

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DARRELL E. WILLIAMS, Personal Representative
of the Estate of MONEENA WILLIAMS, Deceased,

Petitioner,

v.

PROMEDICA HEALTH SYSTEMS INC., trading
and doing business as PROMEDICA SKILLED
NURSING AND REHABILITATION (GREENTREE)
trading and doing business as MANORCARE
HEALTH SERVICES-GREENTREE

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether this Court should consider whether the Centers For Medicare & Medicaid Services (“CMS”) Rule, namely, 42 C.F.R. §483.70(n), is constitutional according to the Eighth Circuit or unconstitutional according to the Third Circuit Court of Appeals.

LIST OF PARTIES

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

RELATED PROCEEDING

- DARRELL E. WILLIAMS, Personal Representative of the Estate of MONEENA WILLIAMS, Deceased, v. PROMEDICA HEALTH SYSTEMS INC., trading and doing business as PROMEDICA SKILLED NURSING AND REHABILITATION (GREENTREE) trading and doing business as MANORCARE HEALTH SERVICES-GREENTREE, No. 24-1369 (3d Cir. 2024).

- DARRELL E. WILLIAMS, Personal Representative of the Estate of MONEENA WILLIAMS, Deceased, v. PROMEDICA HEALTH SYSTEMS INC., trading and doing business as PROMEDICA SKILLED NURSING AND REHABILITATION (GREENTREE) trading and doing business as MANORCARE HEALTH SERVICES-GREENTREE, W.D. Pa. No. 2-23-cv-01134

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Third Circuit appears at Appendix A at pages 1a-10a to the petition and is unpublished. The opinion of the United States District Court for the Western District of Pennsylvania appears at Appendix B at pages 11a-29a to the petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided my case was December 02, 2024. A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 11, 2025, and a copy of the order denying rehearing appears at Appendix C at pages 30a-31a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant provisions of the Centers For Medicare & Medicaid Services (“CMS”) Rule at 42 C.F.R. § 483.70(n)(2)(i) for pre-dispute arbitration agreements in long-term care (“LTC”) facilities provides:

§ 483.70 Administration.

* * * * *

(n) Binding arbitration agreements. If a facility chooses to ask a resident or his or her representative to enter into an agreement for binding arbitration, the facility must comply with all of the requirements in this section.

(2) The facility must ensure that:

(i) The agreement is explained to the resident **and** his or her representative in a form and manner that he or she understands, including in a language the resident and his or her representative understands;



STATEMENT OF THE CASE

Moneena Williams was re-admitted on August 9, 2019 to ManorCare-Greentree and stayed there until her death on May 11, 2020 at the age of eighty-six (86). Moneena Williams signed an Arbitration

Agreement on August 12, 2019, and the Petitioner, who was the “Patient’s Representative” at the time, was not a party to, and did not sign, the Arbitration Agreement, even though the Agreement and the CMS Rule require the Patient’s Representative to be a party to the Agreement. (See App. B at pages 21a-22a).

On September 3, 2021, Petitioner (Darrell E. Williams) the son and the administrator of the Estate of his deceased mother, Moneena Williams, filed a Complaint (No. GD 21-010663) in the Court of Common Pleas, Allegheny County, Pennsylvania. After an oral argument, an Arbitration Panel entered an Award on May 7, 2023. (See App. B at pages 21a-22a).

On June 21, 2023, the Petitioner timely filed the present Petition to Vacate the Arbitration Award in the Western District of Pennsylvania, and on February 8, 2024, the District Court issued an Order signed by District Judge Cathy Bissoon adopting the Report and Recommendation dated 1-10-2024, thus denying Williams’ Petition to Vacate Arbitration Award. (See App. B at pages 11a-29a). Williams appealed.

On June 28, 2024, the Third Circuit panel affirmed the decision of the District Court. (Appendix A at pages 1a-10a). Appellant Williams respectfully requested a Rehearing and Rehearing En Banc, which was denied in an Order dated March 11, 2025. (Appendix C at pages 30a-31a).

Therefore, Petitioner respectfully requests that this Court grant this Petition for the reasons discussed below.



REASONS FOR GRANTING THE WRIT

- I. **Whether this Court should consider whether the Centers For Medicare & Medicaid Services (“CMS”) Rule, namely, 42 C.F.R. §483.70(n), is constitutional according to the Eighth Circuit or unconstitutional according to the Third Circuit Court of Appeals.**

The Eighth Circuit has upheld the **constitutionality of the CMS Rule** concluding that it is reasonable for CMS to conclude that regulating the use of arbitration agreements in LTC facilities **furtheres the health, safety, and well-being of residents, particularly during the critical stage when a resident is first admitted to a facility.** Northport Health Servs. Of Ark., LLC v. U.S. Dept. of Health & Human Servs., 14 F.4th 856, 868 (8th Cir. 2021). Furthermore, after some research mostly in Pennsylvania, all of the arbitration agreements in LTC facilities have language that conforms to the language in the CMS Rule.

In contrast, the District Court held that “a long-term care facility’s failure to comply with the CMS

Rule does not render an arbitration agreement unenforceable or invalid.” (App. B at page 27a). Therefore, the District Court, in essence, concludes that the CMS Rule is unconstitutional and does not need to be followed nor enforced.

Also in contrast to the Eighth Circuit, the Third Circuit held that Williams does not identify or implicate any similarly substantial federal interest provided by the CMS Regulation and, therefore, Williams’ petition did not arise under federal law.

In support thereof, the Third Circuit cites Grable stating that: “The Court held that the state-law claim arose under federal law because the federal government had a “strong interest’ in being able to recover delinquent taxes through seizure and sale of property.” Gunn, 568 U.S. at 260 (quoting Grable, 545 U.S. at 309).” (App. A at page 9a).

Secondly, the Third Circuit cites Smith v. Kansas City Title & Trust Co, wherein a shareholder of a company challenged the validity of a federal bond on the ground that it was issued under a purportedly unconstitutional statute. 255 U.S. 180, 201 (1921). The federal government had a strong interest in ensuring that the validity of its bonds, and thus the stability of the federal bond market. (See App. A at pages 9a-10a).

In the above, the government purportedly has a substantial federal interest in cases that involve money. Here, the Third Circuit does not even

acknowledge that the CMS Rule has any government interest nor reason for it. Therefore, the Third Circuit, in essence, also concludes that the CMS Rule is unconstitutional and does not need to be followed nor enforced.

Both the District Court and the Third Circuit conclude, without openly and explicatedly stating, that our government does NOT have any interest in furthering **the health, safety, and well-being of residents, particularly during the critical stage when a resident is first admitted to a facility.** Northport Health Servs. Of Ark., LLC v. U.S. Dept. of Health & Human Servs., 14 F.4th 856, 868 (8th Cir. 2021). Therefore, this Court should rule on whether the CMS rule (e.g., 42 C.F.R. §483.70(n)) is **constitutional** and should be followed.

With 23% of COVID deaths in the United States occurring in LTC facilities (e.g., over 200,000), the elderly in LTC facilities are a vulnerable population and are considered the 'least of these' in our society. Even if this high Court should decide that pre-dispute arbitration agreements do not further the health, safety, and well-being of LTC residents, it is still better to be heard than ignored.

For the reasons discussed above, this Court should grant the Petition and hear this case



CONCLUSION

On behalf of the elderly, Petitioner Darrell E. Williams respectfully asks this Court to grant this Petition.

Dated: May 13, 2025

Respectfully submitted,

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