

No. 19-8538

IN THE
**Supreme Court of the
United States**



Jeffrey W. Smiles,

Petitioner

v.

Berks County, et al.

Respondent



**On Petition for a Writ of Certiorari
The United States Court of Appeals
For the Third Circuit**

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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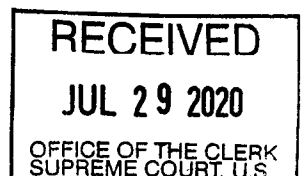


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TABLE OF AUTHORITIES

Article VI, Section 2: *This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.*

The Tax Injunction Act (28 USCS § 1341) is inapplicable in an original action before the United States Supreme Court, the Act by its terms only applying to injunctions issued by Federal District Courts. *Maryland v Louisiana* (1981, US) 68 L Ed 2d 576, 101 S Ct 2114.

Meaning of "tax under state law" in 28 USCS § 1341 should be determined as matter of federal law by reference to congressional policies, rather than by adoption of state tax labels developed in entirely different legal contexts. *Robinson Protective Alarm Co. v Philadelphia* (1978, CA3 Pa) 581 F2d 371.

"Since 28 USCS § 1341 will not bar suit for damages under 42 USCS § 1983, plaintiff may seek damages for alleged unconstitutional warrantless search and seizure by tax collection officials. *Bormann v Tomlin* (1978, DC Ill) 461 F Supp 193.

In order to constitute a "plain, speedy and efficient remedy" under the Tax Injunction Act (28 USCS § 1341), which prohibits a Federal District Court from enjoining the assessment, levy, or collection of a state tax if a plain, speedy and efficient remedy may be had in the state's courts, a state remedy must provide the taxpayer with a full hearing and judicial determination at which any and all constitutional objections to the tax may be raised. *Rosewell v La Salle Nat. Bank* (1981, US) 67 L Ed 2d 464, 101 S Ct 1221.

28 USCS § 1341 does not apply when existence or adequacy of state remedy is doubtful or uncertain. *Czajkowski v Illinois* (1977, DC Ill) 460 F Supp 1265.

"[T]he full scope of the liberty guaranteed by the Due Process Clause ... is not a series of isolated points It is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints" Poe v Ullman, 367 US 497, 543, 6 L Ed 2d 989, 81 S Ct 1752 (1961)

QUESTIONS

Where a plaintiff seeks relief from the federal courts for an unconstitutional deprivation of rights and property scheme by a state, and 28.U.S.C, § 1341 does not bar the plaintiff's claim, can general principles of federalism or comity still require federal courts to abstain?

INTRODUCTION

As a "general response" and in short, sufficient to strike Respondents Opposition, upon review and close reading, it is apparent that it is a "non-responsive response". Respondents have utterly failed to rebut, provide alternate evidence or cases in opposition to Petitioners clearly written statement of facts supporting his Right to have and to hold in fee simple, all rights, title and interest, alloidially, in such property in jeopardy.

For purposes of making record Petitioner addresses, refutes and exposes the contrivances submitted by Respondents, in order presented. Brief as being incomplete as well as insufficient, being absent the required signature, date, and certification of service to Petitioner, therefore subject to the rules of the court to strike.

It must be pointed out that Respondents have completely ignored the facts of this case, its wide-ranging implications, failed to address any of the central issues

Due Process, raised in Petitioner's Brief and instead attempt to hijack the merits of the case and turn it into something it never was.

Respondents instead rely on diversion and obfuscation. Their inability to provide a credible response to the paramount issues at hand or to the powerful questions of the importance of these issues simply confirms the urgent need for this Court's intervention.

Respondent's opposition brief simply dismisses Petitioner's Constitutional guarantees and just claims and pretends that these solemn Rights do not exist inside the federal courts, even though they were created "to *Secure These Rights.*" Respondents insist that 28 U.S.C. § 1341 says a federal court cannot hear a civil rights case where "*...a plain, speedy and efficient remedy may be had in the courts of such State,*" yet failing to provide any examples of a "*...a plain, speedy and efficient remedy*" that they themselves know does not exist in Pennsylvania under Pennsylvania law. Respondents Stating that such a "*...a plain, speedy and efficient remedy may be had in the courts of such State,*" over and over again does not make it true. Further, if "*...a plain, speedy and efficient remedy may be had in the courts of such State,*" was available, is not a guarantee of "due process" as required by the Supreme Law of the Land to which Pennsylvania State's Constitution recognizes the United States Constitution by Article VI, Section 2.

This Court stated:

"[T]he full scope of the liberty guaranteed by the Due Process Clause ... is not a series of isolated points It is a rational continuum which, broadly speaking, includes a freedom from all substantial arbitrary impositions and purposeless restraints" Poe v Ullman, 367 US 497, 543, 6 L Ed 2d 989, 81 S Ct 1752 (1961)

When a political subdivision of a State exercises plenary powers to administratively take private property by creating a tax deed and sell that created instrument (counterfeit) to a third party at an auction, dispossessing the one who owns the property, without his consent, without Due Process, without a hearing, without a judicial order or lawful warrant, and sometimes without notice, such acts rise to the level of a crime, as do all of the unconstitutional administrative acts preceding this event. Clearly, such acts would constitute a warrant-less search and seizure by tax collection officials in violation of the 4th Article of the Bill of Rights among others.

This obligated Petitioner to “make known the same to some judge or other person in civil or military authority under the United States” in conformance with the provisions of 18 USC 4.

The questions Petitioner presented satisfies every criterion for Supreme Court review and cries out for immediate resolution.

ARGUMENT

Respondents have intentionally mischaracterized Petitioner's Constitutional deprivations, and fails to recognize its duty and obligation “to secure these Rights” as enumerated in the ratified “Bill of Rights”. These Constitutional deprivations, clearly laid out in his Civil Rights complaint, are purposely obfuscated by asserting statements that are not true, not applicable and are not relevant to this cause.

Respondents state in their opposition brief (P.2): “*Petitioner*

mischaracterizes his cause of action under the guise of raising civil rights claims and claims under federal criminal statutes when Petitioners claims are related to the collection of real property taxes.”

Respondents misrepresent Petitioner’s claim, in order to deny he has any rights at all, civil or otherwise appearing to be "giving aid and comfort to the enemy". "That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it,” "That to secure these Rights Governments are instituted among men.” Clearly that which is created ("instituted") by man, is subject to man, and man can never be subject to artificial creations except by contract (lawful mutually beneficial agreement between two people) not "persons" / “mere legal entities”.

Respondents state (Opposition Brief, P.2) ; “*Pennsylvania's state courts provide a "plain, speedy, and efficient" remedy for challenging a county's assessment of real property taxes, and as such, Petitioner's claims should be brought under the state's courts and not the federal court system. Petitioner has not shown that Pennsylvania's system for challenging a county's assessment of real property taxes is inadequate or unavailable for any reason. Since Petitioner has not demonstrated that Pennsylvania's system for addressing real property taxes is not inadequate by any means, the district court does not have subject matter jurisdiction over Petitioner's claims.*”

If one were to acknowledge that the “remedy” referred to constitutes a denial of rights, due process and property under color of a taxation scheme, then they are correct. As the record reflects, it is certain and without doubt that one will have their property taken by any means necessary with the aid and comfort of their administrative courts.

Respondent's are fully aware that Plaintiff's cause of action and the purpose of Section 1983 is to vindicate Federal Rights. A plaintiff suing under the statute is not required to exhaust state procedures or remedies which would be otherwise required prior to filing suit. See Felder v. Casey, 487 U.S. 131 (1988); Monroe v. Pape, 365 U.S. 167 (1971). See also: Howlett v. Rose, 496 U.S. 356 (1990): Howlett By and Through Howlett v. Rose No. 89-5383.

Yet; 28 USCS § 1341 does not apply when existence or adequacy of state remedy is doubtful or uncertain. Czajkowski v Illinois (1977, DC Ill) 460 F Supp 1265.'').

If one were to acknowledge that “remedy” constitutes a denial of rights, due process and individual private property ownership under color of a taxation scheme, then they are correct. As the record reflects, it is certain and without a doubt that one will have their property taken by any means necessary with the aid and comfort of their administrative courts.

However, Respondent's are fully aware that Plaintiff's cause of action and

the purpose of Section 1983 is to vindicate Federal Rights. A plaintiff suing under the statute is not required to exhaust state procedures or remedies which would be otherwise required prior to filing suit. See *Felder v. Casey*, 487 U.S. 131 (1988); *Monroe v. Pape*, 365 U.S. 167 (1971). See also: *Howlett v. Rose*, 496 U.S. 356 (1990): *Howlett By and Through Howlett v. Rose* No. 89-5383.

Respondents state (Opposition Brief, P.3): *“Although Petitioner considers himself a non-taxpayer and believes his claims are related to a violation of his civil rights, Petitioner's cause of action is actually a question on taxation and the state's ability to collect real property taxes from Petitioner. As such, Petitioner's cause of action raises issues regarding taxes and does not properly raise questions regarding civil rights issues or any federal criminal statutes.”*

The question is the same as is the proper answer, which they are completely avoiding to protect their "scheme"/"conspiring", which is: By what authority do they falsify public records, fabricate deeds, alter the intent of the Last will and testament, unlawfully assess non "Real Estate" property, non "real property" (private property) and the answer is and always will be NONE. The law is absent any such power or authority simply because the grantors/ principles/people are without such powers themselves and they cannot grant powers which they do have themselves and because it is prohibited throughout the Constitutions and "The supreme law of the land".

It is clear by these false statements that the respondents have failed to

actually read the Petition as written, just as they have appeared to have failed to read the Constitution and its purposes and to understand the "principles," that every "form of Government" was instituted for: "That to secure these Rights Governments are instituted among men.." -- not over men. Respondents continually war against the people and their rights, "giving aid and comfort to the enemy" and engage in "stealthy encroachments upon their rights" as evidenced in the malicious editing and misleading interpretation of Petitioners statements.

This "Opposition Brief" clearly exposes the same tactics the Communists have used to infiltrate, obfuscate, intimidate, threaten, oppress, injure and undermine, the very foundation upon which this government and the United States rests, fulfilling the definition of "insurgents".

These "judicial officers" have, with clear intent, failed to provide the full accounting of the Code they rely upon for the purpose of denying the rights of the Petitioner, which amounts to "exculpatory evidence. Respondents are without documents evidencing an application to the State, to create a legal entity for the purpose of engaging in "Real Estate" activities. The record is absent any affidavit or assertion that such activity is being engaged in or on such property or the exact location (situs) being used for such purpose to be assessed for "Real Estate" taxes.

These deceptions and half truths are misleading, criminal in nature and as such are void of facts.

"Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." **Barnsdall Refining Corn, v. Birnam Wood Oil Co., 92 F 26 817.**

"Any conduct capable of being turned into a statement of fact is representation. There is no distinction between misrepresentations effected by words and misrepresentations effected by other acts." **Leonard v. Springer 197 Ill 532.64 NE 301.**

Further in their misleading and prejudicial statement "*Petitioner additionally claims that he does not need to pay taxes because he is a "non-taxpayer" and "one of the sovereign people of the Commonwealth of Pennsylvania."* Opposition Brief, P. 1), when it is clear that he does "need to pay taxes" or else they will steal his property under color of law, falsification of documents (assessment) under a fictitious name without due process, consideration, equal protection of the laws, or just compensation as required for any "taking". There is a big difference between one who "need[s] to pay taxes and a "taxpayer" obligated to pay certain lawful taxes.

As such Respondents have by their continued misrepresentations expressed their continued intent to violate the Constitution and their "oath or affirmation to support this Constitution" evidencing the necessity to invoke among others;

“Meaning of "tax under state law" in 28 USCS § 1341 should be determined as matter of federal law by reference to congressional policies, rather than by adoption of state tax labels developed in entirely different legal contexts. Robinson Protective Alarm Co. v Philadelphia (1978, CA3 Pa) 581 F2d 371.

“28 USCS § 1341 does not apply when existence or adequacy of state remedy is doubtful or uncertain. Czajkowski v Illinois (1977, DC Ill) 460 F Supp 1265.”,

“Since 28 USCS § 1341 will not bar suit for damages under 42 USCS § 1983, plaintiff may seek damages for alleged unconstitutional warrantless search and seizure by tax collection officials. Bormann v Tomlin (1978, DC Ill) 461 F Supp 193.”

Further evidenced by “*Under Pennsylvania's Real Estate Tax Sale Law Act of Jul.7, 1947, P.L. 1368, No. 542, all administrative claims against a private homeowner are deemed conclusive and final and are barred from adjudication in any state court both before the sale and after sale has taken place.*”

**SERIOUS CONSTITUTIONAL AND PRACTICAL PROBLEMS WOULD
RESULT FROM REFUSING TO RECOGNIZE A REMEDY HERE**

If the federal government's only interest is adjudicating a federal right, there is no scenario where the federal government would benefit from allowing the inherent rights of the people to be trampled upon and destroyed since its creation was dependent upon protecting the rights and property of the people.

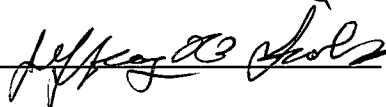
CONCLUSION

For the reasons stated above, Petitioner respectfully requests that this Court issue a Writ Of Certiorari.

Respectfully Submitted

Date: July 25, 2020

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