

Appellants Brief

Court of Appeals No. [14-24-00131-CR]
Trial Court Case No. [88107-CR-A]

FILED IN
14th COURT OF APPEALS
HOUSTON, TEXAS

MAR 08 2024

DEBORAH M. YOUNG
CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTEENTH DISTRICT

CATHY DENISE FIELDS, [Plaintiff]

V.

THE STATE OF TEXAS, [Defendant(s)]

Appealed to the
COURT OF APPEALS FOR THE FOURTEENTH DISTRICT OF TEXAS AT
HOUSTON, TEXAS

Derogatories in United States Constitutional Amendments, remedies and
reconstruction of systemic Justices for the people it's to protect.

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Attorney for Appellant
[Cathy Denise Fields]

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**Court of Appeals No. [14-24-00131-CR]
Trial Court Case No. [88107-CR-A]
Cathy Denise Fields, [Plaintiff] v. THE STATE OF TEXAS [Defendant]**

**Certificate of Interested Persons
and Corporate Disclosure Statement**

[Corporate disclosure statement (CIP) that complies with FRAP 26.1 and the accompanying rules 26.1(d),(1),(2)] 149th District of Brazoria County, Baughn M.D Stephen, Brazoria County Detention Center, Fields Charles D., Hon. Terri Holder, Linton Crespin Michael, The Court County at Law NO. 2 and Probate., Townsend Travis.]

¹ The CIP contained in the second and all substantial briefs filed may include only persons and entities omitted from the CIP contained in the first brief filed and in any other brief that has been filed. Filers who believe that the CIP contained in the first brief filed and in any other brief that has been filed is complete and must certify that effect.

List of names of parties included in case against state:

149th District of Brazoria County

Baughn, Steven A.

Brazoria County Detention Center

Fields, Charles D.

Hon. Terri Holder

Linton, Crespín Michael

The Court County At Law NO. 2 and Probate

Townsend, Travis

Statement Regarding Oral Argument

To be guilty of an accusation of Aggravated assault with a deadly weapon with a noted mental illness or mental disease directly rebuts the mens rea necessary for the charged offense to be relevant or admissible. In addition the case summary presents the burden of proof for the seizing of a person's liberty with probable cause and constitutional due process.

BRIEF

Issue One: Probable cause hearing/Mental illness.(a)State requires a probable cause hearing within 24 hours. (b) U.S Supreme court has ruled 48 hours is close enough for constitutional purposes. (c) Mental illness culpability.

Issue Two: Invalid/Defective Indictment (a) The accused in a felony case shall have the right to an examining trial before indictment in the county having jurisdiction of the offense.

Issue Three: Warrantless Arrest (a) Bail all prisoners should be bailable by sufficient sureties, unless a capitol offense, when proof is evident.

Issue Four: Due Process Clause/Bill of Attainder (a) prohibits the deprivation of "life, liberty, or property" by the federal and state governments, respectively, without due process of law.

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Table of Citations

Sayre, F. B. (1932). Mens rea. Harvard Law Review, 45, 974–1026.
<https://doi.org/10.2307/1332142>

Randy E. Barnett & Evan D. Bernick, No Arbitrary Power: An Originalist Theory of the Due Process of Law, 60 Wm. & Mary L. Rev. 1599 (2019).

Cases

Mullane v. Central Hanover Bank & Trust Co.,
339 U.S. 306 (1950)

Rennie v. Klein,
653 F.2d 836, 845 (3d Cir. 1981)

Rennie v. Klein,
462 F. Supp. at 1146

Roman Catholic Diocese of Brooklyn v. Cuomo,
592 U.S. ____ (2020) [COVID-19] 592 U.S. __2020

State v. Lester,
294 N.C. 220 (1978)

Wolff v. McDonnell,
418 U.S. at 556-57, 94 S. Ct. at 2974-75

Statutes

18 U.S.C. §3060

18 U.S. Code § 3142

28 U.S.C. § 1257

28 U.S.C. §§ 2241–2256

42 U.S.C. § 1983

42 U.S. § 1985 28

42 U.S.C § 1988

Regulations

28 CFR 2.214

38 CFR § 3.103

Rules

FRAP 4(a)(1)(A)

Preliminary Hearing Rule 5.1(a)(c)

Probable cause hearing required G.S. 15A-611(b)

Probable cause hearing required G.S. 15A-606(a) and (d)

The indictment and information Rule 7(a)(1)

Statement Regarding Adoption

Rennie v. Klein, 653 F.2d 836, 845 (3d Cir. 1981) (“The deprivation of liberty imposed by the state must not exceed that required by needed care or legitimate administrative concerns.” *Rennie v. Klein*, 462 F. Supp. at 1146. To protect the liberty interest in the face of such a threat, the least intrusive infringement is required. Even a convicted prisoner retains a “residuum of liberty” that may not be infringed without due process protections.”)

Roman Catholic Diocese of Brooklyn v. Cuomo, 592 U.S. ____ (2020) [COVID-19] 592 U.S. __2020 (“Members of this court are not public health experts, and we should respect the judgment of those with special expertise and responsibility in this area. But even in a pandemic; the Constitution can not be put away and forgotten.”).

Jurisdictional Statement²

149th District of Brazoria County Case 88107-CR, ORDER DENYING RELIEF UNDER ARTICLE 11.07, TEXAS CODE OF CRIMINAL PROCEDURE, WITHOUT A HEARING , being appealed from 149th District of Brazoria County, Texas, ORDER DENYING RELIEF UNDER ARTICLE 11.07, TEXAS CODE OF CRIMINAL PROCEDURE, WITHOUT A HEARING.

Frivolous and Meritorious. In light of Article 11.07 of the Texas Code of Criminal Procedure, Article 1, §§ 10 and 19 of the Texas Constitution, Amendments V, VI and XIV of the United States Constitution. Plaintiff submitted Application for Writ of Habeas Corpus February 2, 2024 with Defendant(s) resulting in General Denial of EVERY Allegation of Fact and Article 11.07 Writ of Habeas Corpus, ORDER DENYING RELIEF UNDER ARTICLE 11.07, TEXAS CODE OF CRIMINAL PROCEDURE, WITHOUT A HEARING February 5, 2024. Notice of appeal enforced February 20, 2024 General Denial of EVERY Allegation of Fact and Article 11.07 Writ of Habeas Corpus.

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² An appellee's brief need not contain a Jurisdictional Statement, Statement of the Issues , or Statement of the Case if the appellee is satisfied with the appellants statement.

Statement of the Issue(s)

Probable cause hearing/Mental illness. Invalid/Defective Indictment. Warrantless Arrest required bail and bailable by sufficient sureties. Due process Clause/Bill of Attainder deprivation of liberty.

149th District Court of Brazoria County, Texas abused its powers by imposing charges against the plaintiff for the crime of aggravated assault without a probable cause hearing with malice. There was knowledge of a known mental illness while using a Invalid/Defective Indictment on a warrantless arrest without due process of law abiding by the Fifth and Fourteenth Amendment of the U.S Constitution.

Statement of the Case

Plaintiff detained July 24, 2019 and held for 540 days by a Bill of Attainder with a mental illness and deprivation of liberty *-see- Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)*

Merits behind conviction shown to be unconstitutional with evidence in which the 149th District of Brazoria county obtained an involuntary plea deal for conviction in which the plaintiff was falsely incarcerated for four years after an unauthorized facility treating her with involuntary psychoactive drugs.

(i) Plaintiff is no longer incarcerated and was released from prison July 24, 2023. February 02, 2024 she returned a post-conviction 11.07 Writ of Habeas Corpus supplied with evidence of wrongful conviction. February 5, 2024 149th District court of Brazoria County, Texas Denied EVERY Allegation of Fact. February 20, 2024 she filled an accelerated appeal with a motion for expedited discovery, evidentiary hearing and enforcement of temporary orders.

(ii) There was no probable cause hearing within the constitutional laws of 24-48 hours in between the dates of July 24, 2019 thru July 26, 2019 *-see- Wolff v. McDonnell, 418 U.S. at 556-57, 94 S. Ct. at 2974-75* (a) the accused has the right to an examining trial before indictment in the county having jurisdiction over the offense. Void indictment received 30 days after arrest on August 22, 2019.

(iii) The district court abused its rule of law and authority. Plaintiff was detained based on information on a warrantless arrest with a known mental illness and denied bailable sufficient sureties for release. There is no evidence of a postponed examination hearing in which the detainee is to be released on bail until hearing date. There was prejudice with standards by merits of the Due Process Clause of the United States Constitution with no assistance from a court appointed attorney to comply with law and assure the plaintiff received a examination hearing for probable cause, make sure indictment was legal and valid, assure bail and due process of law.

Summary of the Argument

The facts found in the trial case summary and judgment affirms the burden of proof in the accusation of deprivation of life, liberty and property. Case summary also affirms evidence of only one trial hearing January 14, 2020. It's clearly erroneous that there are any facts behind the District court's denial of EVERY allegation of Fact and proven to be completely frivolous also omitting the Affidavit September 22, 2020 and Involuntary Psychoactive Medicating of a competent yet mentally ill detained prisoner on September 29, 2020. (see attached 3 pages of evidence.) Texas R. App. P 34.5(c)(1)(2)(3). The substantial evidence in the record as a whole to support the factual findings for the relief required in the post-conviction of 11.07 Writ of Habeas Corpus in which the appeal had been filed.

Argument

Criminal liability requires a guilty act (actus reus) and a guilty mind (mens rea). (*Sayre, F. B. (1932). Mens rea. Harvard Law Review, 45, 974–1026. <https://doi.org/10.2307/1332142>*). Probable cause hearings district court judge must schedule a probable cause hearing within 15 working days -see- G.S. 15A-606(a) and (d). In a felony case the defendant has the right to a probable cause hearing before an indictment is returned.-see- *State v. Lester, 294 N.C. 220 (1978)*.

Warrantless arrest requires probable cause or release pending trial, Bill of Rights. Due process clause does not allow arbitrary powers to deprive a person of life, liberty and property -see- Amdt14.S1.2.2, Amdt14.S1.4.1, -see also- *Randy E. Barnett & Evan D. Bernick, No Arbitrary Power: An Originalist Theory of the Due Process of Law, 60 Wm. & Mary L. Rev. 1599 (2019)*.

WERFEFORE, the judgment in the district court has been proven by a burden of evidence that the District court allegations of fact are meritorious and frivolous.

Conclusion

Plaintiff suffered from consistent acts of a Bill of Attainder. Denial of bail and medical care with a known mental illness forced into unconstitutional involuntary psychoactive medication resulting in a void plea deal. Ineffective assistance of counsel with deliberate indifference of due process perceived as malice. Evidence provided proving the plaintiff's actual innocence and mental illness at the time of warrantless arrest. The Brady Law states (a) Only voluntary and intelligent guilty plea is constitutionally valid also The Teague Law stating (a) Principle that the plea must be knowingly and intelligent.

Respectfully, requiring on remand \$320,000.00 for four years of wrongful imprisonment under Civil Practice and Remedies Code. Title 5. Chp. 103 Subchapter A. Section 103.001 and Section. 103.052 (1), court cost \$345.00, reimbursement fee \$25.00, attorney fee \$2000.00 totaling \$322,365.00. With accompanying motion for temporary injunctive relief on remand.

Date: March 08, 2024

/s/ CATHY DENISE FIELDS

[Pro Se, Cathy Denise Fields]

[Counsel for Plaintiff, Cathy Denise Fields]

Certificate Of Rule 32 Compliance

Required by FRAP 32(g) word count brief response contains 1987 words and includes 19 pages.

Certificate Of Service

I certify that a copy of this brief was served upon: March 08, 2024 on Friday in the following manner: By hand to the Fourteenth District Court of Appeals clerk's office in Harris County, Texas.

Evidence Exhibit
one

Oct. 2. 2020 10:28AM

No. 4368 P. 5

Cause No. 14-24-00131-CL
Trial Court No. 88107-CL-A

No. MH 721

IN RE

C.F.

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§

IN THE COUNTY COURT
AT LAW NO. 2
AND PROBATE COURT
BRAZORIA COUNTY, TEXAS

ORDER COMPELLING PSYCHOACTIVE MEDICATION

On this date, the Court considered the physician's application for an order authorizing compelled psychoactive medication to Cathy Fields, a patient currently receiving Court-Ordered Mental Health Services under article 46B of the Texas Code of Criminal Procedure.

Having considered the application, the Court finds the following by clear and convincing evidence according to section 574.106 of the Texas Health & Safety Code: (1) the patient was ordered to receive inpatient mental health services by this Court, (2) the patient lacks the capacity to make a decision regarding the administration of the proposed medication, and (3) treatment with the proposed medication is in the best interest of the patient.

It is, therefore, ORDERED, that the physicians, staff, and law enforcement personnel at the Brazoria County Detention Center, as well as the physicians and staff of the Texas Department of State Health Services, are hereby authorized to administer to the patient, regardless of the patient's refusal, one or more classes of psychoactive medications, which are consistent with the patient's diagnosis and are indicated on the attached exhibit.

Evidence Exhibit TWO

Oct. 2. 2020 10:28AM

No. 4368 P. 6

Cause NO. 14-24-00131-CR
Trial Court No. 88107-CR-A

It is further ORDERED that this order may be reauthorized or modified on the petition of a party. This order remains in effect pending action on a petition for reauthorization or modification. "Modification" means a change of a class of medication authorized by this order.

Signed on September 29, 2020.

July E. Wan
JUDGE PRESIDING

Approved as to form:

[Signature]

Trey D. Picard
Assistant Criminal District Attorney

[Signature]
Grespin Linton
Attorney for the Patient

Oct. 2. 2020 10:29AM

No. 4368 P. 7

Cause NO. 14-24-00131-CR
Trial Court NO. 88107-CR-A

AFFIDAVIT OF TREATING PHYSICIAN FOR MEDICATION ORDER

BEFORE ME, the undersigned notary, on this day personally appeared the undersigned affiant, a person whose identity is known to me, who, upon his/her oath, said the following:

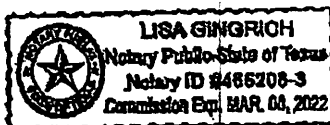
My name is Brandon M. Elise. I am over the age of 21, of sound mind, and am otherwise capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct. I am a physician licensed to practice medicine in the State of Texas and board certified in adult psychiatry. I am treating Cathy Giddens (the "patient") who is diagnosed with Psychotic NOS, depression.

I believe that the patient lacks the capacity to make a decision regarding the administration of psychoactive medication. My belief is based on my evaluation of the patient from which I concluded that the patient is unable to make a rational and informed decision on whether or not to take the prescribed medication or submit to medical treatment. The medication to be administered to the patient include those marked on the attached list of *Classes of Medications Frequently Used for Psychiatric Indications*. The patient refuses to take these medications voluntarily. The method of administering the medication will be by injection if the patient refuses to take the medication orally.

The patient has been confined in the Brazoria County Detention Center for a period exceeding 72 hours while awaiting transfer for competency restoration treatment. It is my opinion that treatment with the proposed medications is in the best interest of the patient. I am further of the opinion that the patient presents a danger to the patient or others in the correctional facility as a result of a mental disorder or mental defect.

Brandon M. Elise, MD
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME by the above affiant on
September 22, 2020



Lisa Gungrich
Notary Public, State of Texas