**Howlett v. Rose - 496 U.S. 356 (1990)**

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**U.S. Supreme Court**

**Howlett v. Rose, 496 U.S. 356 (1990)**

**Howlett By and Through Howlett v. Rose**

**No. 89-5383**

**Argued March 20, 1990**

**Decided June 11, 1990**

**496 U.S. 356**

*Syllabus*

State as well as federal courts have jurisdiction over suits brought pursuant to 42 U.S.C. § 1983, which creates a remedy for violations of federal rights committed by persons acting under color of state law. Petitioner, a former high school student, filed a § 1983 suit in a Florida Circuit Court seeking damages and injunctive relief against, *inter alios,* the local school board, alleging, among other things, that his federal constitutional rights were violated when his car was searched on school premises in violation of the Fourth and Fourteenth Amendments of the Federal Constitution, and that he was suspended from classes without due process. The court held that it lacked jurisdiction over the board, and dismissed the complaint against the board with prejudice, citing *Hill v. Department of Corrections,* 513 So.2d 129, in which the State Supreme Court ruled that Florida's statutory waiver of sovereign immunity applied only to state court tort actions and conferred a blanket immunity on state governmental entities from federal civil rights actions under § 1983 in state court. The District Court of Appeal affirmed the dismissal, holding that the availability of sovereign immunity in a § 1983 action brought in state court is a matter of state law, and that, under *Hill,* the statutory waiver of immunity did not apply.

*Held:* A state law "sovereign immunity" defense is not available to a school board in a § 1983 action brought in a state court that otherwise has jurisdiction when such defense would not be available if the action were brought in a federal forum. Pp. 496 U. S. 361-383.

(a) Since the defendant in *Hill* was a state agency protected from suit in federal court by the Eleventh Amendment, *see Quern v. Jordan,* 440 U. S. 332, 440 U. S. 341, and thus was not a "person" within the meaning of § 1983, *see Will v. Michigan Dept. of State Police,* 491 U. S. 58, *Hill's* actual disposition, if not its language and reasoning, comports with *Will,* which established that the State and arms of the State, which have traditionally enjoyed Eleventh Amendment immunity, are not subject to suit under § 1983 in either

federal or state court. However, in construing *Hill* to extend absolute immunity not only to the State and its arm

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but also to municipalities, counties, and school districts who might otherwise be subject to suit under § 1983 in federal court, the District Court of Appeal's decision raises the concern that that court may be evading federal law and discriminating against federal causes of action. The adequacy of the state law ground to support a judgment precluding litigation of the federal claim is a federal question, which this Court reviews *de novo. See, e.g., James v. Kentucky,* 466 U. S. 341, 466 U. S. 348-349. 496 U. S. 361-366,

(b) Under the Supremacy Clause, state courts have a concurrent duty to enforce federal law according to their regular modes of procedure. *See, e.g., Claflin v. Houseman,* 93 U. S. 130, 93 U. S. 136-137. Such a court may not deny a federal right, when the parties and controversy are properly before it, in the absence of a "valid excuse." *Douglas v. New York, N.H. & H.R. Co.,* 279 U. S. 377, 279 U. S. 387-389. An excuse that is inconsistent with or violates federal law is not a valid excuse: the Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source. *See, e.g., Mondou v. New York, N.H. & H.R. Co.,* 223 U. S. 1, 223 U. S. 57. A valid excuse may exist when a state court refuses jurisdiction because of a neutral state rule of judicial administration, *see, e.g., Douglas, supra,* unless that rule is preempted by federal law, *see Felder v. Casey,* 487 U. S. 131. Pp. 496 U. S. 367-375.

(c) The District Court of Appeal's refusal to entertain § 1983 actions against state entities such as school boards violates the Supremacy Clause. If that refusal amounts to the adoption of a substantive rule of decision that state agencies are not subject to liability under § 1983, it directly violates federal law, which makes governmental defendants that are not arms of the State liable for their constitutional violations under § 1983. *See, e.g., St. Louis v. Praprotnik,* 485 U. S. 112, 485 U. S. 121-122. Conduct by persons acting under color of state law which is wrongful under § 1983 cannot be immunized by state law, even though the federal cause of action is being asserted in state court. *See, e.g., Martinez v. California,* 444 U. S. 277, 444 U. S. 284, and n. 8. If, on the other hand, the District Court of Appeal's decision meant that § 1983 claims are excluded from the category of tort claims that the Circuit Court could hear against a school board, it was no less violative of federal law. *Cf. Atlantic Coast Line R. Co. v. Burnette,* 239 U. S. 199, 239 U. S. 201. The State has constituted the Circuit Court as a court of general jurisdiction, and it entertains state common law and statutory claims against state entities in a variety of their capacities, as well as § 1983 actions against individual state officials. A state policy that declines jurisdiction over one discrete category of § 1983 claims, yet permits similar state law actions against state defendants, can be based only on the rationale that such defendants should not be held liable for § 1983 violations. Thus, there is no neutral or valid excuse for the refusal to hear suits like petitioner's. Pp. 496 U. S. 375-381.

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(d) There is no merit to respondent's argument that a federal court has no power to compel a state court to entertain a claim over which it lacks jurisdiction under state law. The fact that a rule is denominated jurisdictional does not provide a state court an excuse to avoid the obligation to enforce federal law if the rule does not reflect the concerns of power over the person and competence over the subject matter that jurisdictional rules are designed to protect. Also meritless is respondent's contention that sovereign immunity is not a creature of state law, but of long-established legal principles that Congress did not intend to abrogate in enacting § 1983. Congress did take common law principles into account in, *e.g.,* excluding States and arms of the State from the definition of "person," but individual States may not rely on their own common law heritage to exempt from federal liability persons that Congress subjected to liability. Pp. 496 U. S. 381-383.

537 So.2d 706 (App.2d Dist.1989), reversed and remanded.

STEVENS, J., delivered the opinion for a unanimous Court.

**2.9 State Court Jurisdiction over Federal Claims**

*Updated 2012*

In determining whether state courts are allowed to entertain jurisdiction over federally created causes of action, the Supreme Court has applied a presumption of concurrency./344/ Under this presumption, state courts may exercise jurisdiction over federally created causes of action as long as Congress has not explicitly or implicitly made federal court jurisdiction exclusive./345/ An implied exclusivity can result from an "unmistakable implication from legislative history, or by a clear incompatibility between state-court jurisdiction and federal interest."/346/ In considering whether a federal claim is incompatible with state court jurisdiction, the Court looks to "the desirability of uniform interpretation, the expertise of federal judges in federal law, and the assumed greater hospitality of federal courts to peculiarly federal claims."/347/ Under this framework, federal courts have exclusive jurisdiction over admiralty, bankruptcy, patent, trademark, and copyright claims because the relevant jurisdictional statutes expressly provide so./348/ In other areas, such as antitrust, the federal statutes do not make federal court jurisdiction exclusive, but courts found an implied exclusivity./349/

State courts may exercise jurisdiction over claims brought under 42 U.S.C. § 1983./350/ Although the Court has not expressly addressed state court jurisdiction over the other Reconstruction-era civil rights actions, it reviewed a 42 U.S.C. § 1982 action arising in the state courts without any apparent doubt about the permissibility of state courts to entertain such actions./351/ Moreover, state courts addressing issues involving 42 U.S.C. §§ 1981 and 42 U.S.C. § 1982, both having their origins in Section 1 of the Civil Rights Act of 1866 and its 1870 reenactment, concluded that they were allowed to entertain such actions./352/

A state court may decline to entertain a federal claim if it adhere to a neutral rule of judicial administration. That rule must not violate the Supremacy Clause by treating the federal claim less favorably than a parallel state claim. In *Howlett v. Rose* the Court was asked to decide whether common-law sovereign immunity was available to a state school board to preclude a claim under 42 U.S.C. § 1983 even though such a defense would be unavailable in federal court./353/ The state court had dismissed the lawsuit on grounds that the school board, as an arm of the state, had not waived its sovereign immunity in Section 1983 cases. The *Howlett* Court stated that state common-law immunity was eliminated by acts of Congress in which Congress expressly made the states liable./354/ The Court held that the state court's refusal to entertain a Section 1983 claim against the school district, when state courts entertained similar state-law actions against state defendants, violated the Supremacy Clause./355/

More recently, the Supreme Court struck down a New York statute which divested its state courts from entertaining Section 1983 or state law claims for damages by prisoners against state correctional employees./356/ The state legislature determined that these kinds of lawsuits were frequently frivolous and channeled them into the state court of claims which offered more limited remedies and more stringent procedural requirements. The Supreme Court held that the state law violated the Supremacy Clause because it

reflected a policy contrary to Congress' view that state actors are liable for money damages when they violate federal constitutional rights under color of state law./357/ The Court further determined that merely because the state treated Section 1983 and parallel state law claims equally did not mean that the law was a neutral rule of judicial administration and therefore a valid excuse for barring the federal claim from being heard in state court: "[a]lthough the absence of discrimination is necessary to our finding a state law neutral, it is not sufficient. A jurisdictional rule cannot be used as a device to undermine federal law, no matter how evenhanded it may appear."/358/

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344. *See, e.g., Robb v. Connolly,* 111 U.S. 624 (1884); *Claflin v. Houseman,* 93 U.S.130, 136 (1876); *see generally* Martin H. Redish & John Muench, *Adjudication of Federal Causes of Action in State Court,* 75 Mich. L. Rev. 311 (1976).

345. *Yellow Freight System, Incorporated v. Donnelly*, 494 U.S. 820, 822 (1990). Congress may, of course, expressly permit state courts to entertain certain federal claims. State courts are authorized to hear claims arising under the Fair Labor Standards Act, 29 U.S.C. § 216(b), the Equal Pay Act, 29 U.S.C. § 206, the Age Discrimination in Employment Act, 29 U.S.C. § 626(c)(1) and Title VIII actions involving housing discrimination, 42 U.S.C. § 3613(a). State courts have concurrent jurisdiction over Title VII claims. *Yellow Freight System, Incorporated,* 494 U.S. at 820.

346. *Gulf Offshore Company v. Mobil Oil Corporation,* 453 U.S. 473, 477–78 (1981). Closely related to this concept is a federal statute's complete preemption of state law causes of action, thereby effectively vesting the federal court with exclusive jurisdiction over the claim. *See, e.g., Aetna Health Incorporated v. Davila*, 542 U.S. 200, 209 (2004) (discussing "pre-emptive force" of ERISA and the Labor Management Relations Act).

347. *Gulf Offshore Company*, 453 U.S. at 483–84. *See also Hathorn v. Lovorn,* 457 U.S. 255, 271 (1982) (Rehnquist, J., dissenting) (discussing considerations of uniformity, federal expertise, and federal hospitality to federal claims).

348. *See* 28 U.S.C. §§ 1333-1334, 1338. Congress may also vest exclusive federal jurisdiction over federal claims in the statute creating the claim. *See, e.g.,* 15 U.S.C. § 78aa (federal securities law).

349. *See, e.g., General Investment Company* v. *Lake Shore and Michigan Southern Railway Company*, 260 U.S. 261, 286-88 (1922).

350. *See Haywood v. Drown*, 556 U.S. 729, 731 (2009); *Patsy* v. *Board of Regents of Florida*, 457 U.S. 496, 506-07 (1982); *Maine v. Thiboutot,* 448 U.S. 1, 3 n.1 (1980).

351. *Sullivan v. Little Hunting Park,* 396 U.S. 229 (1969).

352. *See, e.g., Miles v. FERM Enterprises, Incorporated*, 627 P.2d 564, 29 Wash. App. 61 (1981); *see also DeHorney v. Bank of America National Trust and Savings Association,* 879 F.2d 459, 463 (9th Cir. 1989) (state courts have concurrent jurisdiction over Section 1981 suits); *Blount v. Stroud*, 904 N.E2d. 1, 232 Ill. 2d 302, 328 (2009) (holding that state circuit courts have jurisdiction to hear 1981 claims); *People ex rel. Department of Transportation v. Cook Development Company,* 274 Ill. App. 3d 175, 185 (Ill App. Ct. 1st Dist. 1995) (concluding Section 1982 actions may be brought against the state); *Barber v. Rancho Mortgage & Investment Corporation,* 26 Cal. App. 4th 1819, 1833 (Cal. App. 2d Dist. 1994) (entertaining Section 1982 claim in state court for housing discrimination). *Cf. Filipino Accountants Association Incorporated v. State Board of Accountancy,* 204 Cal. Rptr. 913, 915 n.4 (Cal. Ct. App. 1984) (assuming state court jurisdiction over Section 1981 actions); *State v. Sebastian*, 243 Conn. 115, 160 (Conn. 1997) (suggesting state court's failure to exercise jurisdiction would be a violation of Indians' rights under Section 1981); *Collins v. Department of Transportation*, 208 Ga. App. 53, 56 n.2 (Ga. Ct. App. 1993) (citing Section 1981 as an example of state court subject matter jurisdiction over federal law actions). State courts also consistently exercised jurisdiction over actions brought under 42 U.S.C. § 1985(3) and alleging conspiracies to deprive individuals of equal protection of the laws, a result which is not surprising considering the common origin of Section 1985 and Section 1983 in the Civil Rights Act of 1871. *See, e.g.*, *Rajneesh Foundation International v. McGreer,* 734 P.2d 871 (Or. 1987) (allowing Section 1985(3) counterclaim). State courts also assumed the availability of state court jurisdiction over Section 1985(2) claims involving the administration of justice in state courts. *See Rutledge v. Arizona Board of Regents,* 711 P.2d 1207 (Ariz. 1985).

353. *Howlett v. Rose,* 496 U.S. 356 (1990).

354. *Id.* at 376.

355. *But see National Private Truck Council, Incorporated v. Oklahoma Tax Commission,* 515 U.S. 582, 587 n.4 (1995) ("We have never held that state courts must entertain § 1983 suits") (citations omitted).

356. *Haywood v. Drown*, 556 U.S. 729 (2009). *See also Felder v. Casey*, 487 U.S. 131 (1988) (striking down Wisconsin's notice of claim requirements as applied to Section 1983 claims filed in state court).

357. *Haywood,* 556 U.S. at 736-37.

358. *Id.* at 739.