

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

Shaumyan v. O'Neill

716 F. Supp. 65 (D. Conn. 1989) · No. Civ. No. N-87-463(AHN) · Decided June 27, 1989

SUMMARY

The United States District Court for the District of Connecticut considers cross-motions for summary judgment in a 42 U.S.C. § 1983 action challenging the constitutional validity of Connecticut General Statutes § 52-278e(a)(1), which permits ex parte prejudgment attachments of real property. The court rejects Younger and Colorado River abstention and addresses due process and equal protection challenges to the statutory prejudgment-remedy scheme. The excerpt indicates that the defendants' motions were granted and the plaintiffs' motion was denied.

CASE DETAILS

COURT	United States District Court for the District of Connecticut
WRITING FOR THE COURT	Nevas, District Judge
JURISDICTION	Connecticut
DECIDED	June 27, 1989
DOCKET	Civ. No. N-87-463(AHN)
DISPOSITION	other
PROCEDURAL POSTURE	Section 1983 plaintiffs sought monetary, injunctive, and declaratory relief challenging the facial constitutionality of Connecticut General Statutes § 52-278e(a)(1). The parties filed cross-motions for summary judgment under Federal Rule of Civil Procedure 56.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Each cross-motion must be evaluated independently. Constitutional questions on undisputed facts are resolved as matters of law.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the District of Connecticut and elsewhere, subject to controlling appellate and Supreme Court precedent.
PARTIES	Sebastian Shaumyan, Maria Shaumyan, Edward Cacace, et al. v. Shawn Mark O'Neill, Steven Rolnick, Sidetex Company, Incorporated, New Haven Firefighters Credit Union, et al.

TOPICS

procedural due process

equal protection

summary judgment

section 1983

civil rights

PRACTICE AREAS

constitutional law

civil rights

civil procedure

remedies

consumer protection

QUESTIONS PRESENTED

1. Whether the federal court should abstain under *Younger v. Harris* or *Colorado River Water Conservation District v. United States* because of the related state-court proceedings.
2. Whether Conn. Gen. Stat. § 52-278e(a)(1), which permits ex parte prejudgment attachment of real property upon a verified showing of probable cause, facially violates procedural due process under the Fourteenth Amendment.
3. Whether § 52-278e(a)(1) violates equal protection by permitting ex parte attachment of real property under broader circumstances than ex parte attachment or garnishment of personal property.
4. Whether the defendants' qualified-immunity and mootness arguments required resolution.

HOLDINGS

1. *Younger* abstention was not appropriate because the ex parte prejudgment attachments in private creditor-debtor contract disputes did not implicate the kind of vital state interests involved in enforcement of state judgments, and the status of the related state proceedings was uncertain.
2. *Colorado River* abstention was unwarranted because abstention under that doctrine requires concurrent parallel state proceedings, and the record did not establish such proceedings in a posture warranting federal deference.
3. A nonpossessory ex parte attachment of real property under Conn. Gen. Stat. § 52-278e(a)(1) is a significant property deprivation protected by the Fourteenth Amendment, but the statute is facially constitutional because its safeguards, viewed as a whole, provide adequate protection against erroneous deprivation.
4. Conn. Gen. Stat. § 52-278e(a)(1) does not facially violate equal protection because real-property owners are not a suspect class, clear title is not a fundamental right for equal-protection purposes, and the classification is rationally related to the legitimate interest of securing property for satisfaction of a potential judgment.

KEY QUOTATIONS

"Viewing the prejudgment remedy scheme "as a whole," see Mitchell, 416 U.S. at 610, 94 S. Ct. at 1901, the court concludes that the procedural safeguards available under and in conjunction with section 52-278e minimize the risk of an erroneous deprivation of a debtor's property rights." (at 81)

"In the light cast by the Mathews balancing test, the court concludes that section 52-278e(a)(1), as written, comports with the requirements of fourteenth amendment due process." (at 82)

“In short, section 52-278e(a)(1) — and the attendant prejudgment remedy scheme — strikes a considered balance between the equally significant interests of creditors and debtors.” (at 83)

FACTUAL BACKGROUND

Sidetex performed home-improvement work on property owned by Sebastian and Maria Shaumyan, who withheld full payment because they believed the work was unsatisfactory. Sidetex then sued in Connecticut state court and obtained an ex parte attachment on the Shaumyans' real property under Conn. Gen. Stat. § 52-278e(a)(1). In a separate contract action, the New Haven Firefighters Credit Union sued Edward Cacace on a promissory note and obtained a similar attachment through its attorney, Shawn Mark O'Neill.

PROCEDURAL HISTORY

Commercial entities sued the plaintiffs in separate Connecticut state-court contract actions and obtained ex parte prejudgment attachments on real property under Conn. Gen. Stat. § 52-278e(a)(1). The plaintiffs then filed this federal civil-rights action asserting Fourteenth Amendment due-process and equal-protection violations. The district court denied the plaintiffs' motion for summary judgment and granted summary judgment to all defendants.

DISPOSITION

other

CASES CITED

- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Schwabenbauer v. Board of Education, 667 F.2d 305 (2d Cir. 1981)
- Younger v. Harris, 401 U.S. 37 (1971)
- Colorado River Water Conservation District v. United States, 424 U.S. 800 (1976)
- Pennzoil Co. v. Texaco, Inc., 481 U.S. 1 (1987)
- Middlesex County Ethics Committee v. Garden State Bar Association, 457 U.S. 423 (1982)
- Hawaii Housing Authority v. Midkiff, 467 U.S. 229 (1984)
- Moses H. Cone Memorial Hospital v. Mercury Construction Corp., 460 U.S. 1 (1983)
- Sniadach v. Family Finance Corp., 395 U.S. 337 (1969)
- Fuentes v. Shevin, 407 U.S. 67 (1972)
- Mitchell v. W.T. Grant Co., 416 U.S. 600 (1974)
- North Georgia Finishing, Inc. v. Di-Chem, Inc., 419 U.S. 601 (1975)
- Mathews v. Eldridge, 424 U.S. 319 (1976)
- Fermont Division, Dynamics Corp. of America, Inc. v. Smith, 178 Conn. 393, 423 A.2d 80 (1979)
- Roundhouse Construction Corp. v. Telesco Masons Supplies Co., 168 Conn. 371, 362 A.2d 778 (1975), vacated, 423 U.S. 809 (1975), aff'd on remand, 170 Conn. 155, 365 A.2d 393 (1976)
- Kukanskis v. Griffith, 180 Conn. 501, 430 A.2d 21 (1980)

- Williams v. Bartlett, 189 Conn. 471, 457 A.2d 290 (1983)
- Board of Regents v. Roth, 408 U.S. 564 (1972)
- In re Northwest Homes of Chehalis, Inc., 526 F.2d 505 (9th Cir. 1975), cert. denied, 425 U.S. 907 (1976)
- Terranova v. Avco Financial Services of Barre, Inc., 396 F. Supp. 1402 (D. Vt. 1975)
- Briere v. Agway, Inc., 425 F. Supp. 654 (D. Vt. 1977)
- Bay State Harness Horse Racing & Breeding Association v. PPG Industries, Inc., 365 F. Supp. 1299 (D. Mass. 1973)
- Plyler v. Doe, 457 U.S. 202 (1982)
- City of Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985)
- Lugar v. Edmondson Oil Co., Inc., 457 U.S. 922 (1982)