

23-6816

No. _____

FILED
FEB 10 2024
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SUPREME COURT U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

WAYNE RESPER — PETITIONER
(Your Name)

VS.

YESCARE CORP., ET AL., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

WAYNE RESPER #274319
(Your Name)

WESTERN CORRECTIONAL INSTITUTION (WCI)
13800 MCMULLEN HWY., S.W.
(Address)

CUMBERLAND, MD 21502
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. FOLLOWING THE COURT'S GRANTING OF PLAINTIFF'S MOTION TO WITHDRAW UNDER CIVIL ACTION NO. GLR-21-2012, FILED NOVEMBER 17, 2021, SHOULD CIVIL ACTION NO. SAG-22-318 HAVE BEEN ENTERTAINED?
2. SINCE PRO SE PLAINTIFF DID NOT FILE A COMPLAINT IN FEDERAL COURT, SHOULD PRO SE PLAINTIFF BE LIABLE FOR APPELLATE COSTS RESULTING FROM DEFENDANTS' REMOVAL OF A STATE COMPLAINT TO FEDERAL COURT?
3. SHOULD PRO SE PLAINTIFF'S MOTION TO REMOVE COMPLAINT TO CIRCUIT COURT FOR ALLEGANY COUNTY (DOCKETED FEBRUARY 28, 2022) AND MOTION TO STRIKE (DOCKETED MARCH 3, 2022) HAVE BEEN RULED ON PRIOR TO COURT'S ORDER OF AUGUST 16, 2022?
4. SHOULD THE CIRCUIT COURT FOR ALLEGANY COUNTY, MARYLAND HAVE GIVEN PETITIONER THE OPPORTUNITY TO CHALLENGE THE REMOVAL OF PETITIONER'S COMPLAINT TO FEDERAL COURT?
5. SHOULD THE CIRCUIT COURT FOR ALLEGANY COUNTY, MARYLAND HAVE ANSWERED PETITIONER'S "FEDERAL QUESTIONS?"
6. SHOULD THE CIRCUIT COURT FOR ALLEGANY COUNTY, MARYLAND HAVE CONVERTED PETITIONER'S "FEDERAL QUESTIONS" TO STATE EQUIVALENTS?
7. SHOULD FEDERAL COURT HAVE REMOVED PLAINTIFF'S "MALPRACTICE AND NEGLIGENCE" CLAIMS TO STATE COURT WITH "FEDERAL CLAIMS?"

LIST OF PARTIES

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

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

^① CORIZON HEALTH, INC., ^② HOLLY HOOVER, NP, ^③ SUSAN PRYOR, ^④ JANICE ROBINSON, R.N., ^⑤ BRITTANY HAMLETT, ^⑥ AMY BERKEBILE, RN, ^⑦ WILLIAM "BO" RAYNOR, RN, ^⑧ WILLIAM "BILL" BEEMAN, RN

RELATED CASES

1. MARYLAND DECLARATION OF RIGHTS
2. MARYLAND TORT CLAIMS ACT
3. MARYLAND MALPRACTICE ACT
4. HEALTH INSURANCE AND PORTABILITY ACCOUNTABILITY ACT (HIPAA)
5. VENKATRAMAN V. REI SYS., INC., 417 F.3D 418, 420 (4TH CIR. 2005).
6. IBARRA V. UNITED STATES, 120 F.3D 472, 473 (4TH CIR. 1997).
7. MIGDAL V. ROWE PRICE-FLEMING INT'L INC., 248 F.3D 321, 325-26 (4TH CIR. 2001).
8. OWENS V. BALTIMORE STATE'S ATT'Y OFFICE, 767 F.3D 319, 402 (4TH CIR. 2014).
9. PAYNE V. TASLIMI, 998 F.3D 648, 660 (4TH CIR. 2021).
10. DOE V. UNIV. OF MD MED. SYS. CORP., 50 F.3D 1261, 1264-65 (4TH CIR. 1995).

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IN THE
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

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☒ reported at 1:22-cv-00378-SAG; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

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

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: SEPTEMBER 18, 2023, and a copy of the order denying rehearing appears at Appendix C.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including FEBRUARY 15, 2024 (date) on DECEMBER 21, 2023 (date) in Application No. 23 A 574.

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. THE FOURTEENTH AMENDMENT OF THE U.S. CONSTITUTION
2. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (ADA)
3. THE HEALTH INSURANCE PORTABILITY ACCOUNTABILITY ACT (HIPPA)
4. 28 U.S.C. § 1441
5. 28 U.S.C. § 1331
6. 28 U.S.C. § 1441(A)
7. 28 U.S.C. § 1446(B)(1)
8. FED. R. CIV. PROC. 12(F)

STATEMENT OF THE CASE

1. PETITIONER FILED A COMPLAINT AGAINST THE MEDICAL DEPARTMENT AT WESTERN CORRECTIONAL INSTITUTION (WCI) IN THE CIRCUIT COURT FOR ALLEGANY COUNTY, MARYLAND PURSUANT TO THE CONSTITUTION OF MARYLAND DECLARATION OF RIGHTS, THE MARYLAND TORT CLAIMS ACT (MTCA), MARYLAND MALPRACTICE ACT (MMA), THAT INCLUDED CLAIMS OF MISCONDUCT RELATED TO THE AMERICANS WITH DISABILITIES ACT (ADA) AND THE HEALTH INSURANCE PORTABILITY ACCOUNTABILITY ACT (HIPAA).

2. UNDER THE PREMISE THAT PETITIONER'S COMPLAINT CONTAINED "FEDERAL QUESTIONS," OVER WHICH DEFENDANTS CLAIMED FEDERAL COURT HAD JURISDICTION, THE DEFENDANTS FILED A "NOTICE OF REMOVAL" IN FEDERAL COURT ON AUGUST 9, 2021, DELAYING NOTIFICATION TO PETITIONER UNTIL MARCH 4, 2022 FOR THE PURPOSE OF PREVENTING A CHALLENGE TO SAID REMOVAL BY PETITIONER. (PLEASE SEE EXHIBIT 1).

3. ON NOVEMBER 6, 2021, PETITIONER FILED A MOTION TO WITHDRAW SAID COMPLAINT DUE TO UNATTAINABLE STANDARD. (PLEASE SEE EXHIBIT 2).

4. BY ORDER DATED NOVEMBER 17, 2021, THE COURT GRANTED PETITIONER'S MOTION TO WITHDRAW. (PLEASE SEE EXHIBIT 3).

5. ON FEBRUARY 22, 2022, PETITIONER RECEIVED NOTICE FROM THE COURT OF A PENDING MOTION FOR SUMMARY JUDGMENT / MOTION TO DISMISS. (PLEASE SEE EXHIBIT 4, PAGE 3, DOCKET ENTRY 11).

6. ON FEBRUARY 23, 2022, PETITIONER FILED A MOTION TO REMOVE COMPLAINT TO CIRCUIT COURT FOR ALLEGANY COUNTY, MARYLAND. (PLEASE SEE EXHIBIT 5).

7. ON FEBRUARY 26, 2022, PETITIONER FILED A MOTION TO STRIKE THE "REMOVED COMPLAINT," UNKNOWN THEN TO PETITIONER. (PLEASE SEE EXHIBIT 6).

8. ON AUGUST 23, 2022, PETITIONER RECEIVED THE MEMORANDUM OPINION FROM DISTRICT COURT. (PLEASE SEE APPENDIX B).

9. ON AUGUST 24, 2022, PETITIONER FILED A NOTICE OF APPEAL WITH THE DISTRICT COURT. (PLEASE SEE EXHIBIT 4, PAGE 4, DOCKET ENTRY 21).

10. ON APRIL 24, 2023, THE U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT AFFIRMED THE DISTRICT COURT'S OPINION. (PLEASE SEE EXHIBIT 4, PAGE 4, DOCKET ENTRY 23).

11. ON MAY 5, 2023, PETITIONER FILED A PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC. (PLEASE SEE EXHIBIT 7).

12. ON SEPTEMBER 26, 2023, THE U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT RE-IMPOSED ITS APRIL 24, 2023 JUDGMENT AND MANDATE. THE INSTANT APPEAL FOLLOWED.

REASONS FOR GRANTING THE PETITION

1. PURSUANT TO SUPREME COURT RULE 10(C) WHERE "A STATE COURT... HAS DECIDED...", DEMONSTRATES THAT STATE COURTS ARE CLOTHED WITH AUTHORITY TO DECIDE IMPORTANT QUESTIONS OF FEDERAL LAW, SUBSTANTIATING THE ASSERTION OF THE CENTER FOR CONSTITUTIONAL RIGHTS THAT §1983 COMPLAINTS CAN BE FILED IN STATE COURT. (PLEASE SEE EXHIBIT 8).
2. ON DECEMBER 19, 2023, CNN REPORTED THE DENIAL OF DONALD TRUMP'S STATE MATTER TO FEDERAL COURT BY GEORGIA, AGAIN DEMONSTRATING A STATE COURT'S AUTHORITY TO DECIDE IMPORTANT QUESTIONS OF FEDERAL LAW.
3. ON DECEMBER 20, 2023, DURING THE COURSE OF ITS 6:30 A.M. SEGMENT, ABC NEWS REPORTED THAT THE COLORADO SUPREME COURT RULED DONALD TRUMP INELIGIBLE TO APPEAR ON THE STATE'S PRESIDENTIAL ELECTION BALLOT BASED ON THE INSURRECTION CLAUSE OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION, AGAIN DEMONSTRATING THAT STATE COURTS ARE PERMITTED TO DECIDE FEDERAL QUESTIONS.
4. THE AFOREMENTIONED TRIFID ESTABLISHES A PRO SE PLAINTIFF'S PROPER AND LEGAL PRESENTATION OF A COMPLAINT WITH FEDERAL OVERTONES TO STATE COURT. THE DEFENDANTS' DISRUPTIVE REMOVAL OF PETITIONER'S COMPLAINT TO FEDERAL COURT WAS NOT MERELY ABOUT A "FEDERAL QUESTION" BUT WAS MOST SIGNIFICANTLY ABOUT REMOVAL TO THE VENUE THAT HAS OFFERED THE GREATEST POTENTIAL FOR SUCCESS AGAINST PRO SE LITIGANTS VIRTUALLY UNARMED WITHOUT LAWYERS IN AN ENVIRONMENT MADE RUTHLESSLY HOSTILE TO PRISONERS BY THE 1996 PRISONER LITIGATION REFORM ACT (ALRA).
5. THE DEFENDANTS' "NOTICE OF REMOVAL" RECEIVED MARCH 4, 2022

REFERRED TO ALLEGANY COUNTY, MARYLAND CASE NO.: C-01-CY-21-000144, WHICH WAS DISPOSED OF PURSUANT TO PETITIONER'S "MOTION TO WITHDRAW" AND JUDGE RUSSELL'S SUBSEQUENT DISMISSAL ORDER DATED NOVEMBER 17, 2021, NULLIFYING THE DEFENDANTS' AUGUST 9, 2021 "NOTICE OF REMOVAL FILING. (PLEASE SEE EXHIBITS 1, 2 AND 3).

6. ORIGINALLY BELIEVED TO BE A SINGLE MATTER, PETITIONER LEARNED THAT A SECOND COMPLAINT HAD BEEN REMOVED THROUGH A TACTIC OF NO NOTIFICATION UPON RECEIPT OF THE DISTRICT COURT'S CIVIL DOCKET DATED JULY 6, 2023. PETITIONER WAS NEVER PROVIDED A COPY OF THE REMOVAL NOTICE FOR THE PURPOSE OF PREVENTING ANY TIMELY, REASONABLE CHALLENGE TO THE CLANDESTINE REMOVAL.

7. PURPOSELY DIRECTING THE SECOND REMOVAL TO A DIFFERENT JUDGE, THE DEFENDANTS AVOIDED THE JUDGE WHO DISMISSED THE FIRST REMOVAL, SO AS TO AVOID A REPEATED DISMISSAL BY A JUDGE THE DEFENDANTS MOST LIKELY CONCEALED THE FACTS OF THE FIRST DISMISSAL. (PLEASE SEE EXHIBIT 4).

8. SINCE NOTIFICATION AND FULL DISCLOSURE WOULD HAVE ALTERED THE COURSE OF PROCEEDINGS IN THE SECOND REMOVAL, LIKELY RESULTING IN ANOTHER DISMISSAL, THE WITHHELD AND PREVIOUSLY UNKNOWN EVIDENCE IS AKIN TO A BRADY VIOLATION IN CRIMINAL PROCEEDINGS THAT SHOULD BENEFIT PETITIONER, AS THE HARM NOT ONLY CONTINUED TO DEPRIVE PETITIONER OF MEDICAL CARE BUT INTERRUPTED LEGITIMATE EFFORTS TO SEEK REDRESS FOR MISCONDUCT WHILE IMPOSING COSTS DURING THE COURSE OF ATTEMPTING TO RIGHT A DELIBERATE, DECEPTIVE WRONG BY THE DEFENDANTS THAT CREATED AN EGREGIOUS IMBALANCE OF THE SCALES OF JUSTICE.

9. INASMUCH AS THE DISTRICT JUDGE ACKNOWLEDGED THAT PETITIONER DID NOT RECEIVE A COPY OF THE REMOVAL NOTICE BUT PROCEEDED AS IF NO HARM WAS DONE, DESPITE THE OBVIOUS CERTIFICATE OF SERVICE VIOLATION.

THROUGH IT WAS OBVIOUS PETITIONER'S COMPLAINT WAS NOT WRITTEN FOR FEDERAL COURT, PETITIONER'S ADA AND HIPAA CLAIMS WERE DISMISSED, LEAVING PETITIONER WITHOUT ANY MEASURE OF REDRESS FOR SIGNIFICANT AND DELIBERATE DELAYS IN THE PROVISION OF ADA COMPATIBLE HOUSING, DESPITE THE OBVIOUS NEED, INDEPENDENT OF MEDICAL CARE. RELATED TO ACCURACY AS MUCH AS PRIVACY, THE DISMISSAL OF PETITIONER'S HIPAA CLAIMS LEAVES PETITIONER CRUELLY VULNERABLE TO THE TORTUROUS EFFECTS OF INACCURATE MEDICAL RECORDS BY SADISTIC MEDICAL PERSONNEL. DESPITE THE CONTINUING CONTROVERSY, PETITIONER'S MOTION TO REMOVE THE COMPLAINT TO STATE COURT WAS RULED "MOT.".

10. NOT MERELY AFFECTING PETITIONER BUT THREATENING THE LITIGATION EFFORTS OF ALL PRO SE LITIGANTS WHO RELY SO HEAVILY ON THE POWER OF FEDERAL LAW IN STATE PLEADINGS, PETITIONER IMPLORES THE SUPREME COURT OF THE UNITED STATES TO REINFORCE PROTECTION OF THE RIGHTS OF INCARCERATED PERSONS AND PRO SE LITIGANTS SEEKING HUMANE TREATMENT IN VILE PENAL INSTITUTIONS THAT REFUSE TO RECOGNIZE THE RETENTION OF ANY RIGHTS UPON IMPRISONMENT.

11. PURSUANT TO THE DISTRICT COURT'S RULING IN CIVIL ACTION NO.: 8:17-CV-02014-PJM, PETITIONER'S MEDICAL ISSUES ARE "SERIOUS" BUT DO NOT RISE TO THE COURT'S "DELIBERATE INDIFFERENCE STANDARD. THIS RULING, UNFORTUNATELY, PUT PETITIONER ON NOTICE THAT THE FEDERAL COURT STANDARD IS UNATTAINABLE FOR MOST PRISONERS, INCLUDING PETITIONER. HEREIN IS THE BASIS FOR DEFENDANTS' FEDERAL COURT PREFERENCE.

12. ESSENTIALLY, WITHOUT THE EXERCISE OF THE SUPREME COURT'S SUPERVISORY AUTHORITY OVER WHAT IS A NEW GAUNTLET IN THE FIGHT FOR BASIC HUMAN RIGHTS, PRO SE LITIGANTS AND PRISONERS IN GENERAL WILL BE DENIED DUE PROCESS AND GROW HESITANT TO CHALLENGE MISFEASANCE

FOR FEAR OF THE BURDEN OF APPELLATE COSTS FLOWING FROM THE CHANCERY OF DEFENDANTS.

WHEREFORE, FOR THE REASONS STATED HEREIN, PETITIONER PRAYS THE U.S. SUPREME COURT WILL ESTABLISH A PRECEDENT FOR THIS VERY IMPORTANT ISSUE, GRANTING PETITIONER'S WRIT OF CERTIORARI.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Walter J. Jones

Date: JANUARY 31, 2024