

Summary of SC91668, Kevin Bromwell, et al. v. Jeremiah Nixon, et al.

Appeal from the Cole County circuit court, Judge Robert D. Schollmeyer

Submitted on briefs Jan. 4, 2012; opinion issued Feb. 14, 2012

Attorneys: Bromwell and the other 15 inmates represented themselves; the state was represented by Rex P. Fennessey of the attorney general's office in St. Louis, (314) 340-7861.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Inmates appeal the circuit court's dismissal of their petition seeking relief regarding the prisoner litigation reform act and combined petitions for habeas corpus. In a unanimous decision written by Judge Zel M. Fischer, the Supreme Court affirms the circuit court's judgment. The circuit court did not abuse its discretion in dismissing the petitions for habeas corpus without prejudice, allowing them to re-file. The inmates' petition for declaratory relief failed to state a claim on which relief can be granted, and the act's authorization for filing fees to be collected on an installment basis based on a percentage of what is in an inmate's monthly account does not shock the conscience or violate due process.

Facts: A number of inmates in the Jefferson City Correctional Center filed a petition for declaratory judgment and injunctive relief, alleging that the circuit court's application of the state's prisoner litigation reform act to petitions for writs of habeas corpus violates the First, Fifth and Fourteenth amendments to the United States Constitution and article I, sections 2, 10, 14 and 18(a) of the Missouri Constitution. They then filed consolidated petitions for writs of habeas corpus for all of them. Specifically, they alleged that, under the department of corrections' "indigency policy," they receive limited funds to purchase necessities and pursue challenges to their criminal convictions; that they are not provided with free legal paper, pens, envelopes, legal stamps, copying cards and carbon paper; that the LexisNexis legal search engine available to them has been stripped of certain legal resources; and that recent changes to the department's policies limit access to prison law clerks. The court ultimately quashed service of process on the state and dismissed the inmates' writ petitions on the ground that each prisoner alleged separate and unique grounds for relief and that, therefore, there is no interest served by joining them into a single action. The court's dismissal was without prejudice to re-filing. The inmates appeal.

AFFIRMED.

Court en banc holds: The circuit court did not abuse its discretion in dismissing the consolidated petitions for writs of habeas corpus without prejudice to re-filing. There is no appeal available from the denial of a petition for a writ of habeas corpus, and nothing foreclosed the inmates from filing a petition for a writ of habeas corpus in a higher court in accordance with Rules 91.02, 84.22 and 84.24. The court properly addressed whether the petition for declaratory relief failed to state a claim before the state officials were served.

The court properly found the petition for declaratory judgment failed to state a claim against the state officials, and the state officials are immune from suit. The inmates' claim as to insufficient legal resources fails as a matter of law because they have not demonstrated that the alleged shortcomings in the library, legal assistance program or legal search engine hindered their ability to pursue a legal claim. They also have failed to state a claim on which relief can be granted as to the filing fee. The act does not require an indigent petitioner to prepay a filing fee before filing a habeas corpus petition; rather, it merely provides a mechanism to collect the fee on a monthly basis in light of a prisoner's monthly account balance. The petition fails to explain why the act's requirement that an indigent prisoner pay a percentage of his prisoner account to satisfy the filing fee is arbitrary or unreasonable, nor does it cite any legal provision entitling a prisoner to file without paying any fees. Further, the inmates have not pleaded that they have been denied the substantive right to have a judicial inquiry into the cause of and justification for their detention, and they admit the ability to file the petition for writ of habeas corpus but then complain about the requirement to pay a fee. As such, they fail to state a claim about the right to habeas relief on which relief may be granted. The inmates also fail to allege in their petition that any inmate has been unable to file a habeas petition as a result of the act and, therefore, they fail to state a claim about access to the courts on which relief can be granted. They also fail to state a claim about substantive due process on which relief can be granted. Their petition contains no factual allegations showing how any action by the named state officials violated this right. Although they assert a liberty interest in their right to file petitions for writs of habeas corpus, they fail to allege an instance in which the act has been applied to deny this right. The practice of collecting filing fees on an installment basis does not shock the conscience or violate due process.