

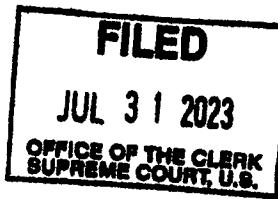
23-6698

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES
JULY 2023
No. 22-50579

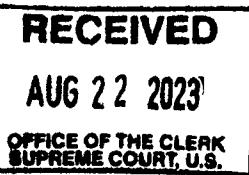
REGINALD HARRIS,
Petitioner,
-against-
OFFICER WATSON, et al.,
Respondents

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE 5TH CIRCUIT



Reginald Harris #2381326
2664 FM 2054
Tennessee Colony, Tx 75886
Micheal Unit

7/31/23



QUESTION PRESENTED

Whether I.F.P., on-duty Department of Transportation Employee unlawful unwarranted mental health committment civil claim, should be afforded appointment of counsel, to avoid failure to state a claim decision by Courts.

PARTIES

The Petitioner is Reginald Harris, a now prisoner Micheal Unit Correctional Facility in 2664 FM2054, Tennessee Colony, Tx 75886. The respondents are OFFICER WATSON a Hillsboro Police Department officer, OFFICER ROGERS a Hillsboro Police Department Officer Hill County Sheriff Department Deputy ,Vernon Busby.

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Table of Authorities

Cases:

Bell Atl. Corp. v. Twombly 550, U.S. 544, 556-57 127 S.C.T.
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Parratt v. Taylor, 451 U.S. 527 (1981)----- pg5

Pry v. Woodbury County Jail 2018 U.S. Dist. LEXIS 240994----- pg5

Zinermon v. Burch, 494 U.S. 113 (1996)----- pg5

DECISION BELOW:

The decision of the United States Court of Appeals for the Fifth Circuit is unreported. It is cited in Lexis Nexis 22-50579 and a copy could not be afforded. The order of the United States District Court for the Western District of Texas is not reported. A copy could not be afforded Harris v. Watson No. 6:21-CV-01216-ADA

JURISDICTION

The judgement of the United States Court of Appeals for the FIFTH Circuit was entered May 4, 2023. A Motion for Rehearing was inaccurately denied due to time bar rule. The mailbox rule was not utilized properly, accordingly to Rule 6, Fed.R.CivP.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

This case involves Amendment 14 to the United States Constitution, which provides;

Section 1. All persons born or naturalized in the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provision of this article.

The Amendment is enforced by Title 42, Section 1983, United States Code:

Every person who, under the 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 act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purpose of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

THE PETITIONER, AT TIME A DEPARTMENT OF TRANSPORTATION ON-DUTY DRIVER.Complaint alleged that he had been violated, with an unwarranted mental health commitment[apprehension,] At a TRUCKSTOP in Hill County , Texas. After, petitioner requested assistance, on Feb. 7, 2021, during Covid-19 pandemic. Petitioner through his initial petition and later fillings, named as defendants, Officer Watson;a police officer for the city of Hillsboro , Vernon Busby;Hill County Sheriff Department and Hillsboro Police Officer Rogers, officer Rogers was the only defendant actually ever served with the lawsuit. With assistance of counsel those other officers could have been served.Petitioner requested a total of three times for assistance of counsel. Two times,in district Court and once in the appellate court. All three request were denied without any commentation or explanation. Officer Rogers filed a motion to Dismiss on the basis that petitioner failed to state a claim, upon which relief can be granted. The District Court entered an Order granting, of Rogers Motion to Dismiss as well as dismissing Officer Watson and Deputy Busby for failure to state a claim. Along the same lines, the appeals Court affirmed District Court decision on the opinion that Petitioner's brief is grossly non-compliant with FEDERAL RULES OF APPELLATE PROCEDURE. Stating "Petitioner fails to set forth any record,cites specific facts, or relevant authorities, supporting his position and deemed petitioner arguments on appeal abandoned. "Which supports Petitioner contention that assistance of counsel was needed".

BASIS FOR FEDERAL JURISDICTION

This case raises a question of the Due Process and Equal Protection of the 14 Amendment to the United States Constitution. The district court under the general question jurisdiction conferred by 28 U.S.C. 1331.

REASON FOR GRANTING THE WRIT

A. Conviction with Decision of other Courts

The holding of the courts below state reasons for Appointment of counsel for 1983 suit after initial screening:

Branch V. Cole, 686 F.2d,264

Bright V. Hickman 96 F.Supp. 2d 572,Gomez V. Fed. Sav. Bank 171 F. 3d 794,795-95(2d Cir. 1999), Pry V. Woodbury County Jail, 2018 U.S. Dist. LEXIS 240994. In addition, the Supreme Court has held Bell Atl Corp. V. Twombly 550 U.S. 544,556-57 127 S. Ct. 1995, 167 L. Ed 2d 929 (2007) The court may find a plausible set of facts by considering (1) complaint alone (2) the complaint supplemented [REDACTED] by undisputed facts, plus the the courts resolution of disputed facts.

B. Importance of the Question Presented

This case presents a fundamental question of the interpretation of this court's decision in Zinermon V. Burch, 494 U.S. 113(1996) The question presented is of great public importance because it affects the operation of Interstate Commerce Due Process. This court held in Zinermon that (the constitutional violation actionable under 42USCS section 1983 is not complete when deprivation occurs, it is not complete unless and until the state fails to provide due process. Therefore to determine whether a constitutional violation has occurred, it is necessary to ask what process the state provided and whether it was constitutionally adequate. The United States Constitution usually requires some kind of [REDACTED] a hearing before the state deprives a person of liberty or property(Parratt V. Taylor,451 U.S. 527 (1981). Daniels V. Williams 474 U.S. 327 and Hudson V. Palmer 468 U.S. 517 (1984). Where this court held that a deprivation of a constitutionally protected property interest caused by a state employee random unauthorized conduct, does not give rise to a section 1983 procedural due process claim unless the state fails to provide an adequate postdeprivation remedy. The Court in those cases reasoned that in a situation where the State cannot predict and guard in advance a deprivation a postdeprivation tort remedy is all the process the State can be expected to provide and is constitutionally sufficient. It is clear through state and federal statute offfficers action of unwarranted committment without authority is clear.Petitioner only asked now to be assisted with counsel to solve simple solution to a complx situation.

CONCLUSION

For the foregoing reasons, certiorari should be granted in this case.

DATE 7/31/23

Respectfully submitted,

Reginald Harris #238132b Reginald Harris
Micheal Unit
2664 FM 2054 Tennessee Colony, Tx 75886

CERTIFICATE OF SERVICE

Reginald Harris declares under penalty of perjury pursuant to 28 U.S.C. section 1746 that he mailed a copy of the enclosed certiorari to defendant's counsel Roy L. Barret/Joe Rivera NAMAN, HOWELL, SMITH AND LEE, PLLC

P.O. Box 1470

Waco, Texas 76703-1470

by placing them in an envelope and placing the envelope in the mailbox for U.S. Mail at Micheal Unit, 2664 FM 2054 Tennessee Colony, Tx 75886.

NAME Reginald Harris Reginald Harris

DATE 7/31/23