

United States Court of Appeals for the Eleventh Circuit.

Case No. 02-13418
L.T. No. 02-14049-CIV-Moore

MARCELLUS M. MASON, JR.,

Plaintiff/Appellant/Petitioner

v.

HIGHLANDS COUNTY BOARD OF COUNTY
COMMISSIONERS, DONALD L. GRAHAM, FRANK LYNCH, JR., BRIAN
KOJI, AND MARIA SOROLIS.

Defendant/Appellees/Respondent

Case No. 02-13418
L.T. No. 02-14049-CIV-Moore

APPELLANT'S MOTION FOR PUBLICATION

United States District Court
Southern District of Florida
Michael Moore, District Judge

Marcellus M. Mason, Jr.
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This Case should be published because:

1. This Court's opinion is conflict with the United States Supreme Court and is expressly overruling the following Supreme Court cases: Dennis v. Sparks, 449 U.S. 24, 28-29 (1980); Lugar v. Edmondson Oil Co., 457 U.S. 922, 941 (1982)("Private persons, jointly engaged with state officials in the prohibited action, are acting "under color" of law for purposes of the statute. To act "under color" of law does not require that the accused be an officer of the State. It is enough that he is a willful participant in joint activity with the State or its agents,[]."). Both of these cases expressly hold that private actors, like Koji and Sorolis, who act with on behalf of a state actor, like Highlands County, can be used under 42 U.S.C. § 1983
2. This Court may ignore binding precedent in Skrtich v. Thornton, 280 F.3d 1295 (11th Cir. 2002), and allow a defendant to submit a Rule 12(b)(6) motion to dismiss after an answer has been filed.
3. This Court may dismiss claims that a Defendants never asked to be dismissed.
4. This Court may act as advocate for White Defendants and dismiss discrimination claims even if the white Defendants don't even ask for these claims to be dismissed.
5. Private attorneys that have an attorney/client relationship with a state actor, Highlands County, are not state actors within the meaning of section 1983.
6. This is not by and is indeed overruling the United States Supreme Court decision in See also Tower v. Glover, 467 U.S. 914, 920 (1984) ("an otherwise private person

acts "under color of" state law when engaged in a conspiracy with state officials to deprive another of federal rights.").

7. On two separate occasions, I begged Judge Moore to publish his decisions with respect to this case. See *Plaintiff's Motion For Publication*, (DE 15); and *Plaintiff's Objections To Report And Recommendation Dated May 13, 2002 And Plaintiff's Request For Publication*, (DE 54). Judge Moore adamantly refused to publish his decisions while stating: "All pending motions not otherwise ruled upon are DENIED AS MOOT." See Docket Entry 56, pg. 1, pg. 2. It is absolutely clear that Judge Michael Moore, Magistrate O'Sullivan, AUSA Wilfredo Fernandez, Defendants Sorolis and Koji all refused to discuss the illegal orders,((DE #201), page 2, (DE #246), page 2), which were the subject of the Complaint. In fact even when I filed my Objections to the R&R and pointed out all these evasive techniques and other matters, Judge Moore simply chose to mock me by saying my objections were just "verbose." See Docket Entry 56, pg. 1, pg. 2.

8.

Respectfully Submitted:
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Dated this 10th day of July 2002

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via US Mail, postage prepaid, first class, on July 10, 2002, to: Allen, Norton & Blue, 324 South Hyde Park Avenue, Suite 350, Tampa, Florida, 33606.
