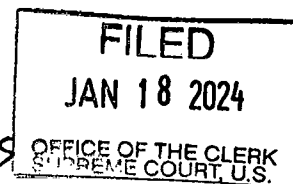


23-7030

No.

ORIGINAL

In the
Supreme Court of the United States



Logan Dyjak,

Petitioner,

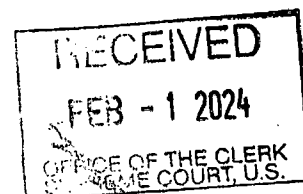
vs.

Joseph Harper, et al.,
Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit

Petition for Writ of Certiorari

Logan Dyjak
901 Southwind Road
Springfield, IL 62703
217.786.6810



Questions Presented

1. Should this Court order consistent with *Scott v. Blante*, 458 U.S. 1101, to vacate legitimate governmental interests analysis of conditions of hospitalization, and remand for consideration under the professional judgment analysis of *Youngberg v. Romeo*, 457 U.S. 307, instead?

2. May Fourteenth Amendment legitimate governmental interests analysis incorporate the objective standard of the Cruel and Unusual Punishment Clause in a 42 U.S.C. §1983 action brought against state officials?

List of Parties to the Proceeding Pursuant to Rules 14.1(b) and 29.6

Pursuant to Supreme Court Rule 14.1(b), Petitioner Logan Dyjak certifies that the following list names all parties to the proceeding in the court whose judgment is sought to be reviewed:

1. Logan Dyjak, Plaintiff
2. Joseph Harper, Defendant
3. Gregg Scott, Defendant
4. Bree Barnett, Defendant
5. Shirley Forcum, Defendant
6. Laurie Irose, Defendant

Pursuant to Supreme Court Rule 29.6, Petitioner Logan Dyjak certifies that this petition for Writ of Certiorari is not filed by or on behalf of a nongovernmental corporation.

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Orders Entered in the Case

The following orders in this case, directly relating to the questions presented, are included in the appendix.

Dujak v. Harper, 2023 WL 5928160
(CA7 Oct. 23, 2023)

(Affirming Summary Judgment)

A4

Dujak v. Harper, 2022 WL 594861
(S.D. Ill. Feb. 28, 2022)

(Granting Summary Judgment)

A11

Statement of Jurisdiction

Petitioner seeks review of an order of the Court of Appeals for the Seventh Circuit issued September 12, 2023. A4-10. That order, issued on appeal, affirmed the District Court's grant of summary judgment. A5.

This Court has jurisdiction under 28 U.S.C. § 1254(1) and Supreme Court Rule 13.3 to review the Court of Appeals's decision by writ of certiorari as rehearing was denied on October 23, 2023 (A2), and this petition is being filed by mail on January 18, 2024 (Declaration *infra* at p.15). The Court of Appeals had jurisdiction to affirm the order of the District Court under 28 U.S.C. § 1291. The District Court has jurisdiction over this case under 28 U.S.C. § 1332.

Constitutional Provisions and Statutes Involved

United States Constitution - Eighth Amendment

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

United States Constitution - Fourteenth Amendment §1

"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."

42 U.S.C. § 1983

"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"

Statement of the Case

A hospital patient; neither prisoner, convict, nor pretrial detainee; brought this action to challenge the conditions of their hospitalization.

A5. The District Judge ordered that the applicable standard of analysis in this action is that of *Youngberg v. Romeo*, 457 U.S. 307 (1982),

"entit[ing] [Plaintiff] to more considerate treatment and conditions of confinement[.]" Doc. 45, p. 2, n. 2 (internal quotes omitted).

Defendants motioned for summary judgment under the Eighth Amendment's Cruel and Unusual Punishment Clause. Doc. 132, pp. 16-17. In opposition, Plaintiff argued for analysis under *Youngberg*. Doc. 138, p. 19.

A magistrate judge granted summary judgment under a hybridization of a legitimate governmental interests standard and the "objectively serious" component of the Eighth Amendment's Cruel and Unusual Punishment Clause. A 32-33, 45.

Plaintiff appealed, arguing for application of Youngberg's professional judgment standard, and against use of the objective component of the Cruel and Unusual Punishment Clause. A 7-8.

The Seventh Circuit affirmed, declining to apply Youngberg to the conditions of non-prisoner, non-convict, non-pretrial detainee Plaintiff's hospitalization; and without addressing argument made against application of the objective component of the Cruel and Unusual Punishment Clause. A 8-10. Petitioner now seeks review of the Seventh Circuit's Final Judgment affirming summary judgment. A 3.

Summary of the Argument

Circuits have been applying legitimate governmental interests and cruel and unusual standards to hospital patients who are neither pretrial detainees nor prisoners, in violation of this Court's Constitutional standard. As a result, certain states have devolved into arbitrarily and unnecessarily imprisoning hospital patients in inconsiderate, harsh, punitive, and harmful conditions that are unreasonably related to the purpose of their hospitalization -- in violation of the Fourteenth Amendment.

Reason for Granting the Writ

It is critical that this petition be granted to stop the circuit courts from allowing the unconstitutional imprisonment of hospital patients neither charged with, nor ever convicted of, any crime.

It is unconstitutional to justify the imprisonment of individuals merely based upon their status as hospital patients. "Even one day in prison [] for the 'crime' of having" "an illness which may be contracted innocently or involuntarily" is "in violation of the Fourteenth Amendment." *Robinson v. California*, 370 U.S. 660, 667 (1962).

In any instance in which a hospital patient actually does require imprisonment rather than hospitalization, there must be some process specific to that effect. "[C]lassification of patients [] to one of these institutions may not be wholly arbitrary." *Baxstrom v. Herold*, 383 U.S. 107, 113-14 (1966).

The Constitution further limits utilization of hospitalization as a substitute for criminal incarceration. The States' interests regarding criminal acts must instead be "vindicated by the ordinary criminal processes" and any risk of "substituting" these processes with hospitalization must be "carefully limited[.]" *Foucha v. Louisiana*, 504 U.S. 71, 82-83 (1992).

Hospitalization is Constitutionally distinguished from these criminal processes by its balance of patients' liberty with the demands of organized society. "The State [] may not restrain [hospital] residents except when and to the extent professional judgment deems this necessary to assure [] safety[]" *Youngberg v. Romeo*, 457 U.S. 307, 324 (1982) (emphasis added).

When a court below instead applied to hospitalization a legitimate governmental interests standard applicable to criminal processes, this Court vacated that disposition of the lower court and remanded for consideration under the professional judgment standard this Court articulated in *Youngberg*. [The Supreme Court, 458 U.S. 110], [] without opinion, granted certiorari, vacated our judgment, and remanded

to this court for further consideration in light of Youngberg[" Scott v. Plante, 691 F.2d 634, 636 (3d Cir. 1982).

Although at one time observed, circuits have since fallen out of compliance with this Court's professional judgment standard, instead applying Eighth Amendment and legitimate governmental interests standards. "[C]ourts of appeals are split on which test applies[" Harris v. Bowser, 60 F.4th 699, 702 (CA DC 2023).

In the instant case, the Seventh Circuit has declined to apply this Court's standard. "Dujak's reliance on the professional judgment standard of Youngberg is inapt." Dujak v. Harper, 2023 WL 5928160 at *4 (7th Cir. Oct. 23, 2023) (A 8).

The Seventh Circuit instead applied a legitimate governmental interests standard hybridized with the "objectively serious" component of the Eighth Amendment's Cruel and Unusual Punishment Clause. *Dujak* had not presented sufficient evidence that these conditions were objectively serious threats[.] *Id.* at *3 (A 8).

This objectively serious component of the Eighth Amendment allows punishment which is not cruel and unusual. "To the extent that such conditions are restrictive and even harsh, they are part of the penalty that criminal offenders pay for their offenses against society." *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981).

This is the exact component the Seventh Circuit has applied in this action. The "holding in Rhodes turned on the objective component of an Eighth Amendment prison claim (Was the deprivation sufficiently serious?)" [.] Wilson v. Seiter, 501 U.S. 294, 298 (1991).

Under this standard the states have been free to arbitrarily subject hospital patients to harsh, harmful, and punitive supermax imprisonment. This Court must intervene to stop the states from unconstitutionally imprisoning non-criminal, non-pretrial detainee hospital patients, who "may not be punished" at all, in harsh, harmful, and countertherapeutic prisons. Foucha, 504 U.S. at 80.

Conclusion

The standards of certain circuits violate the Fourteenth Amendment by allowing states to arbitrarily imprison hospital patients who have never been convicted of, nor are charged with, any crime. For this reason, this Court should grant a writ of certiorari to the Court of Appeals for the Seventh Circuit.

Graciously Submitted,

1/18/2024



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