allegations of driving without insurance, when he wasn't driving, had insurance, they had no evidence, no probable cause, and University Police lack jurisdiction to make such arrest, did the trial court err in dismissing the case with prejudice, prior to issuing Summons and before service upon defendants?
2. Was it error for the trial and appeals courts to ignore that Petitioner was not read his rights before, during, or after his arrest?
3. When no defendants have been served with process, and none have entered the case, and the Court dismisses with prejudice, is it an error, and/or violation of due process and/or Plaintiff's rights?
4. When the trial court grants a non-prisoner litigant forma pauperis, and the clerk does not sign and seal the Summons, and no defendants served, then the case is dismissed w/prejudice for statute of limitations, an affirmative defense, yet the case was filed with plenty of time before the sol would expire, is there error?
5. When a case is dismissed under the conditions shown in the above paragraphs, but would have survived a Fed. R. Civ. P. Rule 12(b)(6) motion to dismiss, was it error for the trial court to dismiss under § 1915?
6. If the above questions above, do not result in errors, are none of the rules, statutes, or a pro se litigant's rights violated when judged uses 28 U.S.C. § 1915 to dismiss the case prior to service, and the pleading of affirmative defenses?

LIST OF INTENDED PARTIES

Not all of the parties appear in the caption of the cover page caption. Petitioner is not sure whether or not the Rules require him to list defendants that were never parties in the case. Summonses were never signed, sealed, or served. No one participated, except the Petitioner/Plaintiff. Petitioner does not believe any defendants/appellees/respondents even realized that they were named in a case.

Ex abundanti cautela, Petition lists all of the parties he intended to be defendants: Brandon Harris; Alexander Peterson, III; Clerk, C. Temple; Jessica Zeilman; Maria Perez-Chambers; Katherine L. Mayer; Carol Lemieux; A.J. Roop; Colonel Joseph S. Bloch; Alan Davis; Patrick Ogden; Carl C. Danberg; Matthew Meyer; Nicole Majeski; Jana Simpler; Dennis Assanis; John Carney; Eris S. Yuan; County of New Castle, Delaware; State of Delaware; University of Delaware; New Castle County Justice of the Peace Court No. 11; Delaware Dept. of Motor Vehicles; Delaware Dept. of Transportation; New Castle County Court of Common Pleas; Zoom Video Communications, Inc.

JURISDICTION ON WRIT OF CERTIORARI

This Court has jurisdiction over Petitions for Writ Certiorari. It is within the Court's discretion to grant this Petition, as there are compelling reasons for the Court to exercise its discretion. The US District Court, and the 3rd Circuit Court of Appeals has decided important federal questions in a way that are far departed from other District Courts, and US Courts of Appeal. It is imperative that this Court exercises this Court's supervisory power.

Rulings by the US District Court of Delaware (“USDC”) is in conflict with other US District Courts, as well as rulings by US Courts of Appeal. The 3rd Circuit Court of Appeals which affirmed the USDC ruling, even though the ruling conflicts with other US Courts of Appeal, and this Court. Case Law from these rulings will make it difficult for other courts to properly ruling on the same issues. Other District Courts, and appellate courts, may find it very difficult or impossible to make fair rulings.

U. S. District Court of Delaware (“USDC”), dismissed Case # 1:22-cv-01026 on 12/06/2022, [App. 1]. Reconsideration, was denied 1/09/23 [App. 2] Notice of Appeal timely filed and docketed, # on 1/12/23 [App.3]. Order by 3rd Circuit Court of Appeals. No. 23-1063, [App. 4], issued 5/22/23. Motion for Rehearing En Banc [App. 5], timely filed 6/26/23. Rehearing denied, [App. 6], on 7/14/2023. This Petition is sent USPS, within 90 days of 3rd Cir. Rehearing Denial.

Trial Court properly had jurisdiction under federal question jurisdiction. The 3rd Circuit Appellate Court had jurisdiction. Notice of Appeal and Appellant’s Brief was timely filed. Petition for Cert. filed within 90 days of rehearing denial.

Jurisdiction is properly invoked under 28 U.S.C. §1254(1).

STATEMENT OF FACTS

In the Trial Court

Petitioner filed a civil action into US District Court for Delaware (USDC), Case No. 1:22-cv-01026, on 8/02/2022 for Civil Rights violations, 950 Constitutional – State Statute - Federal Question. Mtn to proceed in forma pauperis filed 8/02/22 Order

Granting IFP [App.7]. Docket Report is at App.8. On 8/10/22 "Case Assigned to Vacant Judgeship". [App,8, p.5]. On 8/15/22, Motion Forma Pauperis granted. 9/07/22 case reassigned for 2nd time [App.8, p.5]. 10/19/22, Petitioner filed Mtn for leave to issue service of summons; 11/21/22, Mtn to Expedite service of summons & complaint. 12/06/22 Memorandum opinion signed, Order for Service Denied, complaint dismissed pursuant to 28 U.S.C. § 1915.[App.1] 12/30/22 Petitioner filed Mtn w/Brief for Reconsideration. 1/09/23, Court Denied Reconsideration, case closed [App.2].

Third Circuit Appeal

On 1/10/23 Petitioner filed Notice of Appeal into the US Court of Appeals for the Third Circuit court of appeals, Appeal No. 23-1063, docketed 1/12/23. Mtn Appeal in Forma Pauperis filed 1/26/2023, granted 1/27/23 [App.7].

The Appeals Court, 1/31/23, sent letter to Delaware Attorney General and New Castle District Attorney, requesting entry of appearance, advising appeal had been filed. Briefing notice issued on 1/31/23. Delaware Atty General advised 2/21/23, they again, would not be participating.

Petitioner filed motion for extension of time to brief on 3/10/23. Granted by the clerk on 3/17/23. Appellant Brief filed 3/24/23. The Appeal was calendared for 5/19/23. Appellant's Brief submitted to judges 5/19/23; On 5/22/23 Judgment entered.

6/02/23 Appellant filed Mtn for Extension to Petition for En Banc Rehearing. Clerk granted on 6/12/23. Mtn filed on 6/26/23. En Banc Rehearing Denied 7/14/2023.

REASONS FOR GRANTING THE PETITION

Rulings by the US District Court of Delaware ("USDC") conflict with other US

District Courts, as well as rulings by US Courts of Appeal. The 3rd Circuit Court of Appeals affirmed the USDC ruling, even though the ruling conflicts with other US Courts of Appeal, and this Court. Appendix gives argument, with case law and other authorities, which should be used for consideration.

Rulings in this case, will make it difficult for other courts to provide proper rulings in the future on the same issues. Courts may end up making very bad decisions based on the facts and rulings of this case.

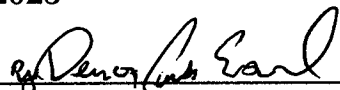
There has been a travesty of justice. Petitioner does not believe that this Court has ruled on the same issues in the past. Petitioner was arrested, while at work, for not having automobile insurance, when he was not driving a car, in a car, near a car. Petitioner was not provided a warrant, or any evidence; he was not read his rights.

Petitioner is a tax-paying, law abiding citizen, employed by the University for over 20 years. A spotless criminal history, arrested on false charges, while at work.

CONCLUSION AND PRAYER

Petitioner has shown that this Court has jurisdiction and why his Petition should be granted, allowing Petitioner to prepare a proper brief for this Court's consideration, on any of the issues that Petitioner has brought up in his Questions or Error. This Court should exercise its discretion to Grant this Petition.

Respectfully resubmitted this 12th day of December, 2023


Devon Austin Earl