

Supreme Court, U.S.
FILED

06-30 JUL 5 2006

No. _____
OFFICE OF THE CLERK

In The
Supreme Court of the United States

—◆—
ALEX D.,

Petitioner,

v.

ARIZONA DEPARTMENT OF SECURITY, *et al.*,

Respondents.

—◆—
**On Petition For Writ Of Certiorari
To The Arizona Court Of Appeals**

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
JOSEPH W. CHARLES,
Bar No. 003038
JOSEPH W. CHARLES, P.C.
5704 W. Paltaire Avenue
P.O. Box 1737
Glendale, Arizona 85311-1737
(623) 939-6546
Counsel of Record for Petitioner

Date: July 5, 2006

30

QUESTION PRESENTED FOR REVIEW

Whether Arizona Revised Statute §8-533(8)(b), which permits the termination of parental rights when the child has been in an out-of-home placement for a cumulative total period of fifteen months or longer pursuant to court order or voluntary placement, the parent has been unable to remedy the circumstances which cause the child to be in an out-of-home placement and there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care and control in the near future, is unconstitutional as violating the Due Process Clause of the Fourteenth Amendment since the phrase "circumstances which cause out-of-home placement" is unconstitutionally vague.

Supreme Court U.S.
FILE

No. _____

~~06-31~~ JUN 29 2006

In The OFFICE OF THE CLERK
Supreme Court of the United States

————— ♦ —————
NEAL F. GASSER,

Petitioner,

v.

DISTRICT OF COLUMBIA,

Respondent.

————— ♦ —————
ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

————— ♦ —————
PETITION FOR WRIT OF CERTIORARI
WITH APPENDIX

————— ♦ —————
Jonathan L. Gould
Counsel of Record
KESTELL & ASSOCIATES
1012 14th Street, N.W.
Suite 630
Washington, DC 20005
(202) 347-3889

Counsel for Petitioner

31

QUESTION PRESENTED

On March 31, 2006 the U.S. Court of Appeals for the District of Columbia reversed a jury verdict in favor of petitioner and the district court's denial of a renewed motion for summary judgment, and held that while plaintiff may have shown that his employer perceived him as being significantly restricted in two classes of jobs (law enforcement and driving jobs), petitioner was further required to present statistical evidence as to the number of law enforcement and driving jobs in the local geographic area.

Therefore, the issue presented to this court is: Whether under the Americans with Disabilities Act, petitioner was required to present statistical evidence above and beyond his showing that he was perceived by his employer as being significantly restricted in two well-recognized classes of jobs (law enforcement and driving) to demonstrate that he was perceived as "disabled"?

Supreme Court, U.S.
FILED

06-32 JUN 28 2006

No. OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

RODRIGO HERRERA-CEJA,

Petitioner,

v.

ALBERTO R. GONZALES, ATTORNEY GENERAL,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

RAÚL R. LABRADOR
LABRADOR LAW OFFICES, PC
5700 E. Franklin Rd., Ste. 100
Nampa, ID 83687
(208) 465-9988

PETER J. RUBIN
Counsel of Record
Georgetown Univ. Law Center
600 New Jersey Ave., NW
Washington, DC 20001
(202) 662-9388

Dated: June 26, 2006

QUESTION PRESENTED

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”) strips federal courts of jurisdiction “to review . . . any . . . decision or action of the Attorney General . . . the authority for which is specified under this subchapter [Subchapter II of Chapter 12 of Title 8] to be in the discretion of the Attorney General . . . other than the granting of relief under section 208(a) [relating to asylum].” 8 U.S.C. §1252(a)(2)(B)(ii). The discretion of the Immigration Courts and the Board of Immigration Appeals over some decisions is specified in just such statutory grants of discretion to the Attorney General under the relevant subchapter. But the discretion to make an important class of decisions, including whether to grant or deny motions for continuance, motions to reopen, motions for reconsideration, and motions for change of venue is specified not in any statutory grant of authority, but rather “derives *solely* from regulations promulgated by the Attorney General.” See *INS v. Doherty*, 502 U.S. 314, 322-323 (1992) (emphasis added).

The Circuits are deeply and irreconcilably divided about whether this provision of IIRIRA eliminates their subject matter jurisdiction to review decisions made discretionary in this way by federal regulation. The Question Presented is:

Are the Eighth and Tenth Circuits correct that the jurisdiction-stripping provision of IIRIRA codified at 8 U.S.C. §1252(a)(2)(B)(ii) deprives the Courts of Appeals of jurisdiction to review decisions made discretionary by regulation, such as the one to deny a continuance made by the Immigration Judge below, or are the Second, Third, Fifth, Sixth, Seventh, Eleventh and Ninth Circuits correct that it does not strip the federal courts of such jurisdiction?

Supreme Court of the United States

No. 06-33 JUL 3 - 2006

IN THE OFFICE OF THE CLERK
Supreme Court of the United States

PG&E CORPORATION, ET AL.,

Petitioners,

v.

PEOPLE OF THE STATE OF CALIFORNIA,
EX REL. BILL LOCKYER, ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA, AND
CITY AND COUNTY OF SAN FRANCISCO,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Alan S. Gover
Mike Stenglein
DEWEY BALLANTINE LLP
401 Congress Ave., Suite 3200
Austin, TX 78701
(512) 226-0300

Michael P. Kessler
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, NY 10153

Laurence H. Tribe
Counsel of Record
Jonathan S. Massey
Hauser Hall 420
1575 Massachusetts Ave.
Cambridge, MA 02138
(617) 495-4621

Thomas C. Goldstein
AKIN GUMP STRAUSS
HAUER & FELD LLP
1333 New Hampshire Ave., N.W.
Washington, DC 20036

— Additional counsel listed on inside cover —

33

QUESTIONS PRESENTED

I. Whether the "police or regulatory power" exception to removal in 28 U.S.C. § 1452 permits a state governmental unit to circumvent a federal bankruptcy court's exclusive jurisdiction over a cause of action that is property of a debtor's bankruptcy estate.

II. Whether the "police or regulatory power" exception in 28 U.S.C. § 1452 permits a state governmental unit to avoid removal and seek recovery of property of a bankruptcy estate when the highest court of the state has held, under comparable facts, that the governmental unit has no state-law standing to usurp such an action.

Supreme Court, U.S.
FILED

06-34 JUL 3 2006

OFFICE OF THE CLERK

In the Supreme Court of the
United States

JAMES E. MACEWAN,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondents

On Petition For Writ Of Certiorari To
The United States Court of Appeals
for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

DONALD J. MARTIN

Counsel of Record

22 West Airy Street

Norristown, PA 19401

(610) 277-6772

Of Counsel:

FRANCIS RECCHUITI

VANGROSSI & RECCHUITI

319 Swede Street

Norristown, PA 19401

(610) 279-4200

Clare Printing, 206 S. Keystone Ave., Sayre, PA 18840—(570) 888-2244

34

QUESTIONS PRESENTED

1) Does the jurisdictional provision of the statute prohibiting receipt of child pornography, 18 U.S.C. §2252A, requiring that the prohibited materials have "been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer" extend to materials that were received over a channel or instrumentality of interstate commerce, the Internet, without proof that the materials crossed a state or national boundary?

2) Does the imposition of a fifteen year mandatory sentence on an elderly and infirm addicted second offender possessor of child pornography required by 18 U.S.C. §2252A(b)(1) violate the Eighth Amendment prohibition on excessive penalties and cruel and unusual punishment, the Fifth Amendment requirement of due process and the doctrine of separation of powers?

Supreme Court, U.S.
FILED

No. 06-35 JUL 5 2006

IN THE OFFICE OF THE CLERK
Supreme Court of the United States

Beverly S. Malone, PETITIONER

v.

American Equity Investment Life Insurance Co. and
Charles W. Strube, individually and as Trustee of the
Charles W. Strube Revocable Trust, on behalf of himself
and all others similarly situated.

*PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT*

PETITION FOR WRIT OF CERTIORARI

William F. McMurry
Counsel of Record
Ross T. Turner
William F. McMurry & Associates
4801 Olympia Park Plaza
Suite 4800
Louisville, KY 40241
(502)326-9000

Dennis P. Derrick
Counsel of Record
Seven Winthrop St
Essex, MA 01929
(978)768-6610

35

QUESTIONS PRESENTED

1. Can an appellate court consistent with due process change the terms of a class action settlement agreement when that change is contrary to the findings of the district judge who approved it, especially where this new agreement now prevents the petitioners-objectors from pursuing claims against the respondent in state court founded on facts beyond those settled in these proceedings?

2. Has the court of appeals' decision to impose upon the parties at the appellate level an entirely new class action settlement agreement to which they never assented usurped the duty of inferior federal courts under Fed. R. Civ. P. 23(e) to approve settlements of class actions only when they are "fair, reasonable, and adequate" as well as the purpose of the Class Action Fairness Act to avoid unjustified awards to certain plaintiffs at the expense of other class members?

3. Has the petitioner-objector been denied fundamental fairness when her right to bring claims against the respondent in Kentucky on factual predicates entirely different than those assumed in these proceedings has been extinguished by the court of appeals' decision?

SUPREME COURT, U.S.

06-36 MAY 2 2006

No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

PUBLIC AGENCY COMPENSATION TRUST (PACT),
Petitioner

v.

COLIN PERRY ET AL.,
Respondents

On Petition For Writ Of Certiorari
To The Nevada Supreme Court

PETITION FOR WRIT OF CERTIORARI

STEPHEN C. BALKENBUSH, ESQ.*
ROBERT F. BALKENBUSH, ESQ.
Thorndal, Armstrong,
Delk, Balkenbush & Eisinger
6590 S. McCarran Blvd, Ste. B
Reno, NV 89509
(775) 786-2882

** Counsel of Record*

May 2, 2006

Attorneys for the Petitioner

36

i

QUESTION PRESENTED

Whether the conclusive presumption in NRS 617.457 violates the Due Process Clause of the Fourteenth Amendment.

No. 06-__

38

IN THE
Supreme Court of the United States

Detroit Entertainment, L.L.C.,
d/b/a MotorCity Casino, and
Marlene Brown,
Petitioners,

v.

Stella Romanski.

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

PETITION FOR A WRIT OF CERTIORARI

Rosalind Rochkind
Megan K. Cavanagh
GARAN, LUCOW
& MILLER
1000 Woodbridge St.
Detroit, MI 48207

Thomas C. Goldstein
(Counsel of Record)
AKIN, GUMP, STRAUSS,
HAUER & FELD, LLP
1333 New Hampshire Ave., NW
Washington, DC 20036
(202) 887-4060

July 6, 2006

38



QUESTIONS PRESENTED

Petitioners are a private casino and one of its security guards. A jury found that the guard arrested respondent, a guest of the casino, without probable cause. It awarded her compensatory and punitive damages under 42 U.S.C. 1983. The Sixth Circuit held, as a matter of law, that petitioners' conduct constituted "state action" subjecting petitioners to liability under Section 1983. The court rested its decision on a provision of Michigan law authorizing a licensed private security guard with probable cause to arrest an individual on her employer's premises.

The Questions Presented are:

1. Has the Sixth Circuit fundamentally departed from this Court's state action jurisprudence, faithfully applied by other circuits, holding that private conduct that is contrary to state policy does not constitute "state action" for purposes of 42 U.S.C. 1983?
2. Did the Sixth Circuit err in holding, contrary to decisions of other circuits and the Michigan Supreme Court, that an arrest by a private party constitutes state action?

In the event the Court determines not to review the court of appeals' state action holding, the case presents a further question:

3. Should this case be held pending the disposition of No. 05-1256, *Philip Morris USA v. Williams*?

Supreme Court, U.S.
FILED

06-39 JUL 7 - 2006

No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

IN THE MATTER OF THE ESTATE OF SAMUEL M. DAMON,
TRUST CREATED UNDER THE WILL OF SAMUEL M. DAMON,

CHRISTOPHER JAMES DAMON HAIG,
Petitioner,

v.

SHARON DAMON, ET AL.,
Respondents.

**On Petition For A Writ Of Certiorari
To The Supreme Court Of Hawaii**

PETITION FOR A WRIT OF CERTIORARI

THEODORE B. OLSON
Counsel of Record
MATTHEW D. MCGILL
KRISTINA MARLOW
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue NW
Washington, DC 20036-5306
(202) 955-8500

Counsel for Petitioner

39

QUESTION PRESENTED

In Hawaii, as elsewhere, a will speaks from the time of the testator's death and must be interpreted in light of the laws in force at that time. When Samuel Mills Damon died in 1924, Hawaii interpreted testamentary language requiring "per stirpes" distribution in accordance with the common-law understanding recorded in the Restatement (First) of Property that provided for strict per stirpes or modified per stirpes distribution, depending upon the language of the will. Rather than apply this formulation, the Supreme Court of Hawaii applied an interpretation of "per stirpes" adapted from the Restatement (Second) of Property that effectively eliminated the possibility of a modified per stirpes distribution and radically diminished Petitioner's share in the residuary estate. It did so notwithstanding Petitioner's argument that retroactive application of the new rule violated his right to due process under the Fourteenth Amendment of the U.S. Constitution. The question presented is whether the state courts of Hawaii deprived Petitioner of his property without due process of law by retroactively altering the meaning of "per stirpes" to reduce his fully-vested interest in the corpus of the trust created by the Damon will.