

CASE SYLLABUS: MCDONALD V. SMITH, 472 U.S. 479 (1985)

SUPREME COURT OF THE UNITED STATES MCDONALD. v. SMITH

No. 84-476. Argued March 20, 1985 - Decided June 19, 1985

Respondent filed a libel action against petitioner in a North Carolina state court under the common law of that State, alleging that while respondent was being considered for the position of United States Attorney, petitioner wrote two letters to President Reagan (and sent copies to other Government officials) containing “false, slanderous, libelous, inflammatory and derogatory statements” concerning respondent, and that petitioner knew that the statements were false and maliciously intended to injure respondent by undermining his prospect of being appointed United States Attorney. Seeking compensatory and punitive damages, respondent also alleged, *inter alia*, that the letters had their intended effect, resulting in his not being appointed, and that his reputation and career as an attorney were injured. Petitioner removed the case to Federal District Court on the basis of diversity of citizenship and then moved for judgment on the pleadings on the ground that the Petition Clause of the First Amendment -- which guarantees “the right of the people . . . to petition the Government for a redress of grievances” -- provided absolute immunity from liability. The District Court held that the Clause does not grant absolute immunity, and the Court of Appeals affirmed.

Held: 1. The Petition Clause does not provide absolute immunity to defendants charged with expressing libelous and damaging falsehoods in petitions to Government officials. Although the value in the right of petition as an important aspect of self-government is beyond question, it does not follow that the Framers of the First Amendment believed that the Petition Clause provided absolute immunity from damages for libel. In 1845, this Court, after reviewing the common law, held in *White v. Nicholls*, 3 How. 266, that a petition to a Government official was actionable if prompted by “express malice,” which was defined as “falsehood and the absence of probable cause,” and nothing has been presented to suggest that that holding should be altered. Nor do the Court’s decisions interpreting the Petition Clause in contexts other than defamation

indicate that the right to petition is absolute. The Clause was inspired by the same ideals of liberty and democracy that resulted in the First Amendment freedoms to speak, publish, and assemble, and there is no sound basis for granting greater constitutional protection to statements made in a petition than other First Amendment expressions. Pp. 472 U. S. 482-485.

2. Under North Carolina common law, damages may be recovered only if petitioner is shown to have acted with “malice,” as defined in terms that the North Carolina Court of Appeals considered to be consistent with *New York Times Co. v. Sullivan*, 376 U. S. 254. The Petition Clause does not require the State to expand this privilege into an absolute one. P. 472 U. S. 485.

737 F.2d 427, *affirmed*.

BURGER, C.J., delivered the opinion of the Court, in which all other Members joined, except POWELL, J., who took no part in the decision of the case. BRENNAN, J., filed a concurring opinion, in which MARSHALL and BLACKMUN, JJ., joined, *post*, p. 472 U. S. 485.

Read the entire case [here](#).