

No.

25-226

IN THE
SUPREME COURT OF THE UNITED STATES

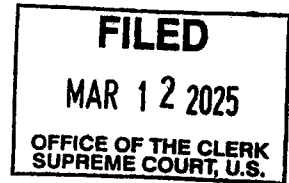
Easton Murray

Petitioner

v.

STATE OF ARIZONA;

Respondents



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

PETITION FOR WRIT OF CERTIORARI

Easton Murray
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QUESTION(S) PRESENTED

1. IS A PROSECUTOR, AS A TRUSTEE OF THE PUBLIC TRUST, AND CHARGED WITH THE DUTY TO UPHOLD THE LAW, IMMUNE FROM LIABILITY WHEN THEY BREAK THE LAW THEY HAVE TAKEN AN OATH TO UPHOLD?
2. ARE THERE ANY UNLAWFUL ACTIONS A PROSECUTOR, AS A TRUSTEE OF THE PUBLIC TRUST, AND CHARGED WITH THE DUTY TO UPHOLD THE LAW, CAN COMMIT WHICH COULD BE CONSTRUED AS BEING PART OF THE DUTIES OF THEIR OFFICE?
3. IS THE IMMUNITY CREATED BY THIS COURT AND CONFERRED ON A PROSECUTOR, AS A TRUSTEE OF THE PUBLIC TRUST, AND CHARGED WITH THE DUTY TO UPHOLD THE LAW, CONSTITUTIONAL?
4. IS THE IMMUNITY CREATED BY THIS COURT AND CONFERRED ON A PROSECUTOR, AS A TRUSTEE OF THE PUBLIC TRUST, AND CHARGED WITH THE DUTY TO UPHOLD THE LAW, A VIOLATION OF ARTICLE III OF THE CONSTATATION OF THE UNITED STATES COMMONLY KNOWN AS SEPARATION OF POWERS DOCTRINE?
5. IS THE IMMUNITY CREATED BY THIS COURT AND CONFERRED ON A PROSECUTOR, AS A TRUSTEE OF THE PUBLIC TRUST, AND CHARGED WITH THE DUTY TO UPHOLD THE LAW, INTENDED BY THIS COURT TO APPLY TO A PROSECUTOR WHEN THE SAID PUBLIC TRUSTEE COMMITS UNLAWFUL ACTS IN VIOLATION OF THEIR OATH OF OFFICE?
6. CAN THE UNLAWFUL CONDUCT OF A PROSECUTOR, AS A TRUSTEE OF THE PUBLIC TRUST, AND CHARGED WITH THE DUTY TO UPHOLD THE LAW, TRANSFER TO THE CITY, COUNTY OR OTHER MUNICIPALITY BY THE AGENT PRINCIPAL DOCTRINE WHERE THERE IS NO OFFICIAL POLICY BUT NO ACTION IS TAKEN BY THE CITY, COUNTY OR OTHER MUNICIPALITY AS THE PUBLIC TRUST TO PROPERLY PROTECT THE PEOPLE FROM ITS AGENT.

LIST OF PARTIES

The parties to this Petition are:

Easton Murray, as the Petitioner in propria persona.

State of Arizona, as Respondent

County Of Pima, as Respondent

Office Of The District Attorney, as Respondent

Joseph Maziarz, as Respondent

Amy Thorson, as Respondent

Barbara Lawall, as Respondent

Chris Ward as Respondent

RELATED CASES

* Murray v. State of Arizona, et alli, No. 4:22-cv-00360-RM

U. S. District Court for Arizona

Judgment entered 24 December 2024.

* Murray v. State of Arizona, et alli, No. 23-15791

U. S. Court of Appeals for the Ninth Circuit.

Judgment entered 24 December 2024

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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 judgments of the United States Court of Appeals, Ninth Circuit, attached hereto as Appendix A, which is an unpublished opinion.

Petitioner respectfully prays that a writ of certiorari issue to review the judgments of the United States Court District Court, attached hereto as Appendix B, which is an unpublished opinion.

DECISION BELOW

The United States Court of Appeals, Ninth Circuit, decided the matter before them on 24 December 2024 in an unpublished decision. (see Appendix A)

The United States District Court for Arizona decided the matter before them on 15 May 2023 in an unpublished decision. (see Appendix B)

JURISDICTION

The United States Court of Appeals, Ninth Circuit, decided the matter before them on 24 December 2024. No Petition for Rehearing was filed. This Court's jurisdiction is invoked under 28 U.S.C. § 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitution for the United States of America, Article of Amendment V

No person shall be [...] deprived of life, liberty, or property, without due process of law [...]

Constitution for the United States of America, Article of Amendment VI

In all criminal prosecutions, the accused shall enjoy the right [...] to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor [...]

Constitution for the United States of America, Article of Amendment 11:

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

STATEMENT OF THE CASE

This is a case of first impression as Petitioner, Easton Murray, has been unable to locate any prior decision wherein the Public Trustees holding the office of Prosecuting Attorney have engaged in activities which are against and which offend the law, and when called on to be held to answer claim the immunity granted by this court in *Imbler v. Pachtman*

On 3 August 2022 The Petitioner filed a civil rights suit against the named Defendants. Though the Petitioner was not in custody and was no longer subject to the classification of “prisoner” the cause was described as a prisoner civil rights complaint. (see Docket Entry [DE] #1)

On 23 September 2022 the Court received notice that all Defendants had been properly served and noticed of the action. (DE #5, 6, 7, 8, 9, 10, 11)

On 30 September 2022, State of Arizona waived service. (DE #12)

On 7 October 2022 Defendants filed a Motion to Dismiss and a Motion to Substitute Party. The Motion to Substitute Party attempted to remove Defendant LaWall from the controversy entirely even though Defendant LaWall was sued in her personal as well as professional capacity. (DE# 13 and 14, respectively)

On 12 October 2022 the Petitioner filed their Response and Opposition to the Motion for Substitution of Party explaining that LaWall was sued in her individual capacity which could not be substituted. (DE #15 and 16)

On 24 October 2022 the court granted the Motion For Substitution of Party. (DE #17)

On 31 October 2022 the Petitioner filed their response to the Motion to Dismiss. (DE #18, 19)

On 7 November 2022 Defendants filed their Reply and the matter was submitted to the court for disposition. (DE #20)

On 7 November 2022 the Petitioner file a motion with the court seeking reconsideration of its order substituting parties and completely dismissing LaWall from the cause. (DE #21)

On 10 November 2022 the State of Arizona filed its motion to dismiss (DE #22), Motion for Judicial Notice (DE #23), and Motion to Consolidate Cases. (DE #24)

On 6 December 2022 responses to the motions filed by State of Arizona were filed by Plaintiff. (DE #26, 27, and 28)

On 13 December 2022 a Reply was filed by State of Arizona. (DE #29, 30, and 31)

On 28 February 2023 Defendant LaWall was ordered by the court to respond the motion for reconsideration filed by Petitioner. (DE #32)

On 14 March 2023 Defendant LaWall filed her response as ordered by the court. (DE #34)

On 20 March 2023 the Petitioner filed their Reply. (DE #35)

On 5 April 2023 the court partially granted the request for consideration by the Petitioner and Defendant LaWall was rejoined in the cause. (DE #36)

On 15 May 2023 the court granted to motion to dismiss filed by Defendants (DE #37) and a timely notice of appeal was filed. (DE #39)

The Ruling by the District Court and Ninth Circuit Court of Appeals Extending Immunity In The Instant Cause

The District Court, as well as the United States Court of Appeals, Ninth Circuit, relied heavily on the decision of this court set out in *Imbler v. Pachtman* (1976) 424 U.S. 409, finding

immunity for essentially any and all act, lawful or unlawful, undertaken by a County or District Attorney against an accused.

STATEMENT OF THE FACTS

On 16 December 2017 Plaintiff went to the home of Orea Carr, hereinafter Carr.

On 16 December 2017 while at the residence of Carr, a confrontation occurred and Carr attempted to take possession and control of the rifle carried by Claudius Murray.

In the struggle over control of the firearm, Carr was shot and suffered a minor, non-life-threatening wound to his leg.

Unaware that Carr had suffered any injury, Plaintiff and his brother left the Carr residence.

After twenty (20) minutes of walking around the residence, and going out onto his patio, Carr called for medical assistance.

As a result of the call described above, police arrived at the Carr residence and found Carr receiving treatment, and found the girlfriend of Carr, Taveen Taylor, hereinafter Taveen, attempting to conceal a bundle of marijuana on the couch.

Due to the odor of marijuana, and other items the officers found in plain sight, search warrants for the Carr residence and the vehicle owned by Carr were secured.

Upon the search warrant described above, being secured, a search of the Carr residence and vehicle were conducted.

During the searches described above, police found and secured a bundle of marijuana weighing eight (8) pounds, two (2) smaller packages of marijuana, scales, three (3) cellular phones, shipping and packing materials, and a shipping receipt showing a package had been

shipped, weighing approximately eight (8) pounds from Tucson Arizona to New Jersey a few days prior to the incident described in paragraph 3, above.

Carr was taken to the hospital where his wound was treated, and ultimately discharged.

During interviews with police, Carr and Taveen gave conflicting statements, and descriptions of the events, as well as claimed Plaintiff and his brother were responsible for the marijuana and paraphernalia found in the Carr residence.

Though police collected the evidence identified above, no testing or forensic study was made of the items.

The decision was made by Defendant LaWall and Defendant Ward not to notify any other law enforcement agency regarding the evidence of illicit activities found at the Carr residence.

The decision was made by Defendant LaWall and Defendant Ward not to conduct any testing or investigation into the evidence described in paragraph 10, above.

The decision was made by Defendant LaWall and Defendant Ward not to investigate the shipping records found in the vehicle of Carr.

The decision was made by Defendant LaWall and Defendant Ward not to inform Plaintiff, or counsel for Plaintiff, of the decisions described above.

During the course of the investigation of the event described above, no evidence was discovered that linked Plaintiff to any of the contraband police discovered in the Carr residence.

During the course of the investigation of the event described above, no evidence was discovered that demonstrated Plaintiff knew of any of the contraband police discovered in the Carr residence.

For the crimes committed by Carr related to the contraband found in the Carr residence, Carr stood to receive up to 12.5 years in prison.

To secure the testimony of Carr against Plaintiff, the decision was made by Defendant LaWall and Defendant Ward to offer Carr immunity for his unlawful acts.

In addition to the immunity grant described in paragraph 21, above, the decision was made by Defendant LaWall and Defendant Ward to offer Carr assistance in securing parole from deportation proceedings for one year.

During the trial of Plaintiff and his brother, false testimony was solicited from Carr by Defendant Ward.

During the trial of Plaintiff and his brother, false claims were made by Defendant Ward regarding Plaintiff.

During the trial of Plaintiff and his brother, Defendant Ward chose to misrepresent the law as regards the reasonable doubt standard.

On 18 March 2021 the Supreme Court of Arizona found that Defendant Ward had, in point of fact, committed misconduct by misrepresenting the law on the reasonable doubt standard to the jury to secure the conviction of Plaintiff.

Based on the finding described in paragraph 26, above, the conviction of Plaintiff was declared to be unconstitutional and void.

On 19 May 2021 all formal allegations were dismissed against Plaintiff and his brother.

In November 2021 Plaintiff learned and was able to independently verify with the clerk of the court that the dismissal described in paragraph 28, above, had been amended to a dismissal with prejudice.

Due to the amendment described in paragraph 29, above, the declaration by the Supreme Court of Arizona, described in paragraph 26, above, became the final adjudication of the facts.

Based on the final adjudication of the facts described above, Plaintiff was unlawfully confined in the County Jail and Department of Corrections from 2 August 2018 to 12 April 2021, or 984 days (2.69 years, or 32.8 months).

REASONS FOR GRANTING THE WRIT

The Court Should Grant Certiorari to Clarify the Proper Scope and Extent to Which Immunity Applies to the Acts Undertaken By Prosecuting Attorneys.

This Court should grant review in this case to provide guidance on when the immunity fashioned by this court in *Imbler v. Pachtman* (1976) 424 U.S. 409 applies to the conduct of prosecution attorneys, and if the immunity fashioned by this court over 50 years ago shields such public trustees even where their conduct is a violation of law.

Properly understood, the prosecuting attorney, whether titled as the District Attorney, County Attorney, City Prosecutor, or some other variation of the same, is a public trustee. As explained by this Court in *Imbler, supra*, "A state prosecuting attorney who, as here, acted within the scope of his duties in initiating and pursuing a criminal prosecution and in presenting the State's case, is absolutely immune from a civil suit for damages under § 1983 for alleged deprivations of the accused's constitutional rights."

In the analysis offered in *Imbler, supra*, this court explained the genesis for the immunity as being based on the historical practice of legislators in both England and this country had enjoyed absolute immunity for their official actions, Citing *Tenney v. Brandhove* (1951) 341 U.S. 367, this court held that *Tenney* squarely presented the issue of whether the Reconstruction Congress had intended to restrict the availability in § 1983 suits of those immunities which historically, and for reasons of public policy, had been accorded to various categories of officials. The Court concluded that immunities "well grounded in history and reason" had not been abrogated "by covert inclusion in the general language" of § 1983. 341 U.S., at 376. Regardless of any unworthy purpose animating their actions, legislators were held to enjoy under this statute their usual immunity when acting "in a field where legislators traditionally have power to act."

(*Imbler*, supra at 418) Though this court had decided various matters relating to the immunity enjoyed by various officials, including Governors and other executive officials, police in limited circumstances, and government officials. In the 1975 term, this court decided the matter of *Wood v. Strickland* (1975) 420 U.S. 308, wherein the court addressed the immunities for school officials, in the context of imposing disciplinary penalties. In *Wood*, the court held that school officials were not liable “so long as they could not reasonably have known that their action violated students' clearly established constitutional rights, and provided they did not act with malicious intention to cause constitutional or other injury. (Id., at 322; cf. *O'Connor v. Donaldson* (1975) 422 U.S. 563, 577)

This court also explained the difference between absolute and qualified immunities in a footnote in *Imbler*, explaining, “The procedural difference between the absolute and the qualified immunities is important. An absolute immunity defeats a suit at the outset, so long as the official's actions were within the scope of the immunity. The fate of an official with qualified immunity depends upon the circumstances and motivations of his actions, as established by the evidence at trial. See *Scheuer v. Rhodes*, 416 U.S. 232, 238-239 (1974); *Wood v. Strickland*, 420 U.S. 308, 320-322 (1975).

Before *Imbler* the court never had the occasion to consider the immunity due to state prosecuting officers. In *Imbler*, this court explained the process of determining the scope of immunity thus, “our earlier decisions on § 1983 immunities were not products of judicial fiat that officials in different branches of government are differently amenable to suit under § 1983. Rather, each was predicated upon a considered inquiry into the immunity historically accorded the relevant official at common law and the interests behind it. The liability of a state prosecutor under § 1983 must be determined in the same manner.” (*Imbler*, at 421) In its analysis of the

historic cases from the various states and courts of appeal which have found prosecuting officials enjoy absolute immunity, there are two striking elements which appear to underwrite the immunity. The first is that the immunity served the "principles of public policy." The second is that the prosecuting official is acting within the bounds of their official office, albeit in sometimes very dark grey areas.

In further explanation, this court quoted from the California case of *Pearson v. Reed* (1935) 6 Cal.App.2d 277, 287, 44 P.2d 592, 597, wherein the court there explained, "The office of public prosecutor is one which must be administered with courage and independence. Yet how can this be if the prosecutor is made subject to suit by those whom he accuses and fails to convict? To allow this would open the way for unlimited harassment and embarrassment of the most conscientious officials by those who would profit thereby. There would be involved in every case the possible consequences of a failure to obtain a conviction. *424 There would always be a question of possible civil action in case the prosecutor saw fit to move dismissal of the case. . . . The apprehension of such consequences would tend toward great uneasiness and toward weakening the fearless and impartial policy which should characterize the administration of this office. The work of the prosecutor would thus be impeded and we would have moved away from the desired objective of stricter and fairer law enforcement."

This court, in *Imbler*, in holding that it believed the same considerations of public policy that underlie the common-law rule likewise countenance absolute immunity under § 1983, explained that "If a prosecutor had only a qualified immunity, the threat of § 1983 suits would undermine performance of his duties no less than would the threat of common-law suits for malicious prosecution. A prosecutor is duty bound to exercise his best judgment both in deciding which suits to bring and in conducting them in court. The public trust of the prosecutor's office

would suffer if he were constrained in making every decision by the consequences in terms of his own potential liability in a suit for damages. [...] Further, if the prosecutor could be made to answer in court each time such a person charged him with wrongdoing, his energy and attention would be diverted from the pressing duty of enforcing the criminal law.”

The *Imbler* decision and reasoning rests on the consideration that a prosecuting official is performing acts within the scope of their duties and office. Indeed, every court opinion rests on this same qualification. This makes sense given the trust placed in such prosecuting officials to undertake to fairly and impartially enforce the laws, and hold the wrongdoers accountable.

However, at no time and in no case that Petitioner is aware of, has any court, let alone this court, expressly set out what that scope of duty is; and moreover has never confronted a case where the prosecutor has engaged in unlawful activities to which the court has applied immunity to protect the prosecuting official. This is such a case.

It can not reasonably be argued that a prosecutor, whose duty it is to protect the public and equally enforce the laws, could hide under the cloak of immunity when the actions of the official are in violation of the same laws they took an oath to uphold and defend. This court has not even gone so far as to hold that a judge, with absolute judicial immunity, may violate the law with impunity. An example, though extreme, would be where a judge decides upon pronouncing sentence, pronounces death, pulls a weapon, and kills the accused in the moment. Would this court say the judge is absolutely immune for this act? What if the prosecutor, acting in the capacity of a prosecutor, were so convinced that it was their duty to enforce the law that they decided to execute the accused, would this be deemed protected by immunity?

It is presumed that the prosecuting official will act according to law, and when they do so, even if they are mistaken in their belief, it is permissible to extend to them immunity for their

good faith attempt at upholding the law and discharging their duty. As this court has said, this instills public confidence. However, when the prosecuting official is permitted to opening defy and violate the law, and then seek protection under the cloak of immunity, the opposite effect is had; public trust and faith is corroded and lost. We have seen the effects of this in previous years where the police and law enforcement agents are derided and respect for them is lost.

In another case by this Court, *Berger v. United States* (1935) 295 U.S. 78, this court stated “[A] prosecutor has a duty to refrain from improper methods calculated to produce a wrongful conviction... [While he] may strike hard blows, he is not at liberty to strike foul ones.” This is as close as any court has come to defining where the line of propriety is, and where the duty of the prosecuting official may run afoul. However, the question has largely gone unanswered, leading to a number of cases being dismissed without hearing or consideration. Leaving the People to wonder where is the redress of grievances guaranteed by the Constitution for the United States of America?

This court should take this unique opportunity to put in express terms what the scope of office is which garners the protection of immunity, and what is not. As the Courts of Appeal have essentially rendered any and all claims against prosecuting officials as being “dead on arrival” due to the immunity this Court has crafted in *Imbler* regardless of what the nature of the claims are. Such a result occurred in this case. The Court of Appeal and the District Court looked only at the defendants named and decided, without any clear consideration for the actual claims, that the defendants were absolutely immune from suit.

CONCLUSION

For all of the reasons set out herein and above, the order of dismissal issued by the District Court must be reversed, and the petition for a writ of certiorari should be granted.

Respectfully submitted,

Easton Murray

Petitioner and Plaintiff

Date: 12 March 2025