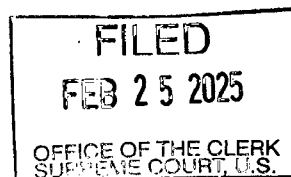


No. 24-6946

ORIGINAL



In the
Supreme Court of the United States

Logan Dyjak,
Petitioner,

vs.

Stacey Horstman, et al.,
Respondents.

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

Petition for Writ of Certiorari

Logan Dyjak
c/o M. Bauer
1393 5TH ST.
Carrollton, IL 62016
217.786.6807

Questions Presented

1. Whether a court must provide notice and an opportunity to respond under Federal Rule of Civil Procedure 56(f) when granting summary judgment on legal grounds not raised by movant.
2. Whether the 14TH Amendment requires process for individualized determinations regarding restrictions on the bodily movement of the civilly committed.
3. Whether the "shocks the conscience" rather than "professional judgment" standard applies to mental health treatment claims under the 14TH Amendment.

List of Parties to the Proceeding
Pursuant to Rules 14.1(b) and 29.6

Pursuant to Supreme Court Rule 14.1(b), Petitioner Logan Dyjak certifies that the following list names all parties to the proceeding in the court whose judgment is sought to be reviewed:

1. Logan Dyjak, Plaintiff
2. Stacey Horstman, Defendant
3. Jo-An Lynn, Defendant
4. Lara Miller, Defendant

Pursuant to Supreme Court Rule 29.6 Petitioner Logan Dyjak certifies that this Petition for Writ of Certiorari is not filed by or on behalf of a nongovernmental corporation.

Orders Entered in the Case

The following orders in this case, directly relating to the questions presented, are included in the appendix.

Dujak v. Horstman, 21-3151 (C.D. Ill. 1/4/22)	A 1
(C.D. Ill. 5/24/22)	A 7
(C.D. Ill. 2/15/24)	A 8
(C.D. Ill. 3/26/24)	A 23
Dujak v. Horstman, 24-1675 (CA 7 12/3/24)	A 30

Statement of Jurisdiction

Petitioner seeks review of an order entered 12/3/24.
A 30. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Provisions Involved

1. 14TH Amendment: "... nor shall any State deprive any person of life, liberty or property without due process of law..."
2. Federal Rule of Civil Procedure 56(f)(2): "Rule 56. Summary Judgment... (f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may: ... (2) grant the motion on grounds not raised by a party..."

Statement of the Case

The District Court found Plaintiff's Complaint stated a claim under the professional judgment standard (A3) and a procedural claim based on this underlying substantive right (A7). Defendants moved for summary judgment arguing against a procedural due process conditions of confinement liberty interest. Doc. 43, pp. 6-7. The District Court granted summary judgment under the objectively unreasonable standard. A11-12. Plaintiff filed a Fed. R. Civ. P. (f)(2) response to summary judgment on legal grounds not raised. Doc. 57; see also Doc. 58. The District Court would not consider the response, finding Plaintiff did not bring a substantive claim because Plaintiff did not plea the "shocks the conscience" standard. A26, n. 2.

The 7TH Circuit found Fed. R. Civ. P. (f)(2) only applies to factual issues, the Constitution does not require process for liberty of the civilly committed, and Plaintiff's argument that professional judgment claims are substantive is meritless. A33-34.

Summary of the Argument

The courts below must allow an opportunity to respond to summary judgment on grounds not raised; this Court's requirement, that bodily movement restrictions on the civilly committed be only utilized when and to the extent necessary for safety and treatment, requires process; and the "shocks the conscience" standard does not apply to mental health treatment claims.

Reasons for Granting the Writ

I. The Circuit contradicts this Court's precedent by allowing summary judgment without movant actually showing a lack of genuine issue.

The party moving for summary judgment must actually show a lack of issue. See *Celotex v. Catrett*, 477 U.S. 317, 323 (1986). Here, the court below found one legal standard applied, Defendants moved for summary judgment under a second standard, and the court granted summary judgment under a third standard. A3, 7; Doc. 43, pp. 6-7; A11-12. When Plaintiff attempted to respond with a Fed.R.Civ.P. (f)(2) response the court below found neither the first standard it had found to apply, nor the third standard it granted summary judgment under, had been pled. A26, n.2. The circuit then found Fed.R.Civ.P. (f)(2) does not apply to legal grounds. A33.

Not applying Fed.R.Civ.P. (f)(2) to legal grounds would require every nonmovant to argue every single hypothetically applicable standard in a massive brief. Requiring nonmovants to respond to any conceivable standard not at issue would constitute an unreasonable burden on not only every nonmovant, but also on the courts that would have to review the massive briefs. The Circuit's neglect of Fed.R.Civ.P. (f)(2) is prejudicial and unmanageable.

II. The Circuit contradicts this Court's precedent by not acknowledging the Constitutional right to bodily movement found by this Court in *Youngberg v. Romeo*, 457 U.S. 307 (1982).

Both the state courts and the circuit below have previously recognized that this Court found a Constitutional right to bodily movement in *Youngberg*. See, e.g., *C.S. v. Dep't of Human Services*, 331 Ill.App.3d 871, 884-89 (2002) (failure to even consider a recommendation for privileges is a substantive violation of *Youngberg*); *C.S. v. Dep't of Mental Health*, 296 Ill.App.3d 17, 35 (1998) (confirming Constitutionally-created liberty interest); *Johnson v. Brelje*, 701 F.2d 1201, 1211 (7th Cir. 1983) (freedom to move around the grounds is a substantive due process issue). The circuit finding that the Constitution does not require process for this liberty interest is incompatible with this Court's opinion in *Youngberg*. A34.

III. Requiring satisfaction of the "shocks the conscience" standard to state a substantive claim ignores decades of this Court's substantive jurisprudence.

The court below claims Plaintiff did not bring a substantive claim because Plaintiff did not plead that Defendants'

actions "shock the conscience." A 26, n. 2. Yet following this Court's direction, the civilly committed need not plead this standard. See *Harsjens v. Lourey*, 988 F.3d 1047, 1054 (8TH Cir. 2021).

Conclusion

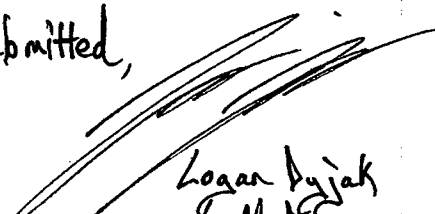
Writ should be granted for this Court to exercise its authority over the flagrant abuses of the Circuit below.

Declaration of Filing and Service

Undersigned swears under penalty of perjury this instrument is being hand-delivered to M. Bauer on 2/22/25 for deposit of copies, postage prepaid, into the U.S. Mail in Carrollton, IL, addressed to Clerk of the Court, 1 First St., N.E., Washington, DC 20543; and Leigh Zahna and Jonathan Studer, 115 S. LaSalle St., Chicago, IL 60603.

Executed 2/22/25
in Springfield, IL.

Graciously Submitted,


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