

1/26/18

No. 17-1523

In The
**Supreme Court of the United
States**

Ann Ellen Dunlap *Petitioner*

v.

Jacob Lew, et al. *Respondents*

On Petition for Writ of Certiorari
To The 6th Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Ann Ellen Dunlap
45589 C.R. #55
Coshocton, Ohio
740-294-1045

QUESTIONS PRESENTED FOR REVIEW

1. Are the Bill of Rights still guaranteed rights for
We the People?
2. Are Article III courts closed?
3. What are the elements of due process guaranteed
by the 5th amendment to the Constitution?

LIST OF PARTIES TO THE PROCEEDING

1. Ann Ellen Dunlap, Petitioner; and
2. Jacob Lew, Respondent,
3. Layne Carver, Respondent,
4. Alicia Hagen, Respondent,
5. Patricia Weese, Respondent,
6. John Doe, Respondent,
7. United States, Respondent.

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OPINIONS BELOW

The May 19, 2016 and June 14, 2016 opinions of the UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO were reported under case No. 2:15-CV-2675. They are attached in the Appendix, App. 1-12.

The unpublished June 2, 2017 and Oct. 30, 2017 opinions of the UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT were reported under case No. 16-3658. They are attached in the Appendix, App. 13-20.

JURISDICTION

This Court has jurisdiction to review the decision of the United States Court of Appeals for the Sixth Circuit decided on June 2, 2017, by writ of *certiorari* under 28 USC Section 1254 (1).

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitutional Amendment VII provides:

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

United States Constitutional Amendment V provides:

No person shall be held to answer for a capital, or otherwise infamous crime...nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Other Rights violations pursuant to the 4th, 5th, and 13th amendments were included in the verified, amended complaint (hereafter: Complaint).

STATEMENT OF THE CASE

The initial action stemmed from funds being taken from the Petitioner, Ann Ellen Dunlap (hereafter: Dunlap), by employees of the government. A controversy developed as Dunlap disagreed with their actions based on facts and law; and, she gave no consent. The Complaint was based on a 7th amendment Constitutional right violation. The controversy being greater than twenty dollars, Dunlap wanted/wants her day in court "the right of trial by jury shall be preserved."

Facts of the Case

Dunlap is an individual. Individual is defined in Black's Law 6th Ed. pg. 773: "a private or natural person." She is one of the people born and domiciled

within the union of the States. She has fundamental God-given rights as enumerated in the Constitution, see the Bill of Rights. She has never relinquished those rights. This Court said in *Brady v. United States*, 397 U.S. 742 (1970), "Waivers of constitutional rights not only must be voluntary, but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences." Deception can't be used to deny those endowed with such rights. Likewise, she has never changed her relationship to the United States pursuant to Statute at Large "The Act of Congress of April 14, 1802" (2 Stat. 153, c. 28, Sec. 1), "an alien may be admitted to become a citizen of the United States in the following manner, and not otherwise." And, Dunlap like the other people in the union of the States is sovereign. "*Yick Wo v. Hopkins*, 118 U.S. 356 (1886), "Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people."

The case was filed "In the District Court of the United State" as instructed by this Court in *Int'l Longshoremen's and Warehousemen's Union et al v. Juneau Spruce Corp*, 342 U.S. 237 (1952), "The words 'district court of the United State' commonly describe constitutional courts created under Article III of the Constitution, not the legislative courts which have long been the courts of the Territories." This was the proper venue, constitutional rights

violations in an Article III court by one of the people entitled to such rights.

Dunlap was clear in her pleadings in the district court of what jurisdiction she was seeking. She even stated this case was not to be filed in the United States District Court, see Complaint paragraph #4. The Supreme Court in *Balzac v. Porto Rico*, 258 U.S. 298 (1922) said,

“The United States District Court is not a true court established under article 3 of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under article 4, Section 3 of the instrument, respecting the territory belonging to the United States.”

Much is revealed in the opinion, the United States District Court is a territorial court and the congress/government is the sovereign body within the territories. And, in *Dorr v. United States*, 195 U.S. 138 (1904) the Supreme Court said even more “Constitution does not, without legislation and of its own force, carry such right to territory so situated.” There are no constitutional rights in the territories.

Dunlap’s pleadings of status and jurisdiction of an Article III court was ignored. The Complaint was dismissed at the district level by a United States District Court Judge. The reasons given for the dismissal were the government is sovereign and Dunlap failed to exhaust her administrative

remedies. The government is only sovereign in the territories which was not where the case was situated; and, there are no prerequisites to one's rights given in the Constitution. Dunlap was denied her day in court (7th amendment violation) and due process (5th amendment violation). According to the American Bar Association (ABA), elements of due process are a fair and impartial hearing. The case was dismissed.

Dunlap filed a Void Judgment based on the Court's lack of in personam and subject matter jurisdiction. The action was not filed in the United States District Court giving the Judge in personam jurisdiction. And, a Court that offers no constitutional rights can't address any such issues. *Elliot v. Lessee of Piersol*, 26 U.S. 328 (1828),

"Where a court has jurisdiction, it has a right to decide any question which occurs in the cause...if it acts without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void. They constitute no justification, and all persons concerned in executing such judgments or sentences are considered in law as trespassers."

The Judge rejected the Void Judgment and the clerk of the court closed the case. Dunlap having no enforcement options was shut out of the court and denied her constitutional rights.

The case was appealed to the 6th Circuit Court of Appeals. The 6th Circuit added to the injustice. Like

in the lower court, the pleadings showing the Defendants operated beyond the limits of their authority were ignored. Both courts acquiesced to those facts. The agents were operating under color of law. Black's Law 6th Ed. pg. 265 defines color of law: "The appearance or semblance, without the substance, of legal right. Misuse of power..." The 6th Circuit changed the verified testimony of the Plaintiff/Appellant stating Dunlap is "an Ohio resident." See paragraph #1 of the Complaint, it says Dunlap is "domiciled in Ohio." Words have meanings especially in law. Dunlap used domicile to convey her permanent and legal home. Resident has a very different meaning that could alter the status of the Appellant. The 6th Circuit even resorted to name-calling. The Appeals Court affirmed the lower court's decision citing governmental sovereignty (addressed above) and the Anti-Injunction Act (26 USC Section 7421) as their reasons. Section 7421 should not have barred this action for 2 reasons: 1. The Supreme Court said in *Miranda v. Arizona*, 384 U.S. 436 (1966), "Where rights are secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Constitutional rights were involved so an inferior statute should not have barred this action. 2. The statute deals with the assessment and collection of a tax. Those procedures were complete when the case was filed; the action could not have had any effect on them. The Appellant asked for a rehearing requesting that her constitutional rights be restored.

The rehearing was also denied on Oct. 30, 2017.

REASONS FOR GRANTING THE PETITION

The main reason for granting the petition is the Justices must adhere to their oaths of office to uphold the Constitution which includes the Bill of Rights. This action involves the violation of Dunlap's rights guaranteed by that document. By denying the petition, the Justices would violate their oaths of office.

Another reason to grant the petition is to correct the errors of the lower courts. The Petitioner was denied the proper jurisdiction for the case despite her pleadings. The action was addressed by territorial courts where the government is the sovereign over the people as evidenced by their rulings. An Article III court was requested in the pleadings to address the Constitutional issues of the case. The Supreme Court is an Article III court.

Granting the petition will restore Dunlap's Constitutional rights along with the Rights of all the people in the union of the States. If the people can be denied access to an Article III court, the constitutional court, then the Rights of all the people are lost. The people need to know that the Constitution is still a valid document. It represents our Rights that should always be enforceable with no limits or prerequisites to them.

CONCLUSION

The Petitioner respectfully asks the Court to vacate the dismissals of the lower courts and remand the case for further proceedings on its merits before a trial by jury as provided by the 7th amendment.

VERIFICATION

I verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct pursuant to 28 USC Section 1746 (1). Executed on Jan. 26, 2018.


Petitioner