ORIGINAL

23-7189

No. _____

In the Supreme Court of the United States

IN RE A.R.P.,
Petitioner

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF FLORIDA
AND DISTRICT OF COLUMBIA COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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Petitioner

QUESTIONS PRESENTED

The questions presented are:

1. Did Florida's Supreme Court err in denying the application for a writ of habeas corpus and/or mandamus without first dealing with the constitutional issues or due process, representation, and protection of fair and equal access to the courts?

2. Whether Florida courts violate the Constitution when it fails to strictly adhere to its statutory procedures under the Baker Act as outlined in the Supreme Court ruling under *O'Conner v. Donaldson*, 422 U.S. 563 (1975) and refuses to adjudicate the matter properly before it.

3. Whether an appeal challenging a civil commitment order under section 394.467, Florida Statutes ("the Baker Act"), is mooted solely because the person was released after eight (8) days of illegal confinement, without due process, when the petitioner faces collateral legal consequences of the Baker Act.

4. Whether the District of Columbia Court of Appeals violated the Petitioner's rights under the Due Process by denying the Petitioner access to her character and fitness report, notice, or a hearing when the report was used in the Committee's determination as to whether the Petitioner was qualified for admission to the D.C. Bar.

5. Whether D.C. Court of Appeals violated the Petitioner's rights under the Due Process Clause by failing to adhere to Rule 46 and Rule 49 of the D.C. R. App. Ct. regarding notice and a hearing to successful and unsuccessful applicants as well as this Court's precedent in *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957); *Konigsberg v. State Bar of California*, 353 U.S. 252 (1957); and *Willner v. Committee on Character and Fitness*, 373 U.S. 96, 102 (1963).

LIST OF PARTIES

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. A.R.P. is the Petitioner.
2. District of Columbia is an Interested Party..
3. The District of Columbia Court of Appeals, Committee on Admissions is an Interested Party.
4. The State of Florida is an Interested Party.
5. Department of Children and Families Secretary Shevaun Harris is an Interested Party.
6. Hillsborough County Public Defender, Julianne Holt, is an Interested Party.
7. Hillsborough County Circuit Court Caroline Teche-Arkin is an Interested Party.
8. Pinellas County Circuit Judge Pamela Campbell is an Interested Party.

RELATED CASES

CIVIL COMMITTMENT

1. Priscilla Parker (Petitioner) v. Anesha Renee Parker (Subject), Case No. 23-MH-006007 (September 1, 2023).
2. Gracepoint, LLC v. Anesha Parker, Case No. 23-MH-006195 (September 12, 2023).
3. A.R.P, Appellant/Petitioner, v. State of Florida, Case No.: 2D23- 2075 (Fla. 2023).
4. A.R.P. v. In Re: Involuntary Placement, Case No.: 2D2023-2295 (Fla. 2023).
5. A.R.P. v. In Re: Involuntary Placement, Case No.: SC2023-1571 Fla. 2023).

D.C. COMMITTEE ON ADMISSIONS AND D.C. COURT OF APPEALS

6. Memorandum, RE: Copy of Admission Application from Committee on Admissions., (August 28, 2023).
7. Jason Lavey, Email Correspondence, (November 27, 2023).
8. Memorandum, In Re Petition to View Character and Fitness Report, (January 23, 2024).

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Petitioner,

v.

STATE OF FLORIDA, et al.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE FLORIDA SUPREME COURT
and
DISTRICT OF COLUMBIA COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that this Court issue a writ of certiorari to review the judgments below.

OPINIONS BELOW

The opinions of the District of Columbia Court of Appeals and Florida Supreme Court are reproduced below.

JURISDICTION

This Honorable Court has jurisdiction under 28 U.S.C. §1257, a title, right, privilege, or immunity having been specially set up or claimed under the Constitution. This Court's jurisdiction is also invoked under 28 U.S.C. §1651(a), §2241, to issue extraordinary writs under the authority of the U.S. Constitution, the All Writs Act. Rule 20.4(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I. The provisions of the United States Constitution involved are:

The First Amendment:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The Fifth Amendment:

"No person shall ... be deprived of life, liberty, or property, without due process of law; ..."

The Fourteenth Amendment:

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.

II. The Florida Statute involved is:

Florida Statutes Section 394.467 ("Baker Act")

(1) Criteria.--A person may be ordered for involuntary inpatient placement for treatment upon a finding of the court by clear and convincing evidence that: (a) He or she has a mental illness and because of his or her mental illness: He or she has refused voluntary inpatient placement for treatment after sufficient and conscientious explanation and disclosure of the purpose of inpatient placement for treatment; or He or she is unable to determine for himself or herself whether inpatient placement is necessary; and 2. a. He or she is incapable of surviving alone or with the help of willing and responsible family or friends, including available alternative services, and, without treatment,

is likely to suffer from neglect or refuse to care for himself or herself, and such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; or

There is substantial likelihood that in the near future he or she will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and (b) All available less restrictive treatment alternatives that would offer an opportunity for improvement of his or her condition have been judged to be inappropriate.

III. The D.C. Court of Appeals, Committee on Admissions Rules involved are:

D.C. App. Ct. Rule 46 - Admission to the Bar

(b) Admission to the Bar of this jurisdiction

(1) In General. Admission may be based on: (A)proof of good moral character and general fitness as it relates to the practice of law; and (B)one of the following:

(i) examination in this jurisdiction;

(ii) transfer of a Uniform Bar Examination score attained in another jurisdiction;

(iii) for persons who apply for admission to this Bar by March 31, 2022, based on a score obtained in a bar examination administered by July 2021, the applicant's qualifying score on the Multistate Bar Examination administered in another jurisdiction and membership in the bar of such other jurisdiction; or

(iv) membership in good standing in the bar of another jurisdiction for at least 3 years immediately prior to the application for admission.

(2) Review of Applications. The Director of Admissions (Director) must review each application for admission to determine the applicant's eligibility and to verify that the application is complete. The burden is on the applicant to demonstrate eligibility and to provide complete information. If eligibility is not demonstrated or the application is not complete, the Director may request additional or required information and may permit the applicant to provide the requested information within a reasonable time. If the applicant fails to provide the requested information, the Director may dismiss the application.

(3) Confidentiality. The contents of the application for admission are confidential, but the Committee may disclose the contents of the application or the applicant's failure to disclose required information that becomes known to the Committee:

(A) to the Office of Disciplinary Counsel for good cause;

(B) to the Committee on Unauthorized Practice of Law for good cause; or

(C) on order of the court.

STATEMENT OF THE CASE

This petition involves interrelated issues regarding the District of Columbia's use of false and/or illegally obtained medical evidence to civilly commit A.R.P. without due process or jurisdiction. The medical evidence was shared with the D.C. Committee on Admissions to challenge A.R.P.'s character and fitness for admission to the D.C. Bar, without notice or a hearing. Lastly, the District transferred the illegal commitment order, based on the false and/or illegally obtained medical evidence to the State of Florida, which was used by the Florida Department of Children and Families and its community partner to monitor and treat A.R.P. for non-existent behavioral health issues with psychotropic medications. A.R.P. petitions this court for a writ of habeas corpus and/or mandamus or any appropriate writ to obtain judicial review to challenge the illegal custody, collateral legal consequences of the illegal custody and subsequent involuntary hospitalization, as well as the denial of admission to the bar based on unwarranted inferences of bad moral character.

FACTUAL BACKGROUND

Petitioner, A.R.P. is a competent, Florida resident, with a Doctor of Jurisprudence who sat for the District of Columbia bar exam in February 2020 and July 2021. A.R.P. is also a former employee of the District of Columbia's juvenile justice agency, the Department of Youth Rehabilitation Services ("DYRS") who became a whistleblower after separating from DYRS in October 2021 that gave rise to a civil rights action filed in the U.S. District Court for the District of Columbia, which is currently pending with the United States District Court of Appeals for the District of Columbia.

A. Civil Rights Suit Against the District and United States Led to Illegal Civil Commitment

In response to A.R.P.'s whistleblower, civil rights action against the District, the District adjudicated A.R.P. as an incapacitated person, without her knowledge, jurisdiction, or due process in September 2021. Shortly thereafter A.R.P. relocated to Florida from Virginia, where she resided during her employment. A.R.P. learned that around March 2022, after A.R.P. refused to dismiss her viable lawsuit, the District entered into an interstate compact agreement with the Florida Department of Children and Families (DCF) to treat A.R.P. for false mental health conditions and forcibly administer anti-psychotic medications, including Haldol, to A.R.P. without her knowledge or informed consent, which caused her to sleep and led to her being sexually assaulted in her home by her neighbor(s).

The illegal commitment order is believed to have expired in June 2023. However, in August 2023, Temple Terrace Police Department confirmed that A.R.P. was a dependent of the state until the age of 36, which has also expired.

B. Illegal, Wrongful Involuntary Hospitalization under the Florida Baker Act and the Florida Court's Erroneous Orders

In September 2023, after A.R.P. requested information from DCF about the legality of any purported dependency and/or guardianship and sought a restraining order against her assailant, she was seized from her home, while cooking dinner, in Hillsborough County and transported to a mental health facility under the Baker Act and illegally detained against her will for eight (8) days. In violation of the statutory provisions, A.R.P. was not afforded the assistance of counsel, a hearing, or an independent medical exam. The petition was dismissed without notice or a hearing because the A.R.P. was scheduled to be released from the facility.

Upon her release from the facility, A.R.P. appealed the circuit court order in Florida's Second District Court of Appeal. On appeal, A.R.P. argued that the circuit court erred twice by granting the Baker Act petition because the State failed to present clear and convincing evidence that A.R.P. met the criteria in Florida Statute § 394.467, to justify involuntary hospitalization and the second petition requesting authorization for continued placement by the administrator failed to meet the statutory requirements. § 394.467(7)(b), Fla. Stat. A.R.P. also argued that the court erred when it dismissed the petition without strict adherence to the statutory procedures, which required a hearing within five (5) days of hospitalization under, the right to an independent medical exam and the assistance of counsel under § 394.467(4). This case has been pending on the docket for over five months.

A.R.P. sought a writ of habeas corpus and/or mandamus to challenge the collateral legal consequences of the involuntary hospitalization and to seek relief on issues that were capable of repetition. The Second DCA denied A.R.P.'s petition as moot and failed to address the issue regarding purported dependency.[1] *See A.R.P. v. In Re: Involuntary Placement*, Case No.: 2D2023-2295 (Fla. 2023). A.R.P. timely petitioned the Florida Supreme Court to review the order denying the petition for writ for habeas corpus and/or mandamus as moot. *See A.R.P. v. In Re: Involuntary Placement*, Case No.: SC2023-1571. On November 8, 2023, in an unelaborated opinion order, the Florida Supreme Court dismissed A.R.P.'s petition for habeas corpus.

[1] It is worth noting that A.R.P. also requested public records from the Department of Children and Families, District of Columbia agencies, Arlington, Virginia law enforcement, and federal law enforcement agencies to ascertain whom and why she was being held in legal custody by the State of Florida. To date, A.R.P. has received the run around on all records' requests.

C. Denial of A.R.P.'s Request for a Copy of her Character and Fitness Report and Petition for Review by D.C. Committee of Admissions and D.C. Court of Appeals

A.R.P. sought a copy of her character and fitness report after learning that the same false mental health information was provided to the District of Columbia Committee on Admissions (COA) to challenge her fitness for admission to the D.C. bar. A.R.P. was also informed that a character and fitness background check was completed, which is only completed for successful bar applicants, however, the Committee informed A.R.P. that she was unsuccessful on the February 2021 and July 2021 bar exams. *See. Email Correspondence to Shela Shanks* (August 29, 2023). [App. C]. In response to A.R.P.'s request, the COA responded on the 'Unauthorized Practice of Law' letterhead stating:

> The Committee on Admissions of the District of Columbia Court of Appeals no longer provides copies of the application for admission. Our records reflect that [A.R.P.] applied for the February 2021 and the July 2021 Bar Exam and did not pass. On December 14, 2023, the COA denied [A.R.P.'s] request.

See Memorandum, RE: Copy of Admission Application from Committee on Admissions., (August 28, 2023). The letter failed to give Petitioner fair notice of the charges or allegations regarding how A.R.P. engaged in Unauthorized Practice of Law. A.R.P. petitioned the District of Columbia Court of Appeals for review of the COA's decision but the Clerk's office and Attorney Jason LaVey refused to file her petition on the docket. *See. J. Lavey, Email Correspondence*, (November 27, 2023). Also, on January 23, 2024, the COA denied A.R.P.'s request to petition the D.C. Court of Appeals for review of the Committee's decision denying her a copy of her character and fitness report. *See Memorandum, In re Petition to View Character and Fitness Report*, (January 23, 2024).

REASONS FOR GRANTING THE PETITION
PART 1

I. Civil Commitment and Involuntary Hospitalization

A. *Petitioner Satisfies the Demanding Requirements For Issuance of An Extraordinary Writ under the All Writs Act*

The Court should grant this petition for habeas and/or mandamus relief because A.R.P. satisfies the requirements for issuance of a writ under the All Writs Act.

First, A.R.P. lacks other adequate means to attain the relief she desires which is to obtain judicial review of the involuntary hospitalization in compliance with the Florida Baker Statute. A.R.P. has exhausted the state court requirements with the Florida Supreme Court.

Second, A.R.P. has a clear and indisputable right to issuance of the writ. A clear and indisputable right exists, as an element for issuance of writ of mandamus, if the challenged action of the lower court constitutes a clear abuse of discretion. *In re Clinton*, 970 F.3d 357 (D.C. Cir.), on reh'g, 973 F.3d 106 (D.C. Cir. 2020). "An erroneous [lower] court ruling ... by itself does not justify mandamus. The error has to be clear." *In re Kellogg Brown & Root, Inc.*, 756 F.3d 754, 762 (D.C. Cir. 2014). A petitioner's right to relief is "clear and indisputable" where he or she can point to "cases in which a federal court has held that" relief is warranted "in a matter involving like issues and comparable circumstances." *Doe v. Exxon Mobil Corp.*, 473 F.3d 345, 355 (D.C. Cir. 2007) (internal quotation marks omitted). Accordingly, we will deny mandamus even if a petitioner's argument, though "pack[ing] substantial force," is not mandated by statutory authority or case law. *In re Khadr*, 823 F.3d 92, 99–100 (D.C. Cir. 2016).

Third, issuance of the writ is appropriate under the circumstances because there has been a "usurpation of judicial power" or "a clear abuse of discretion." Issuance of a writ is warranted because the appellant does not have an adequate means of review on appeal and will be unfairly prejudiced in a manner that cannot be rectified on appeal.

It is axiomatic that persons who are subject to involuntary civil commitment procedures must be afforded the Fourteenth Amendment Due Process Clause, the state must satisfy the elementary essentials of due process protections of notice and opportunity to defend. *Simon v. Craft,* 182 U.S. 427 (1901).[2] The Due Process Clause requires the state to prove its case for involuntary civil commitment by clear and convincing evidence. *Addington v. Texas,* 441 U.S. 418 (1979). Also, in cases as early as 1845, the Supreme Court recognized the right to challenge unwanted confinement in court, by writ of habeas corpus. *Matter of Josiah Oaks,* 8 Law Rep. 123 Mass. 1845.

Here, A.R.P. has a clear and indisputable right to issuance of a writ based on the Supreme Court's precedent in *Addington* addressing the Due Process Clause's requirements for persons facing involuntary confinement. *Addington, 441 U.S. at 431-432.* It is clear and indisputable that A.R.P. was deprived of her liberty without due process when she was involuntarily hospitalized for eight days without the state establishing the statutory requirements by clear and convincing evidence. *Id.* Also, A.R.P was deprived of due process when the court failed to hold a hearing. *Simon v. Craft,* 182 U.S. 427 (1901). Additionally, A.R.P. was entitled to habeas relief to challenge the collateral legal consequences of the involuntary hospitalization. *Id. Matter of Josiah Oaks.*

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[2] The *Simon* case does not discuss involuntary confinement specifically, but rather concerns the due process requirements of adequate notice and hearing in the context of "lunacy petitions," which could sometimes lead to involuntary civil commitment.

More importantly, for nearly 3 years, the state has illegally detained A.R.P. in its custody without due process or strict adherence to the constitutional and statutory requirements. *Braden v. 30th Jud. Cir. Ct. of Kentucky*, 410 U.S. 484, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973). (The Supreme Court defined "custody" for habeas purposes as being "subject to restraints not shared by the public generally.") see also *Rubio v. Davis*, 907 F.3d 860 (5th Cir. 2018) (civil commitment is custody for habeas purposes).

A.R.P. has been deprived of her constitutional right to travel, right to be free from illegal search and seizure, to access courts, to own firearms, and to receive adequate medical care for serious medical conditions as the law enforcement, court staff, and hospitals, and the public has been ill-informed that A.R.P. suffers from severe mental illness and has a substance abuse problem which requires 24-hour surveillance in public and private places. Also, A.R.P. has been unable to enter contracts and open new financial accounts. Also, her financial accounts are monitored, restricted, or flagged. Also, A.R.P.'s mobile and internet accounts are restricted as accounts for a child or government, even though A.R.P. explicitly established personal accounts. A writ is required to provide an adequate legal remedy so A.R.P. can enjoy the rights and privileges guaranteed by the U.S. Constitution and to enforce compliance with federal and state laws.

B. *The Decisions Below Cannot Be Reconciled with the Supreme Court's Precedent or Federal Law.*

The orders issued by Florida's courts depart from the Supreme Court holding addressing Florida's statutory procedures for involuntary hospitalization in *O'Conner v. Donaldson*, 422 U.S. 563 (1975) where the court held that absent a finding that an individual poses a danger to self or others and is capable of living without state supervision, the state has no right to commit the individual to a facility against his or her will. *Id.*

PART 2:

II. D.C. Court of Appeals and D.C. Committee on Admissions' Decision Regarding Character and Fitness Report

Whether Petitioner's substantive and procedural due process rights under the Fourteenth Amendment to the United States Constitution and principles of fundamental fairness were violated when the D.C. Court of Appeals and D.C. Committee on Admissions failed to adhere to Rule 46 and Rule 49 of the D.C. R. App. Ct. regarding notice and a hearing to successful and unsuccessful applicants due to character and fitness issues as well as this Court's precedent in *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957); *Konigsberg v. State Bar of California*, 353 U.S. 252 (1957); and *Willner v. Committee on Character and Fitness*, 373 U.S. 96, 102 (1963).

A. *Petitioner Satisfies the Demanding Requirements for Issuance of An Extraordinary Writ under the All Writs Act*

A.R.P. is entitled to the issuance of an appropriate writ to address the due process violations stemming from the D.C. Committee on Admissions' decision denying her request for access to her character and fitness report or a hearing before the D.C. Court of Appeals.

First, A.R.P. lacks other adequate means to attain the relief she desires, which is to obtain judicial review of a decision from the highest state court, the District of Columbia Court of Appeals, denying her a copy of her character and fitness report. A.R.P. has exhausted the state court requirements with the highest state court, the District of Columbia Court of Appeals since the clerk and attorney Lavey refused to file her petition for review of the Committee's adverse decision with the D.C. Court of Appeals.

Second, A.R.P. has a clear and indisputable right to issuance of the writ under the Supreme Court cases interpreting the Due Process protections that must be afforded to a person seeking admission to a bar before a state can exclude a person from practicing law.

In *Willner v. Committee on Character and Fitness*, 373 U.S. 96, 102 (1963) the Court held that the due process guarantees apply and that an applicant denied admission on character grounds must be given the reasons for the denial and an opportunity for a hearing before a neutral body.

Third, issuance of the writ is appropriate under the circumstances because the right to engage in an occupation is longstanding. The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." ... The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (internal quotation marks and citations omitted). That "substantive component ... bars certain arbitrary, wrongful government actions 'regardless of the fairness of the procedures used to implement them.'" *Zinermon v. Burch*, 494 U.S. 113, 125 (1990) (citation omitted). *Schware v. Board of Bar Examiners of State of New Mexico,* supra, at 761 ("Refusal to allow a person to qualify for a profession on a wholly arbitrary standard or on a consideration that offends the dictates of reason offends the Due Process Clause.") (Frankfurter, J., concurring).

Without review by this Court, there is no other adequate remedy, and the D.C. Court of Appeals' decision sets a precedence that has far-reaching consequences and is fundamentally unfair to bar applicants when the Committee refuses to adhere to its own due process rules. More importantly, the issuance of a writ is appropriate because there seems to be a lack of checks and balances when the D.C. Committee on Admissions, which consists of six (6) licensed attorneys, refuses to act

candidly while arbitrarily denying an applicant admission to the bar based on unfounded inferences of bad moral character.

Absent review by this Court, this issue is capable of repetition, yet evades judicial review as the Clerk and Attorney, who are employed by the D.C. Court of Appeals can simply block an applicant from seeking judicial review of the adverse decision, which not only violates Due Process Rights but also the A.R.P. and future applicant's right to access courts. The Committee's decision prevents A.R.P. from earning a living by practicing law. This deprivation has grave consequences for a woman who has spent years of study and a great deal of money in preparing to be a lawyer." *Konigsberg v. State Bar of California*, 353 U.S. 252 (1957).

The petition for certiorari should be granted.

Respectfully submitted,

Executed on: March 14, 2024

/s/ *Anesha Parker*
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