

24-6384
No. _____

FILED
DEC 11 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

TIMOTHY RYAN — PETITIONER
(Your Name)

vs.

FEDERAL BUREAU OF PRISONS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

TIMOTHY RYAN #14422027
(Your Name)

F.C.I. FORT DIX - P.O. BOX 2020
(Address)

JOINT BASE MOL, NJ 08640
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

I. WAS RYAN'S PROJECT "DETAINEE" FOR PURPOSES OF LIABILITY EXCUSE OUTLINED IN TITLE 28 USC §2680(c)?

II. DID F.B.I. STAFF EXERCISE "DUE CARE" IN EXERCISING DUTY TO INVENTORY, STORE, AND/OR RETURN RYAN'S PROPERTY?

III. ARE THE EXCEPTIONS TO LIABILITY OUTLINED IN 28 USC §2680

BELOW MISAPPLIED BY THE CIRCUIT COURTS?

IV. SHOULD F.B.I. EMPLOYEES ENJOY FULL IMMUNITY FROM TORTIOUS CONDUCT THAT NO OTHER ACTUAL LAW ENFORCEMENT AGENCY HAS?

V. IF F.B.I. EMPLOYEES AND "ANY OTHER LAW ENFORCEMENT", THEN WHAT "LAW"?

DO THEY ENFORCE?

VI. DOES THE DISTRICT COURT'S INTERPRETATION OF THE DECISION IN ALI V. FEDERAL BUREAU OF PRISONS ACCURATELY REFLECT THE INTENT OF CONGRESS AND PROMOTE THE INTERESTS OF JUSTICE?

LIST OF PARTIES

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

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:

UNITED STATES OF AMERICA

RELATED CASES

TIMOTHY RYAN V. UNITED STATES OF AMERICA CAUSE NO. 24-1464

ARISING FROM CAUSE NO. 23-20815 (kmw) (mss)

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 **federal courts**:

The opinion of the United States court of appeals appears at Appendix B 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 is unpublished.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 C to the petition and is

reported at _____; or,
 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 is unpublished.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 AUGUST 8, 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: SEPTEMBER 25, 2024, and a copy of the order denying rehearing appears at Appendix A.

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).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION AMENDMENT 5

- 28 U.S.C. § 1346
- 28 U.S.C. § 1346 (b) (1)
- 28 U.S.C. § 2671
- 28 U.S.C. § 2680 (4)
- 28 U.S.C. § 2680 (1)
- 28 U.S.C. § 2680 (6)(1)

FEDERAL TORT CLAIMS ACT

STATEMENT OF THE CASE

Ryan was assaulted by other inmates in September of 2022. Circumstances of gang affiliation and "prison politics" made it necessary for Ryan to be removed from the housing unit, and placed in a secured "special housing unit" (SHU) and relocated pending an institutional investigation.

This relocation calls for the securing of an inmate's property. Ryan was sure to secure his property himself, knowing that if he did not then it would be stolen by assaulting inmates, while compound officers were en route after the assault to escort Ryan from the housing unit. During the post assault interview the compound officer known as "Jacket Man" informed Ryan that all the property that Ryan secured was taken to the unit officer's office.

After Ryan was relocated from FCI Fort Dix's (Ft. Dix's) East compound to its West Compound, most of his property was not returned or listed on the property inventory sheet. Ryan Subsequently filed a regional Tort Claim, That did not receive a timely response, and a claim in the Small Claims Court of New Jersey. The small claim was removed from the local court and assigned to the U.S. District Court, denied and then affirmed in the Appellate Court.

REASONS FOR GRANTING PETITION

This Court should grant Certiorari to correct the rulings of Circuit Courts that are barring any and every claim against Federal Bureau of Prisons (B.O.P.) employees for tortious conduct resulting in loss, damage, and/or theft of property thus granting said employees complete and unchallengeable immunity from liability as outlined in Title 28 U.S.C. §1346 and §2671 -Federal Tort Claims Act (F.T.C.A.) - that no actual law enforcement agency enjoys. This encourages, and thus results in, a lack of "due care" by Government employees and, for the more abusive B.O.P. employees, blatant disregard and/or destruction of and/or even theft of inmate property (see Appx. D). The Circuit Courts barring every claim against B.O.P. employees citing Ali v. Federal Bureau of Prisons, 552 U.S. 214 (2008) is in need of correction.

I. RYAN'S PROPERTY WAS NOT "DETAINED" FOR 28 U.S.C. §2680(C) EXCEPTION.

28 U.S.C. §2680(C) exempts liability in tort for any claim involving the "detention of... property by any officer..." enumerating 4 exceptions. Detention is defined as a "compulsory" (Black's Law Dictionary 459 7th Ed. 1999), "forced or punitive" (American Heritage Dictionary 4th Ed. 2000) containment. The B.O.P. has a specific section for this in its "Inmate Discipline Program" (O.P.I. #5270.09 Chapter 1 §541.4(J)) as a possible sanction to an inmate for an infraction stating that "D.H.O. or U.D.C.... [may impose an] impound [of inmate personal property]... for a determined time." This is separate from the handling of inmate personal property that is vaguely and incompletely outlined in B.O.P. policy #5580.08 - Inmate Personal Property. Section 3(C) of this policy states the requirement to list and inventory items, Section 6 outlines what items and quantities an inmate can transfer to another institution and what forms staff use without outlining a procedure, and Section 10 states that each institution must create an "institution supplement" to "establish procedure for..." the handling of inmate property in general stating that "at minimum... [it] will include... a

record... for identifying... and documenting [inmate property] (if an institutional supplement exists for Fort Dix, it has not been made available for review). Though vague and incomplete these policies do suggest that staff are to exercise "due care" in handling inmate property and are to be held accountable if they do not. Also, separate policies for separate purposes indicate "impounding" as a sanction - i.e. "detainment" - is not the same as "securing" property for other purposes like transfer or relocation. These purposes with separate policies are more akin to a "bailment." A bailment is defined as "the delivery of personal property after being held by the prison in trust." (American Heritage Dictionary, Supra). Furthermore, there is no forfeiture of interest in a prisoner's personal property in any scenario, policy, or law.

II. B.O.P. EMPLOYEES DID NOT EXERCISE DUE CARE IN EXERCISING THEIR DUTY TO SECURE, INVENTORY, STORE, AND RETURN RYAN'S PERSONAL PROPERTY.

Although B.O.P. Policy #5580.08 is vaguely written and not comprehensive, and its Section (10) leaves each institution with bare minimum requirements for an "institution supplement" for establishing procedure for handling a prisoner's property and is not made visible or reviewable to prisoners, that "minimum requirements" are mentioned and there is some semblance of policy regarding the handling of inmate personal property is a clear indication that care is due in doing so. What is of more import is that Congress clearly states that the Government may be liable for wrongful acts of employees while acting within the scope of their employment (F.T.C.A.) while listing and enumerating special exemptions. Thus, in the instant - where Ryan gathered his property to ensure it was given directly to B.O.P. staff - the securing of property was already started. Staff needed only to keep it locked in an office, inventoried, stored, and then return it to Ryan. Whether it was lost, discarded, or given away; staff at Fort Dix did not exercise due care and Ryan did not receive most of his personal property and is due recompense.

III. THE DISTRICT COURT'S BARRING OF CLAIMS ARE A MISAPPLICATION OF §2680 LIABILITY EXCEPTIONS.

The Third Circuit Court of Appeals notes in its affirmation that "because Ryan's property was not 'seized for the purpose of forfeiture,' the exception to §2680(C) does not apply. 28 U.S.C. §2680(C)(1)" (Appx. B P.3). The Appellate Court focuses on §2680(C)(1) but ignores (C) that specifies "detention of property." As discussed above, Ryan's property was never detained, so this liability waiver does not apply, nor does §2680(a) that emphasizes "'exercising due care' in the execution of... duty", also discussed above. The Circuit Court's interpretation and application also creates the problem that B.O.P. employees are completely immune from liability as they are not real law enforcement and do not have the authority to "...seize [property] for the purposes of forfeiture under any provision under Federal Law providing for the forfeiture of property..." (§2680(C)(1)) unless B.O.P. policy is to be considered a "provision under federal law." More on this infra.

IV. B.O.P. EMPLOYEES SHOULD NOT ENJOY FULL, BLANKET IMMUNITY FROM TORTIOUS CONDUCT.

That the provisions for the F.T.C.A exists and that waivers to immunity are numerated and specified makes clear that Congress did not intend for any law enforcement agency to be fully immune to tortious conduct. That all claims to F.T.C.A. against B.O.P. employees cannot proceed in District Courts that claim original jurisdiction under 28 U.S.C. §1334(b)(1) leaves no avenue for redress from and no accountability for tortious conduct by B.O.P. employees is counterintuitive. If this were the intent of Congress, it would have been stated in express terms along the lines of "prisoners don't matter and don't have rights and it's acceptable to treat them and/or their property however." This is not the case. Since B.O.P. employees are not specified in any wording and they do not enforce any actual laws, their being considered "any other law enforcement" in this way creates this loophole that employees of a job held in an environment that breeds absolute authority, arbitrary authority, and the abuse thereof are granted a full immunity that no actual law enforcement has. This is in opposition to all laws, provisions, and their own wording - even the B.O.P.'s own policy.

V. UNLESS B.O.P. POLICY IS "LAW" THEN B.O.P.
EMPLOYEES DO NOT ENFORCE LAW.

B.O.P. employees do not enforce provisions of laws or statutes - and quite often violate them. B.O.P. employees are hired to keep prisoners from escaping and enforcing B.O.P. policy. If B.O.P. employees are "any other law enforcement" then B.O.P. policy is comparable to "any provision of federal law" (28 U.S.C §2680(C)(1)) and thus should be held under the same level of review and scrutiny. Authors of B.O.P. policies have no external oversight and policies are vaguely worded - when complete - and left open to interpretation creating an arbitrary power over prisoners. As Statues and laws passed by Congress are scrutinized, reviewed, and voted upon, so too should B.O.P. policies be held to real standards and oversight. Furthermore, if B.O.P. employees are "any other law enforcement" then the very different laws and circumstances of prison need to be accounted for in the wording that was not made with them in mind so to prevent the unconstitutional inability to hold B.O.P. employees accountable for tortious conduct. For example, as the appellate court noted 28 U.S.C. §2680(C)(1) does not apply in this scenario, it cannot because it was not made with B.O.P. scenarios in mind. If it is to be applied to B.O.P. scenarios, it should be adapted accordingly and read: (C)(1) the property was seized [or otherwise secured] for the purposes of forfeiture [or bailment] under any provision of federal law [or B.O.P. policy] providing for forfeiture [or securing] of property other than as a sentence imposed upon conviction of a criminal offense.

VI. THE DISTRICT COURTS' INTERPRETATION OF ALI DECISION
DOES NOT ACCURATELY REFLECT THE INTENT OF CONGRESS
AND DOES NOT PROMOTE THE INTERESTS OF JUSTICE

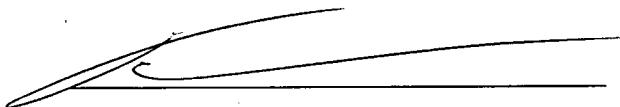
if Congress wanted to say that all law enforcement may detain property without liability in tort, then it would have done so in more express terms. That the F.T.C.A. states that the government "may be liable." and not "may not be held liable" makes clear that this is not so. That specific conditions must be met, and be enumerated, for immunity from liability for law enforcement in tort further makes clear that congress did not intend for any law enforcement to be wholly immune to liability for tortious conduct. B.O.P. employees having

this full immunity and claims being barred prevents justice for those who are made victim to the mishandling, loss, destruction, and/or theft of their property by said B.O.P. employees; and is counter to the clear intent of Congress.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Doe".

Date: DECEMBER, 11, 2024