

No. 24-5856

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.

OCT 22 2024

OFFICE OF THE CLERK

Anthony - Shane : Martin — PETITIONER  
(Your Name)

vs.

CORRECT CARE & ERIN GAFFNEY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANTHONY - Shane : Martin  
(Your Name)

C/o WELLPATH 4546 Broad River Road  
(Address)

Columbia, SOUTH CAROLINA 29210  
(City, State, Zip Code)

N/A

(Phone Number)

Plaintiff respectfully ask for the courts review of the following :

- 1) Did the lower courts error in ruling to dismiss plaintiffs' case(s) numbered above on grounds of error of law and misapplied rulings of the courts :
- 2) Did the lower courts error in granting Summary Judgement and dismissal of appeal on grounds : citing Plaintiffs rights were not clearly established at the time of alleged harm :
- 3) Did the lower courts error in granting Summary Judgement and dismissal of appeal on grounds : That medical staff providing health care services to.... institutions is not a "person" subject to suit under 42 U.S.C. § 1983 :
- 4) Did the lower court error in granting Summary Judgement and dismissal of appeal of First Amendment right to Free Speech by error reading of law:
- 5) Did the lower court error in granting Summary Judgement and dismissal of appeal of First Amendment right to Freedom of Association by error reading of law :
- 6) Did the lower court error in granting Summary Judgement and dismissal of appeal that Defendants did not violate Plaintiff Due Process rights :
- 7) Did the lower court error in granting Summary Judgement and dismissal of appeal on grounds that Defendants claimed Qualified Immunity in error :
- 8) Did the lower court error in granting Summary Judgement and dismiss of appeal as Defendants restrictive conditions are related to legitimate penological interest in error of reading of law :
- 9)

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#### TABLE OF AUTHORITIES CITED :

##### RELATED CASES :

- Troxel v Granville 530 U. S. 51, 56, 65, 170 S. Ct. 2054 (2000)
- Albright v Oliver 510 U. S. 266, 273, 114 S. Ct. 807, 813 **Quoting** Graham v Conner 490 U. S. 386, 395, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989)
- Gary v Louisiana 437 F. Supp. 1209 (E.D. La. 1976)
- Bieber v Dept, of Army 287 F. 3d 1358 (Fed. Cir. 2002)
- U.S. v Evans 318 F. 3d 1011 (10<sup>th</sup> Cir. 2003)
- Harlow v Fitzgerald 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d (1982)
- Superintendent v Hill 472 U.S. 445, 454, 105 S. Ct. 2768 (1980)
- Griswold v Connecticut 381 U.S. 479, 85 S. Ct. 1678, 14 L. Ed. 2d 510 (1965)
- Martin v City of Struthers 319 U. S. 141, 143, 87 L. Ed. 1373
- Wiciman v Updegraff 344 U.S. 183, 195, 97 L. Ed. 216
- Regan v Time Inc. 468 U.S. 641, 648, 649, 104 S. Ct. 3262 (1984)
- Hustler Mag. Inc. v Falwell 495 U.S. 45, 46, 108 S. Ct. 876, 882
- Pesci v Budz 730 F. 3d @ 1297
- Packingham V North Carolina Certiorari to Supreme Court of N.C. No – 15 – 1194 19, June 2017
- Hydrick v Hunter U.S. Court of Appeals 9<sup>th</sup> Cir. 466 F. 3d 676, (2006)
- Wolf v McDonnell 418 U.S. 539, 41 L. Ed. 2d 935, 94 S. Ct. 2963 26, June 1974
- Burke v Hayes 2:09-CV-635-FtM-29 SPC U.S. District LEXIS 134468
- Peci v Beloff 2:10-CV-428-FtM-PAM-MRM 14, Dec. 2017

##### STATUES AND RULES :

- 42 U.S.C. § 405 (g)
- SOUTH CAROLINA Code of Law § 12-36-30 (S.C. Code of Law 2024 Edition)
- SOUTH CAROLINA Code of Law § 12-2-20 (S.C. Code of Law 2024 Edition)

**RELATED CASES CONTINUE :**

- Clark v Cmty. For Creative Non – Violence 1168 U.S. 288, 293, 82 L. Ed. 2d 221 (1984))
- Kaplany v County of L.A. 894 F. 2d 1076, 1079 (9<sup>th</sup> Cir. 1990))
- State v Walker 991 S.E. 2d 928 (Fla. App. 2008)
- Terry 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889)
- Walker v State 846 S.O. 2d 643 (Fla. 2d D.C.A. 2003)
- Inmate of Occoquan v Barry 717 F. Supp. 854, 868 D.D.C. 1989)
- Hewill v Helm 489 U.S. 460, 477, 103 S. Ct. 864, 47 L. Ed 2d 675 1983)
- United States v Marloff 173 F. 3d 1213 (9<sup>th</sup> Cir. 1999)
- Robinson v California 370 U.S. 660, 8 L. Ed. 2d 758, 82 S. Ct. 1417 (1962)
- Tropp Dulles Supra. @ 100 2 L. Ed. 2d 630, 78 S. Ct. 590
- Wilkerson v Utah 99 U.S. @ 1361, 25 L. Ed. 345
- Carlton v Ala. Dairy Queen Inc. 529 S.O. 2d 921, 923 (Ala. 1988)
- United States v Alvarez 132 S. Ct. 2537, 2549 (2012)
- Baptiste v J. C. Penny Co. 147 F. 3d 1252, 1255 (10<sup>th</sup> Cir. 1998)
- Ligar v Edmondson Oil Co. 457 U.S. 922, 102 S. Ct. 2744 (1982)
- Frazier v Badger 603 S. E. 2d 587 (S.C. 2004)
- Flack v Cohen 413 F. 2d 278, 279 (4<sup>th</sup> Cir. 1969)
- Coffman v Bowen 829 F. 2d 514 – 519 (4<sup>th</sup> Cir. 1987)
- Simpson v County of Cape Girardeau 879 F. 3d 273 (8<sup>th</sup> Cir. 2018)
- Rosenberg v Rector & Visitors of Univ. V.A. 515 U.S. 819, 828, 132 L. Ed. 2d 700 (1995)
- Sharp v Weston 233 F. 3d 1166 (9<sup>th</sup> Cir. 2000)

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**

**[xx] 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 Anthony -Shane : MARTIN V CORRECT CARE,  
 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 5 Aug 2024.

[ ] 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: 13 Aug 2024, 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 \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

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).

- 1) Did the lower courts error in ruling to dismiss plaintiffs' case(s) numbered above on grounds of error of law and misapplied ruling(s) of the courts :

**PLAINTIFFS ARGUMENT :**

- a) The Plaintiff argues against and intends to show that the ruling for Summary Judgement and the Dismissal of Appeal was done by misapplication of and error of Reading of the Law, misconstruction of the SOUTH CAROLINA Constitution and the UNITED STATES Constitution also misapplying of these to the Plaintiff as plaintiff is involuntary civilly committed under §44 – 48 – 10 Seq. Al. of the SOUTH CAROLINA Code of Law as ceiling of the constitutional rights of prisoners is the ground floor of the rights afforded the involuntary civilly committed.
- 2) Did the lower courts error in granting Summary Judgement and dismissal of appeals on grounds citing Plaintiffs rights were not clearly established at the time of the alleged harm :

**PLAINTIFFS ARGUMENT :**

- b) Plaintiff declares from (*Troxel v Granville*) the involuntary civilly committed have a Liberty Interests under the Due Process Clause of courts 14<sup>th</sup> Amendment to safety, freedom from bodily restraint and adequate or reasonable training to further the ends of safety and freedom from restraint. Under (*Albright v Oliver*) quoting (*Graham v Conner*) Supreme courts have held that [w]here a particular Amendment provides for explicit textual source of Constitutional Protections against a particular sort of Government behavior. That Amendment must be the guide for analyzing the claim. In (*Gary v Louisiana*) requires treatment be accomplished in least restrictive setting. In (*Superintendent v Hill*) Due Process requires that "some evidence" support a decision to place a.... in segregation. Also (*U.S. Evans*) Due Process requires statutes to specify in clear terms the conduct they prohibit. Plaintiff believes that the imposing secured management status (Administrative or punitive) on the plaintiff before a charge had been levied against him (4-7) four – seven days after placed in segregation. Violated Due Process and also as not all individuals go to segregation for charges violated the similarly situated ruling upheld in numerous cases.
- 3) Did the lower courts error in granting Summary Judgement and dismissal of appeals on grounds 'medical staff providing health care services to.... Institutions is not a "person" subject to suit under 42 U.S.C. §1983 :

**PLAINTIFFS ARGUMENT :**

- c) Under SOUTH CAROLINA Code of Law §12-36-30 (S.C. Code of Law 2024 edition) "person" includes any individual, firm, partnership, L.L.C., Association, corporation, receiver, trustee. Any group or combination acting as the State, any State Agency, any Institutional Authority, or Municipality. See further SOUTH CAROLINA Code of Law §12-2-20 "person" and "individual" defined (S.C. Code of Law 2024 Edition) (1) "person" includes any individual, firm, partnership, L.L.C., Association, corporation, receiver, trustee or other entity or group. (2) "Individual" means a "human being". As seen by (exhibit – C) CORRECT CARE / WELLPATH D.B.A. RECOVERY SOLUTIONS (any other means used by defendants) has stated many times in Affidavits, answers to complaints (All filed in the courts of Common Pleas and District Courts) they are a corporate agent acting under a "arm" of the SOUTH CAROLINA department of Mental Health in regards to trying to establish "Qualified Immunity". Were under (*Harlow v Fitzgerald* also *Baptiste v J.C. Penny*) the courts cited cases stating that Qualified Immunity protects "governmental officials" and reasoned that when applied to Private Defendants Qualified Immunity must apply to individuals and not corporations (Id.). Citing (*Rosewood Services v Sunflower Diversified* 413 F. 3d 1163 (10<sup>th</sup> Cir. 2005). Lastly as seen in (exhibit – E) defendants have also claimed "private company" status as a deny to answer Freedom of Information Act request.
- 4) Did the lower courts error in granting Summary Judgement and dismissal of appeals on grounds of First Amendment Rights to Free Speech by error reading of Law :

**PLAINTIFFS ARGUMENT :**

- d) Under such cases as (*Griswold v Connecticut* also *Martin v City of Struthers*) not only the right to utter or print but the right to distribute, the right to receive, the right to read. Also, under (*Wicman v Updegraff*) indeed the freedom of the entire universe. Also see (*Regan v Time Inc. also Hustler Mag. Inc. V Falwell*) "[T]he fact society may find speech offensive is not sufficient reason for suppressing it. Indeed, if it is the speaker's opinion that gives offense, that consequence is a reason for according it Constitutional Protection The government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable. In (*Pesci v Budz*) Florida Civil Commitment argument "deference to professional judgement" is not tantamount to 'Carte Blanche" permission to deny fundamental right to Free Speech or Expression. Further in the case the Appellees argue they are Qualified professional Exercising their Discretion and suggest the courts bend

to their Capacity. District Courts correctly recognized accepting such an argument would transfer conferring Constitutional Rights from the courts to Mental Health Professionals. Further under cases such as (*Sharp v Weston, Rosenberger v Rector & Vicars of Univ. Va., Clark v Cnty. For Creative Non-violence also Kaplan County of L.A.*) Discrimination against Free Speech because of the message is presumed to be Unconstitutional. A Regulation of expressive activity is "content neutral" so long as it is justified without reference to content, numerous time the administration named the content of the newsletter and the articles as the reasoning behind the banning and the charges levied against the Plaintiff... Political speech lies at the core of the First Amendment Protection. Lastly see (*Walker v State*) the concerned an apparent hand – to – hand transaction in which no officer seen any..... change of hands. The Administration stated found newsletters on other units and the articles in another individuals hands though no evidence other than word of mouth that the Plaintiff shared any newsletters or articles with anyone no hand – to hand transaction.

- 5) Did the lower courts error in granting Summary Judgement and dismissal of appeals on grounds "that defendants did not violate Due Process rights" :

#### PLAINTIFFS ARGUMENT :

- e) In such cases as (*Inmate of Occoquan v Barry, Hewill v Helm, UNITED STATES v Marloff*) Individuals with Mental illness can not be placed in Administrative or Punitive segregation areas. Prisoners confined in Administrative Segregation are entitled to review and administration can not sanction Constitutional rights the cruelty in the abstract of the actual sentence imposed was irrelevant "even one day in prison would be cruel and unusual punishment for the 'crime' of having a cold". In case such as (*Robinson v California, Tropp Dulles supra, Wilkerson v Utah*) The eight Amendment has not been regarded as "static Concept", as Chief justice Warren said and is often quoted "[t]he Amendment must draw its meaning from the evolving standards of decency that marks the progress of a maturing society. A penalty must accord with "the dignity of man" which is the "basic concept underlying the Eight Amendment". This means that at least that punishment not be 'excessive' and the punishment must not be grossly out of proportion to the severity of the crime. The Plaintiff state the crime of a picture and the allegation of sharing newsletters and articles no matter the content did not warrant the time spent in segregation nor the deprivation of the facility movement, group counseling, etc.

Lastly In (*Carlton v Ala. Dairy Queen Inc.*) The 'Scintilla Rule' --- which is defined as a mere gleam, a glimmer, a spark, or the smallest of evidence in support of a complaint should suffice. Plaintiff believes he has met this requirement.

- 6) Did the lower courts error in granting Summary Judgement and dismissal of appeals on grounds Defendants claim "Qualified Immunity" :

**PLAINTIFFS ARGUMENT :**

- f) Under such cases as (*Baptiste v J.C. Penny Inc. Lugar v Edmonson Oil Co., Frazier v Badger, 42 U.S.C. § 405*) the courts cited cases stating that Qualified Immunity protects "governmental officials" and the reason applied to Private defendants must be applied to individuals not corporations. Whether private defendants charged under § 1983 are entitled to Qualified Immunity and the immunity under the Tort Claims Act is an affirmative defense that must be proven by the defendants at trial. As qualified immunity is to prevent "unwarranted timidity". The private actors CORRECT CARE / WELLPATH D.B.A. RECOVERY SOLUTIONS use numerous law firms that are held on retainer to argue the legal issues that are sanctioned against them to include though not limited to Sweeny, Wingate, and Barrow, The McKay Law Firm, etc. The Plaintiff believes this legal team on retainer effectively stops the company from having to deal with legal issues in house and the gives the company breathing room to the issues presented so as to not place them in unwarranted timidity. Lastly the Federal Courts review role may be a limited one "it does not follow that the findings of the Administrative Agency are to mechanically accepted. Also, the finding or facts are not binding if they were based upon the application of an improper legal standard. As substantial evidence against has been defined innumerable times as more than Scintilla but less than Preponderance.
- 7) Did the lower courts error in granting Summary Judgement and dismissal of appeals on grounds defendants' restrictive conditions were related to a "legitimate Penological Interest" in error reading of Law :

**PLAINTIFFS ARGUMENT :**

g) In case such as (*Simpson v County of Girardeau, Thornburg v Abbott, Sharp v Weston, U.S. v Evans*) a regulation can not be sustained were the logical connection between the regulation and the asserted goal is to remote as to render the policy arbitrary. Due Process requires a statue to specify in clear terms the conduct they prohibit and there cannot be a vagueness so that a normal individual may not understand the evil that the statue or law is to remedy. Also, appellants argue because they are qualified professional exercising their discretion and suggest the courts to bend to their understanding takes the issuing of Laws and their interpretation out of the hands of Legislature and the courts and places it in the hands of the Mental Health Professionals. Were the courts have rules that the whole Constitution rebels at the idea of the government having rule over a man's mind,

**STATEMENT OF CASE AND REASON FOR GRANTING CERTORARI:**

The Plaintiff believes that the lower courts missed applied the law in error in granting Summary Judgement and dismissal of appeals on grounds on the recommendation of the Magistrate Court and the statements of the company CORRECT CARE / WELLPATH D.B.A. RECOVERY SOLUTIONS. The Plaintiff further that after Sandin it is clear the touchstone of the inquiry into the existence of a Protected State Created Liberty Interest in avoiding restrictive Conditions of Confinement is not the language of the regulation of the regulation regarding the conditions but the nature of the conditions themselves. The companies challenges of an 'arm of the state agency' to ask for granting of Qualified Immunity from the courts to receive safe guards in a case and then arguing Private corporation status to receive safe guards from Freedom of Information Act request seems a miss application of the laws afforded to companies that choose one path or the other to follow and do not use the court system or loop holes in the law to skirt the law, deny open information or to hide he underhanded and possible illegal activities done. As the company CORRECT CARE / WELLPATH / D.B.A. RECOVERY SOLUTIONS has changed names three (3) times in past ten (10) years are under investigation by Senator Warren of the Massachusetts Legislation also under investigation by the UNITED STATES Department of Justice also The Human Rights Defense for illegal or border line rights violations.

Further the Plaintiff sayth not:

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony - Hanrahan, Jr.

Date: 7 Aug 2024