CAUSE NO.: 20-8340

IN THE SUPREME COURT OF WASHINGTON D.C.
DISTRICT OF COLUMBIA

REGINALD CHARLES HARVEY,
Petitioner-Appellant

v.

STATE OF TENNESSEE, ET. AL.,
Respondent-Appellee

On Petition For Writ of Certiorari
To The United States Court of Appeals
For The Sixth Circuit, OHIO
CASE NO. 19-6484 U.S. C.OA. Columbus Ohio

PETITION FOR WRIT OF CERTIORARI

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ORIGINAL

QUESTIONS

1. Whereas a Petitioner is entitled to equitable tolling on if he shows (1) that he has been pursuing his rights diligently (2) that some extraordinary circumstances ~~stood~~ in petitioner way and prevented timely filing where proffessional misconduct that fell short and to respond to the petitioner's many requests for information warranted equitable tolling.

2. Whereas may the Sixth Circuit and lower District Court dismiss petitioner's claim §1983 sua sponte under Neitzke v. William and 28 USC §1915 (a) and (3) without briefing any party and without recinding of IFP Status under Fed. R. App. R. 24 (a) (3).

3. Whereas the Sixth Circuit Court and U.S. District Court of Eastern Tennessee Chattanooga lacked personal jurisdiction over the Appellee and Appellant-Petitioner for failure to serve the Respondent-Appellee under Fed. Civ. R. P. Rule 4(e) and Civ. R. 3 (a).

4. Whereas the Sixth Circuit Court erred for not accepting an ~~International~~ International Bill of Exchange as legal tender for discharge of the court cost of $505.00 pursuant to Title 18 USC Sect. 8; Public Policy 73-10 and HJR-192 of June 5, 1933. SEE APPENDIX E-1 thru E19.

5. Whereas the Petitioner Harvey have a right to discretionary review by the Supreme Court of Ohio. Pursuant to Rule 10, in that this case for review include the existence of a conflict between the decision of which review is sought and a decision of the appellate court on the same issue, resolve disagreements among lower courts about specific legal questions and the importance to the public of the issue.

PARTIES TO THE PROCEEDING:

All parties to the proceedings are named in the Appendix A-1 Exhibit with the State of Tennessee et. al listed in the caption of the case as recited on the cover page.

CORPORATE DISCLOSURE

There are governmental corporate parties requiring a disclosure statement under Supreme Court Rule 29.6.

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REGINALD C. HARVEY v. STATES OF TENNESSEE, CASE NO. 19-6434
United States Court of Appeals

State Criminal Court Hamilton County, TN

STATE OF TENNESSE v. Reginald C. Harvey Case Nos# 295210, 295330, 298017

JURISDICTION and PROCEDURAL HISTORY

This case was brought under 42 USC §1983, the Fourth Amendment and Tennessee Tort Law. The courts below have jurisdiction pursuant to 28 USC §1254(a). The Supreme Court has jurisdiction over lower courts under USC Title 28. Section 242 of Title 18 makes it a crime for a person acting under color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.

Petitioner-Appellant Harvey filed suit against the State of Tennessee and others on 2017. The Operative complaint was filed 10/18/2017 after all charges was dismissed against him. The low District Court of Chattanooga, TN and the Sixth Circuit U.S. Court of Appeals upon their own motions dismissed Petitioner-Appellants Harveys claim without serving the Defendants-Respondent without briefing any party and without recending of IFP Status under Fed. R. App. R. 24(a)(3). (See Index Appendix D1-D2).

CONSTITUTIONAL and STATUTORY PROVISION

The Four Amendment provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or Affirmation, and particulary describing the place to be searched, and the persons or things to be seized."

The case is brought also under 42 USC Section 1983.

Amendment I.

Congress shall make no law respecting an establishment of Religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Article III, § 2.

The judicial power shall extend to all cases, in law and in equity, arising under this Constitution, the laws of the United States, and Treaties made, or which shall be made, under the Authority; — to all cases affecting Ambassadors, other public ministers and counsuls; — to all cases of Admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a party; — Controversity between two or more States; — between a State citizens of another State; between Citizens of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

I. STATEMENT OF WHY THIS CASE RAISES SUBSTANTIAL CONSTITUTIONAL AND PRESENTS ISSUES OF GREAT PUBLIC AND GENERAL INTEREST

Whereas, the Sixth Circuit motion for charging order made in the Hamilton County Court of U.S. Court of Appeals, Sixth Circuit District was not within the U.S. Court of Appeals personal jurisdiction to proceed on their own motion to dismiss Appellant's § 1983 Claim without proper service to the defendant(s). Civil R. 4(B)(3), Civ. R. 41(B)(4); Thomas et al., Appellant v. Freeman, Appellee. Case No. 96-2 decided July 16, 1997 S. Ct. Ohio.

II. STATEMENT OF THE CASE AND

II. STATEMENT OF THE CASE AND FACTS

On October 18, 2017, Defendant-Appellant Harvey mailed a § 1983 civil rights complaint from prison. Defendant-Appellant Harvey asserted in his original complaint and Amended Complaint page

34-36 claims under Rule 12(b) and that Plaintiffs-Appellees conspired to violate his civil and constitutional rights, in violation of 18 USC § 241; fraud, 18 USC § 242, violation of Uniform Commerical Code 3-505 and 3-401; violated his rights under Rule 12(b)(1) Lack of subject matter jurisdiction; Rule 12(b)(4)- Insufficient Process; Rule 12(b)(5)- Insufficient Service of Process; and violation of Appellant's Fourth, First, Fifth and Fourteenth Amendments rights.

Defendant-Appellant Harvey also asserted claims of false arrest, false imprisonment, kidnapping, illegal search and seizure, excessive force, Assault and battery. Defendant-Appellant seeks monetary damages and injunctive relief. (See Civil Docket Sheet Case No. 1:17-CV-00247 U.S. District Court (R-9) dated 7/17/18 Amended Complaint)

On initial screening, the district court concluded that the complaint was time barred and sua sponte dismissed it under 28 U.S.C. § 1951 (e) (2) (B) and 1915A for failure to state a claim on which relief may be granted. The district court reasoned that a one-year statute of limitation applies to § 1983 actions brough in Tennessee; that the incident about which Defendant-Appellant Harvey complained occurred on October 29, 2015, when he was arrested and allegely subjected to an illegal search and seizure and other alleged civil rights and constitutional violations; that the lastest date on which the statute of limitations for Defendant-Appellant claims could have begue to run was August 23, 2016, when the criminal charges lodged against him as a result of the October 29, 2015, incident were dismissed against Defendant-Appellant Harvey; and that his October 18, 2017, complaint was untimely because it was filed more than one year after the criminal charges were dismissed.

On 12/19/2019 Defendant-Appellant Harvey filed his appeal, even though Harvey was granted in forma pauperis on 02/11/2019 by the U.S. District Court to the U.S. Court of Appeals, Cincinnati, Ohio Case No. 19-6434;

the U.S. District Court never rescinded the in forma pauperis under Fed. R. App. P. 24 (a) (3).

- Defendant-Appellant Harvey, accepted for value the presentment of $505.00 from the U.S. Court of Appeals and returned the presentment for legal tender of discharge by issuing a International Bill of Exchange as legal tender for discharge in accordance with Title 18 > PART I > CHAPTER 1 > SEC. 1. > SEC. 8: Obligation or other security of the United States defined

The term "obligation or other security of the United States" includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposits, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any Act of Congress (HJR 192 of June 5, 1933) and canceled United States stamps.

The International Bill of Exchange is legal tender as a national bank note, or note of a National Banking Association by legal and/or statutory definition (UCC 4-105, 12 CFR Sec. 229.2, 210.2, 12 USC 1813), issued under Authority of the United States Code 31 U.S.C. 392, 5103, which officially defines this as a statutory legal tender obligation of THE UNITED STATES, and is issued in accordance with 31 USC 3123 and HJR-192 (1933) which establish and provide for its issuance as "Public Policy" 73-10 in remedy for discharge of Equity interest on that portion of the public debt to its Principals, and Sureties bearing the Obligation of THE UNITED STATES. Defendant-Appellant Harvey issued legal tender for discharge by way of a International Bill of Exchange in the Amount of $505.00 to the U.S. Court of Appeals to satisfy the court cost and fees to proceed in his appeal. (See Civil Docket Case No. 19-6434 U.S. COA dated 11/13/2020 (R-31) entered and accepted on 11/30/2020 (R-33). The U.S. Court of Appeals dismissed Appellant § 1983 for non-payment. This court failed to adhere to well settled law pursuant to the International Bill of Exchange Act.

REASON FOR GRANTING PETITION

1. Proposition Of Law No. I: Statute of limitation challenged and Equitable tolling due to discovery rules and fraud. Bailey v. Glover, 88 U.S. 342, 349-50 (1874); Brown v. City of Buena Vista, 95 U.S 157, 160 (1877).

Defendant-Appellant Harvey never realized he had been injured until long After the fraud was perpetrated against him.

How should a court Apply a statute of limitation when the Appellant does not discovery his injury, and could not reasonably discover it, until long After the injury inflicted. Defendant-Appellant Harvey states extraordinary circumstances was necessary to warrant equitable tolling and it was professional misconduct that fell short and to respond to the Appellants many requests for information warranted equitable tolling. A petitioner cannot bring a federal claim without first exhausting state remedies - a process that frequently takes longer than one-year.

A petitioner is entitled to equitable tolling on if he shows (1) that he has been pursuing his rights diligently; Appellant assert that he has been pursuing his discovery for evidence of his injuries and after writing the courts for over two years to get copies of the warrant, eviction order, search warrant the court refused to produce these document; (2) that some extra ordinary circumstances stood in Appellant's way and prevented timely filing, whereas Appellant filed for discovery to the General Sessession Criminal Court of Hamilton County, TN and the General Sessession Court has failed to produce the requested discovery, these are the circumstance which impeded Appellant timely filing.

Appellant Harvey's claims was timely because the General Sessions Criminal Court of Hamilton County, TN withheld evidence which would prove Appellant's claims, and factual predicate of Appellant's claims could have been discovered upon his claim being filed through exercise of due diligence. Ford v. Gonzalez, (2012, CA. 9 CA) 683 F.3d 1230; Adams v. Greiner, 272 F. Supp. 2d 269 (2003, SD NY) Newly discovered evidence provision of statute, allowed one year limitation period to begin to run

from date on which factual predicate of claim(s) presented could have been discovered through exercise of due diligence.
Douglas v. Workman (2009, CA 10 Okla) 560 F. 3d 1156 (Brady claim were not barred by limitation period).
- The Sixth Circuit standard was too rigid. The AEDPA statute of limitation was not jurisdictional and was subject to a presumption in favor of equitable tolling. A court must not construe a statute to displace courts traditional equitable tolling authority absent the clearest command. Where there has been no negligence or laches on the part of a Appellant in coming to the knowledge of the fraud which is the foundation of the suit, and when the fraud has been concealed, or is of such character as to conceal itself, the statute does not begin to run until the fraud is discovered by, or becomes known to, the party suing. Statute of limitation would not apply if fraud could be proven, because the fraud, if it existed, was not known sufficiently early. Brown v. City of Buena Vista 95 U.S. 157, 160 (1877).

2. Proposition Of Law No. II: May the Sixth Circuit dismiss a § 1983 sua sponte under Neitzke v. Williams and 28 U.S.C. § 1915 (e) (3) without briefing any party and without rescinding of IFP status under Fed. R. App. R. 24 (a) (3).

Application of this Court holding in Neitzke v. William, 490 US at 325 to dismiss an in forma pauperis in a civil case is flatly wrong. This is because a determination of frivolousness cannot be made without at least some sort of adversarial testing.

In Neitzke, this Court addressed the standard for dismissal under Fed. R. Civ. P. Rule 12(b) (6) vis-a-vis 28 USC § 1915 (e). There, the Court cited Anders v. California to illustrate, by way of example' that an appeal on a matter of law is frivolous where [none] of the legal points [are] arguable on their merits. Neitzke, 490 U.S. at 325. But recall, in Anders, a lawyer reviewed the record, researched applicable law, then informed the Court no non-frivolous issues existed meriting appeal. Anders, 386 U.S. at 742. Here nothing of the sort had occurred. As here in Appellant Harvey's case the lower U.S. District Court and the Sixth Circuit U.S. Court of Appeals merely denied Appellant Harvey's opportunity to file his §1983 claim out of hand.

- Moreover, a sample search of Neitzke in the Second Circuit reveals it has an establish practice of sua sponte dismissing pro se appeals without so much as a brief being filed. See LEXIS NEXIS, Second Circuit Court of Appeals, key word search Neitzke. In our society, where courts have approved departure from the party presentation in civil or criminal cases, the justification has usually been to protect a pro se litigants rights." Greenlaw, 544 U.S. at 244.

- The United States Supreme Court follow the principles of party presentation as well as all other courts should rely on the parties to frame the issues for decision and assign the courts the role of neutral arbiter of matters the parties presents. Appellant Harvey was denied the right to principles of party presentation and to file a brief.

3. Proposition Of Law No. III: Whereas the Sixth Circuit Court and U.S. District Court lacks personal jurisdiction over the

Appellee for failure to serve the Appelle under Fed. Civ. R. P. Rule 4(E) and Civ. R. 3(A).

Appellant Harvey filed a Motion Requesting in the lower U.S. District Court requesting that the U.S. Marshall service serve all Appellee. (See Civil Docket Sheet U.S. District Court (R-3) dated 11/01/2017). The U.S. District Court failed to serve the Appellee(s) (See Civil Docket Index Report U.S. Court of Appeals (R-4) dated 12/19/2019, pursuant to Fed. Civ. R. P. Rule 4(e) and Civ. R. 3(A). Appellant claims affirmative defense of insufficiency of process.
A court only has jurisdiction to proceed in a civil case if service of the complaint has been made on all defendants-Appellees within one year after the complaint was filed. The direct lacks result of both courts lower U.S. District Court and the U.S. Court of Appeals failure to perfect service on the defendant-Appellees within the one year time limit for doing so set forth in Civ. R. 3(A) is violative of Appellant rights. Sanders v. Ohio (1984).

-Neither Courts supplied Appellate with a Notice To Dismiss Complaint pursuant to C.P. Sup. R. 6(a). Both courts U.S. District Court nor the Sixth Circuit U.S. Court of Appeals NEVER stated whether the cases was dismissed or denied with prejudice or without prejudice. Civil Rule 4(e); See Harper v. Solimino, Anderson's Ohio Civil Practice (1996) 177, Section 150.06. Civil Rule 4(E) addresses dismissals or denial under the circumstances of this case, directs courts that such dismissals be without prejudice, so as to avoid a conflict with Civ. R. 3(A).

4. Proposition Of Law No. IV; Whereas, the Sixth Circuit Court erred for not accepting and International Bill of Exchange as legal tender for discharge of the courts presentment of payment in the amount of $505.00. Title 18 USC Sect. 8, Public Policy Law 73-10, and HJR-192 of June 5, 1933, SEE APPENDIX E1 thru E19.

Appellant Harvey received a presentment to pay a filing fee of $505.00 to the U.S. Court of Appeals on 12/26/2019 in case no. 19-6434. Appellant requested for extention of time and it was granted until November 10, 2020. On November 06, 2020 Appellant sent an International Bill of Exchange by placing in the Autry State Prison mail box to the U.S. Court of Appeal even though Appellant was still considered in forma pauperis.

Those who constitute an association nationwide of private, unincorporated persons engaged in the business of banking to issue notes _against_ these obligations of the United States due them; whose private property is at risk to collateralize the goverments debt and currency, by legal definitions, a "_national banking association_," such notes, _issued against these obligation of the United States to that part of the public debt due its Principals and Sureties, are required by law to be accepted as "legal tender" of payment for all debts public and private_, and are defined in law as "_obligation of the United States_," on the same par and category with Federal reserve notes and other currency and legal tender obligation."

The International Bill of Exchange is legal tender as a national bank note, or note of a National Banking Association, by legal and/or statutory definition (UCC 4-105, 12 CFR Sect. 229.2, 210.2, 12 USC 1813), issued under Authority of the United States Code 31 USC 392, 5103, which officially defines this as a statutory legal tender obligation of THE UNITED STATES, and is issued in accordance with 31 USC 3123 and HJR-192 (1933) which establish and provide for its issuance as "Public Policy" in remedy for discharge of equity interest recovery on that portion of the public debt to its Principals, and Sureties bearing the Obligation of THE UNITED STATES. This is a statutory remedy for equity interest recovery due the principles and sureties of the United States for discharge of lawful debts in commerce in conjunction with US obligations to that portion of the public debt it is intended to reduce. (See Senate Document No. 43, 73rd Congress, 1st. Session.)

"Under the new law the money is issued to the bank in return for Government obligations, bills of exchange, drafts, notes, trade acceptances, and bankers' acceptances. The money will be worth 100 cents on the dollar, because it is backed by the credit of the nation (See Executive Order 13037; whereas the American People is considered human capitol) (March 1997). It will represent a mortgage on all the homes and other property of all the people in the Nation. (Which lawfully belongs to these private citizen.). The National Debt is defined as mortages on the wealth and income of the people of a country, being that the people of this nation is considered human capitol then all debt obligations is against the government. (See also The Emergency Banking Act, March 9, 1933).

5. Proposition of Law V:

The Supreme Court of Ohio denied Appellant-Harvey to seek review from its court.

On January 25, 2021, Appellant-Petitioner Harvey filed a Notice of Appeal, Affidavit of Indigence, and a Memorandum In Support of Jurisdiction. On February 22, 2021 Appellant-Petitioner Harvey received a letter back from Sandra H. Grosko Clerk of Court the Supreme Court of Ohio stating my appeal was not filed because they do not comply with the Rules of Practice of the Supreme Court of Ohio without citing any authorities to her claim. In order for a case to currently be pending their has to be a Notice of Appeal to initiate the case to be entered into the next Court such as the Supreme Court of Ohio.

This court abused its discretion to not review my appeal under their jurisdiction 28 U.S.C. 1331.

CONCLUSION

For the reasons discussed above, this case implicates numerous issues of public and great general interest. Accordingly, Harvey respectfully requests that this Court accept jurisdiction in this case and decide the important issues presented by this appeal.

/s/ Reginald C. Harvey

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Date: 4/20/21