

No
24-5850 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
AUG 27 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Elizabeth Johnson on behalf of Aaron Johnson Jr.
and
Aaron Johnson Jr.
-PETITIONERS

vs.

Shannon Blackwell
-RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Maryland

PETITION FOR WRIT OF CERTIORARI

Elizabeth Johnson obo Aaron Johnson Jr.
2861 Chesterfield Avenue
Baltimore, Maryland 21213
443-339-4878

Aaron Johnson Jr. - SID 3547590
Maryland Correctional Training Center
18800 Roxbury Road
Hagerstown, Maryland 21746

QUESTIONS PRESENTED

1. IS THE INMATE GRIEVANCE PROCESS THE "EXCLUSIVE REMEDY" AVAILABLE TO PRETRIAL DETAINES AND CONVICTED PERSONS FOR PROTECTION FROM ABUSE?
2. CAN AN INDIVIDUAL FILE A PEACE OR PROTECTIVE ORDER ON BEHALF OF AN ADULT FOR WHOM THEY HAVE THE POWER-OF-ATTORNEY?
3. MUST PRE-TRIAL DETAINES EXHAUST INTERNAL GRIEVANCE PROCESSES BEFORE SEEKING PEACE AND PROTECTIVE ORDERS FROM THE COURT AGAINST ABUSE FROM CORRECTIONS OFFICERS AND / OR OTHER CORRECTIONS STAFF / PERSONNEL WHILE IN STATE CUSTODY?

LIST OF PARTIES

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

RELATED CASES

Elizabeth Johnson obo Aaron Johnson Jr. v. Tiara Thomas
Supreme Court of Maryland Case Number: SCM-PET-0047-2024

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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 state courts:

The opinion of the highest state court to review the merits appears at appendix A to the petition and is

- reported May 29, 2024; or,
- has been designated for publication but is not yet reported; or,
- is unpublished.

The opinion of the Supreme Court of Maryland appears at appendix A to the petition and is

- reported at Supreme Court of Maryland by Order of the Court; or,
- has been designated for publication but is not yet reported; or,
- is unpublished.

JURISDICTION

For cases from state courts:

The date on which the highest state court decided my case was May 29, 2024.

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. _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Title 18 U.S.C, Section 242.
- 1st Amendment to the United States Constitution.
- 5th Amendment to the United States Constitution.
- 8th Amendment to the United States Constitution.
- 14 Amendment to the United States Constitution.
- 28 U.S.C. § 2241.

STATEMENT OF THE CASE

This appeal originally arises from a District Court case appealed to the Circuit Court for a Petition for Peace order that was made by power-of-attorney in the District Court of Maryland on or about 11/8/2023 by Elizabeth Johnson, on-behalf-of her husband, Aaron Johnson Jr.

Aaron Johnson Jr. while an incarcerated person in pretrial detention in Baltimore City was reportedly assaulted by corrections officer, Shannon Blackwell.

The Circuit Court denied the appeal on grounds that the Petitioner could not file on behalf of Aaron Johnson Jr. unless he was under the age of 18.

Petitioner now seeks review of the Circuit Court's erroneous ruling through this Petition for Writ of Certiorari.

This case has not been decided on by the Appellate Court of Maryland, and it is not pending in the Appellate Court. Thus, no briefs were filed.

The judgment or decision of the Maryland Supreme Court resolved the entire case with respect to all of the parties.

The date of the Maryland Supreme Court's judgment or decision is May 29, 2024

This case has not been decided on by the Appellate Court of Maryland, and it is not pending in the Appellate Court. Thus, no briefs were filed.

On or about 11/1/2023, Aaron Johnson Jr. reported being assaulted by two corrections officers (Lt. Tiana Thomas and Sgt. Shannon Blackwell) in a single incident. The case involving Tiana Thomas is listed in case number SCM-PET-0047-2024. The physical and chemical assault violated his human and civil rights under Title 18, USC 242, his 5th, 14th and 8th Amendment of the United States Constitution.

Petitioner was granted a temporary peace order on or about 11/8/2023.

The sheriff's office told Petitioner that they were unable to serve the summons on the Respondent and that it was returned unserved to the court. Petitioner twice emailed the Baltimore City Sheriff for resolution.

On or about 11/15/2023, at the scheduled final peace order, the court postponed the hearing until 11/29/2023 to allow for the upcoming federal holiday.

On 11/29/2023, the clerk's office advised that they did not have service on the Respondents. However, Assistant Attorney General Pasko was present in court and told the Court that the Respondent had been served; which the Court accepted as service despite the lack of

recordation at the time of the hearing. The Court previously refused to rule on a motion requesting a body attachment because the clerk had not entered it into the system yet.

Assistant Attorney General Pasko stated that he was representing both Respondents (Tiara Thomas and Shannon Blackwell), and sought to get the case dismissed. Petitioner requested a postponement to allow for writ for habeas corpus to be sent to the detention center for the incarcerated witnesses and Aaron Johnson Jr. to appear and attend the hearing. The Court did not grant this request.

Previously, Petitioner was told that once service was made, the Court would issue writs for the incarcerated people to attend. At that time, Petitioner had spent hundreds of dollars to serve subpoenas which was a financial burden. However, neither Aaron Johnson Jr. nor the detainee witnesses were ever brought to court. Subpoenaed staff also did not appear and Mr. Pasko stood in for them. This violated Petitioner's right to due process of law, his first amendment rights, directives on Detainee Legal Matters DPDS.200.0001; Maryland Commission on Correctional Standards (MCCS) Manual for Adult Detention Centers; Inmate Rights Facility Directive CRDET.200.0003; and the Constitution of Maryland Declaration of Rights.

On 11/29/23, Assistant Attorney General Pasko told the Court that the Court was the "wrong jurisdiction", and that Aaron Johnson Jr. had to go through internal channels via the inmate grievance process to address his concerns. When asked of the timeframe, Assistant Attorney General Pasko could not explain about the timeline for processing of an inmate grievance complaint, however, he did later present a copy of the policy to the Court.

Petitioner argued that the detainees have unfettered access to the Court to seek redress, per several policies relating to detainee legal matters. Assistant Attorney General Pasko continued to press forward his claims that it was not the right / proper jurisdiction / forum, and that if the matter went forward there would be many other detainees seeking peace orders.

The Court assisted Assistant Attorney General Pasko with arguments, stating that only the Petitioner or the Employer could apply for a peace order under section 3-1503. The Court provided a copy of the section to both parties during the hearing. In essence, the Court stated that the statute did not permit the Petitioner to petition as power-of-attorney, despite the actual petition for peace order allowing so on the form.

The Petitioner stated to the court that Assistant Attorney General Pasko did not raise the argument about who can petition, only the argument on jurisdiction. The Court acknowledged that but then stated that it had to look into the matter under that section of the statute. However, that section of the statute does not discuss jurisdiction. The section that does is 3-1504.

The Court argued that the petition was defective, and it would not allow for Aaron Johnson Jr. to be brought to Court to sign the petition or to file a new one. It was explained that Aaron

Johnson Jr. was under heavy restriction and could not do it for himself and that he, therefore, granted Petitioner the power-of-attorney to act on his behalf, to file the petition.

It was presented to the court that the Petitioner was concerned that Aaron Johnson Jr. was at risk of being killed. It appeared to Petitioner that Assistant Attorney General Pasko laughed / scoffed upon hearing this, and this writer addressed it to the Court but it defended Assistant Attorney General Pasko, falsely stating that this writer had made two claims that the Assistant Attorney General was laughing when it was only in that single instance.

Petitioner informed the court that as a pretrial detainee, Aaron Johnson Jr. is protected under 14th Amendment of the U.S. Constitution for equal protection. Although there was still approximately 9 days left to have a final hearing within the 30-day statutory period. Nevertheless, the Court would not allow a postponement for the witnesses to be brought in by writs, or for Petitioner to obtain appropriate childcare.

Petitioner was committed to going forward with the hearing nonetheless, and it appears that there was some bias in the court's rulings to force a dismissal instead of having a fair trial which violated the following:

MD Rules Attorneys, Rule 19-300.1; MD Rules Attorneys, Rule 19-304.1; MARYLAND RULES OF PROCEDURE TITLE 18 – JUDGES AND JUDICIAL APPOINTEES Rule 18-102.2. IMPARTIALITY AND FAIRNESS (ABA RULE 2.2); Rule 18-102.3. BIAS, PREJUDICE, AND HARASSMENT (ABA RULE 2.3); Rule 18-102.4. EXTERNAL INFLUENCE ON JUDICIAL CONDUCT (ABA RULE 2.4); Rule 18-102.5. COMPETENCE, DILIGENCE, AND COOPERATION (ABA RULE 2.5); Rule 18-102.6. ENSURING THE RIGHT TO BE HEARD (ABA RULE 2.6).

The Court's stated reason for dismissal was as follows: "PETITIONER HAS NO BASIS TO SEEK RELIEF".

Petitioner appealed the case on 12/29/2023, along with related case D-08-CV-23-827130, involving Tiara Thomas, and the separate case of Jeremiah Kinney, case number D-08-CV-23-828246. All three cases were transmitted from the District Court on 1/4/2024. However, the Case Summary Record for Respondent Shannon Blackwell is missing this information. The earliest entry in the Circuit Court is dated on 1/22/2024.

On 1/22/2024, the Court denied the Request for Waiver of Prepaid Appellate Costs in the Shannon Blackwell case, stating that Petitioner could not file on behalf for Aaron Johnson Jr. unless he is under the age of 18. On 2/5/2024, Petitioner filed a motion for reconsideration.

In a hearing on 2/5/2024, the Court stated the case would be heard along with the two aforementioned cases. The Court transcript for that date will reflect this.

On 2/22/2024, the Court denied Petitioner's motion for reconsideration in the related case, stating "Motion for reconsideration of the Court's 1/22/24 order denied because there is not a sufficient legal or factual basis for reconsideration of the motion; ordered that the case be remanded to the district court".

On May 29, 2024, the Maryland Supreme Court denied the Petition, stating that "there has been no showing that review by certiorari is desirable or in public interest".

District Court for Baltimore County - Essex

Circuit Court Case Name: Johnson v. Blackwell District Court Case No.: D-08-CV-23-827131

Circuit Court for Baltimore County - Towson

Circuit Court Case Name: Johnson v. Blackwell Circuit Court Case No.: C-03-CV-24-807071

Supreme Court of Maryland

Supreme Court of Maryland Case Name: Elizabeth Johnson O.B.O. Aaron Johnson Jr. v. Shannon Blackwell

Supreme Court of Maryland Case Number: SCM-PET-0030-2024.

REASONS FOR GRANTING THE WRIT

This review is in the public interest as incarcerated persons vulnerable to physical abuse requesting protection from the abuse while in custody must be afforded the opportunity to access the Court without undue delay, by proxy. There should be no limitations on the means for which a person seeking physical protection from an abuser can lawfully request help through another person. Placing restrictions discourages victims from coming forward, and it emboldens abusers.

The respondent has the resources of the State at her disposal; being represented by the Maryland Office of the Attorney General, free of charge, while Mr. Johnson remains incarcerated, indigent and without access to resources for protection. No grievance that he had filed has been responded to / resolved. Most have never even been acknowledged.

Guardians and power-of-attorneys must be permitted to present relevant documentation and testimony, as part of their duties and their responsibilities in the fiduciary relationship that exists. The forms for peace orders allow this but the Courts are unwilling to extend the protection to incarcerated people by invoking excuses as to jurisdiction, disregarding who can apply for peace and protective orders despite the forms saying otherwise. Inmates and detainees are told to use the inmate grievance process that does not work, and it is being used as a means to deprive detainees and inmates access to seeking protection from abuse by corrections officers while incarcerated.

Persons physically unable to access the court, must be able to authorize an agent to act on their behalf, through the process of guardianship or power-of-attorney; as the Petition for Peace Order form DC-PO-001, section 1, dictates. This affords equity in the judicial process, and the equal protection of vulnerable persons from abuse through access to the Court. However, the lower Courts are excluding incarcerated people from these protections, even though they are unable to appropriately cite the legal authority to do so.

Access to using proxies preserves the right of individuals to self-advocate without the financial burden and the strictures of seeking and obtaining legal counsel; which is consistent with the ability and access afforded to peace order seekers in the free society. Again, this ensures the equal protection of pretrial detainees under the 5th and 14th Amendment of the United States Constitution. It also ensures protection of prisoners under the 8th Amendment.

This review is necessary as there needs to be clarity and better guidance for the lower Courts on the matters presented.

Petitions for peace orders must be made in person in the Commissioner's office at the courthouse. Aaron Johnson Jr. is incarcerated in pretrial detention, and he cannot freely go to the court to file on his own. An attorney cannot file on his behalf.

To further compound matters, Aaron Johnson Jr. was held without bond and without access to a legal library for the entire time that was in pretrial detention in Baltimore City. Thus, he had no means of self-advocating and defending against the abuse, allegations and / or any charges. He has essentially been placed at the disadvantage of the legal system while not being kept free from the color of law abuse involving the use of corporal and chemical punishment by State employees against him which violates Title 18 U.S.C. Section 242.

Aaron Johnson Jr. executed a notarized power-of-attorney and appointed his wife, Elizabeth Johnson, as his agent to act on his behalf to file the Petition for Peace Order. The Petition for Peace Order, MD form DC-PO-001, section 1 states: "I (the petitioner) am seeking protection from the respondent (name) for (name) an adult over whom I have guardianship or Power of Attorney". Aaron Johnson Jr. properly executed a power-of-attorney to file the petition on his behalf, as reported by the form.

Upon request, the Court has failed to provide any reference for case law, rule or regulation that explicitly supports their assertion that Petitioner cannot file on Aaron Johnson Jr. 's behalf, or that pretrial detainees cannot obtain peace and protective orders (restraining orders) against jail personnel that have physically harmed them.

"Pretrial detainees are entitled to the same protection under the Fourteenth Amendment as imprisoned convicts receive under the Eighth Amendment" (citing *Butler v. Fletcher*, 465 F.3d 340, 345 (8th Cir. 2006)). Pretrial detainees are not convicts, so the language against "cruel and unusual punishment" is not applicable as they have not been sentenced for any "punishment" to be enacted. Thus, pretrial detainees are still presumed to be innocent and are not being corrected. Therefore, pretrial detainee matters are not adjudicated by the Division of Correction (DOC). The incarcerated person, Aaron Johnson Jr., was a pretrial detention detainee, and he was actually in the custody and control of the Commissioner of the Division of Pretrial and Detention Services (DPDS). Therefore, the internal inmate grievance process / procedure for administrative remedy does not apply. Assistant Attorney General, James Pasko, has argued that grievances appealed by the inmate go to the Commissioner of the DOC prior to the court process, but Aaron Johnson Jr. was not in the custody of the DOC. The DOC was not the proper jurisdiction for Aaron Johnson's grievances. Maryland Commission on Correctional Standards (MCCS) Manual for Adult Detention Centers; Inmate Rights Facility Directive CRDET.200.0003 all state that detainees and inmates are to have unfettered access to the Courts to seek redress.

Assistant Attorney General James Pasko violated Aaron Johnson's constitutional right to due process of law and his 1st Amendment rights by obstructing his access to seek redress for the abuse and assaults that he has experienced while a pretrial detainee in State custody, by falsely claiming in the lower Court that it was the wrong jurisdiction, and by stating that Aaron Johnson Jr. had to use the internal inmate grievance process to address his concerns. Assistant Attorney General Pasko has also violated Aaron Johnson Jr.'s right to due process of law and obstructed justice by standing in for subpoenaed personnel. Physical abuse of detainees are violations of their human rights under color of law, and detainees are federally protected against such acts. Additionally. Assistant Attorney General Pasko and the Court

infringed upon the Petitioner's and Aaron Johnson Jr.'s right to be heard. This violates MD Rules Attorneys, Rule 19-300.1; MD Rules Attorneys, Rule 19-304.1; MARYLAND RULES OF PROCEDURE TITLE 18 – JUDGES AND JUDICIAL APPOINTEES Rule 18-102.2. IMPARTIALITY AND FAIRNESS (ABA RULE 2.2); Rule 18-102.3. BIAS, PREJUDICE, AND HARASSMENT (ABA RULE 2.3); Rule 18-102.4. EXTERNAL INFLUENCE ON JUDICIAL CONDUCT (ABA RULE 2.4); Rule 18-102.5. COMPETENCE, DILIGENCE, AND COOPERATION (ABA RULE 2.5); Rule 18-102.6. ENSURING THE RIGHT TO BE HEARD (ABA RULE 2.6), the Constitution of Maryland Declaration of Rights, DPDS.200.0001 - Directive on Detainee Legal Matters and Maryland Division of Correction, DCD # 200-1 Inmate Rights.

Further, the inmate grievance policy, Pretrial Detention and Services, Directive Number 180-1, Adult Resident Grievance Procedures, clearly states that non-grievable issues include matters currently in litigation. The peace order process is considered civil litigation.

It must be restated that Aaron Johnson Jr. has filed numerous inmate grievances and he did receive a response to any regarding the abuse. It was presented to the court that no inmate grievance that he has submitted has gone beyond an initial acknowledgement of his 'Step 1 grievance'.

At the hearing in the lower Court. Petitioner did allege preferential treatment for Assistant Attorney General Pasko during the hearing and legal process and neither he nor the Court refuted this. Although it has the authority under 28 USC section 2241 to bring him to court, the Court did not and the incarcerated Petitioner had no other means of appearing independently.

Aaron Johnson Jr.'s lack of access to a legal library while in pretrial custody violates several policies on legal matters. This matter has been brought to the attention of the Office of the Attorney General (OAG), along with other human and civil right issues, but it was not remedied.

To further compound matters, it was uncovered that The Division of Pretrial & Detention Services (DPDS) issued a directive, Directive Number DPDS.020.0024 on 4/19/22 with an effective date of 5/13/22. The directive rescinds key policies without replacement. They include, but are not limited to, Inmate Programs, Compassionate Release, Help Request Process / Adult, Help Request Process for Juvenile Detainees, Monitoring Service Contracts and Maintenance Contracts, Assuming Custody of Hospitalized Arrestees, Employee Subpoenaed by Plaintiff, Definitions, Restricting Off-Duty Staff from DPDS facilities (two policies on this subject), Employee Filing a Criminal Complaint, and Additional Resident Rule Violations.

Petitioner is extremely concerned for Aaron Johnson Jr.'s safety and welfare. Aaron Johnson Jr.'s medical provider recommended transfer to a facility where he will be treated as he is in a treatment program but the institution blocked his transfer. There are reportedly no security cameras in the PSA, Hallways, Medical or Elevators at Maryland Reception, Diagnostic and Classification Center (MRDCC). There are only limited security cameras on the tiers. This left Aaron Johnson Jr. vulnerable to further abuse. The State then uses the absence of proper security surveillance as being unable to support findings of wrongdoing within its staff and its

institutions, which is unacceptable. It is the State's duty to maintain the safety and order of its institutions, and to protect the welfare of those in their charge. Aaron Johnson Jr. was transferred to prison in June 2024.

The Court has opted to maintain the status quo out of fear that other detainees and inmates would also seek peace orders if this one was granted; versus, taking the appropriate steps to protect the vulnerable, incarcerated person from further physical abuse based on the merits of his individual case.

The District Court denied the Petition for Peace Order, stating that, if one was granted, other detainees would obtain them, and suggested that the Petitioner sue the jail instead. However, suing the jail does not offer the protection from abuse as a peace order is intended to do.

Petitioner requests that the Court obtains a transcript of the 3/8/2024 Circuit Court hearing for its review, as it contains Aaron Johnson Jr.'s testimony in a related case against Tiara Thomas. The trial court dismissed this case without a bearing, and allowed the related case to go forward.

CONCLUSION

No one should be prevented from seeking protection from abuse through use of a proxy or otherwise. We have followed the protocols to get protection but have been challenged with systemic blocks. We hope the Court will take the time to answer the questions presented so that the lower courts have clarity and, so that the abuses can cease.

For the foregoing reasons, Petitioner, Elizabeth Johnson, on-behalf-of, Aaron Johnson Jr. and, Aaron Johnson Jr., respectfully request that this Court grant this Petition for Writ of Certiorari, and review the decision of the Supreme Court of Maryland.

Respectfully Submitted,

Elizabeth Johnson
Elizabeth Johnson on October 17, 2024

Aaron Johnson Jr
Aaron Johnson Jr. on October 17, 2024