

2/11/19

No. 18-1303

In the
Supreme Court of the United States

SONJA COLBERT TR,

Petitioner,

v.

CLEVELAND MITCHELL,

Respondent.

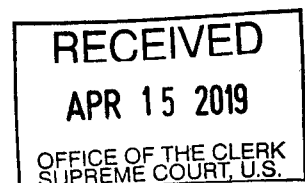
On Petition for Writ of Certiorari to the
Court of Appeals of the State of California,
First Appellate District

PETITION FOR WRIT OF CERTIORARI

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FEBRUARY 11, 2019

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QUESTIONS PRESENTED

1. Can a Single Court of Appeals Justice, Dismiss an Appeal, after shown by all Clerks, the lower court and Appellant in writing, that Appellant timely filed all notices of Appeal Stamped by the lower courts and paid all filing fees?

2. Can the "Jury Find," the Section 8 Landlords are acting in "Bad Faith" when the Local Housing Authority under the Federal HUD Programs raised the Defendants monthly rent portion he is to pay to the landlord, even though NOT raised by the landlord. While the Oakland Housing Authority is exempt from the City of Oakland's Rent Control "Law?" This finding has stopped (In Pro Per) small landlords from receiving their properties back from non paying Defendants after jury trial in Alameda County for over four years and counting.

CORPORATE DISCLOSURE STATEMENT

Neither the petitioner nor respondent is a non-governmental corporation for which a disclosure statement pursuant to this Court's Rule 29.6 is required.

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OPINIONS BELOW

This Court has jurisdiction of the petition to review the involuntary dismissal. The California Supreme Court Denied Review on 11/14/2018 (App.1a) The First District Court of Appeals filed its involuntary dismissal on 8/10/18 (App.3a) Final Judgment after Jury Trial was said to be entered, 11/16/2016 (App.12a) but only executed by the Clerk on 03/01/2017 (App.13a) Appellants Counsel Filed/served a "Notice of Appeal" timely on 03/30/2017 (App.32a-33a) Amended Notice of Appeal 4/25/2017 (App.26a-31a).



JURISDICTION

The California Supreme Court Denied Review on November 14, 2018. Petitioner initially filed a petition on February 11, 2019, and was given an additional 60 days in which to refile a compliant petition. This Court has jurisdiction under 28 U.S.C. § 1257.



STATEMENT OF THE CASE

On August 10, 2018, a sole, First District Court of Appeals Division Two-Justice; filed and served its "Involuntary Dismissal." No prior notice to remedy any alleged omitted "Notice of Appeal" filed in Alameda County Superior Court, Judgment after Jury Trial. App.3a-5a.

On August 13, 2018 Appellant filed/served a Noticed, Motion and Declaration with Exhibits of the court filed "Notices of Appeal" filed/served in the lower State Court, and asked the Court to Vacate the Involuntary Dismissal and Reinstate the Appeal, Recall of Remittitur to Issue (Nunc Pro Tunc). App.14a-17a.

On August 24, 2018 the same, Appellate Court justice denied the Motion to vacate the involuntary dismissal. App.2a.

The Court of Appeals Order of Dismissal of August 10, 2018 States: "First appellant purports to appeal the November 16, 2016, Judgment and the court's April 17, 2017, order denying her motions for new trial and for judgment notwithstanding the verdict. Under California Rules of Court, Rule 8.104(a)(1)(C), a notice of appeal must be filed no more than 180 days after the order or judgment is issue." App.4a.

Appellant's agent Sonja Colbert attached to her Declaration in Support, the Filed Stamped endorsed copies containing the judgment/order appealable and her 4 timely filed Appeal Notices. App.21a, 24a, 26a, 27a, 28a, 32a, 33a.

Final Judgment after Jury Trial was said to be entered, 11/16/2016 (App.12a) but only executed by the Clerk on 03/01/2017 (App.13a). Appellants Counsel, Mr. Verne A. Perry Filed/served a "Notice of Appeal" timely on 03/30/2017 for Colbert Tr exactly 29 days after execution of Judgment, and 160 days after Judgment entered showing timeliness-confirmed by the Appellate Division of Superior Court, App.32a-33a, omitted everywhere from the Court of appeals order of Dismissal. App.3a-5a.

On 04/17/2017 Appellant/Plaintiff Motion for Judgment Notwithstanding the verdict/New Trial was denied. App.10a.

On 04/25/2017, Appellant/Plaintiff filed an amended notice of appeal. App.28a-31a.

On 04/25/2017, The Clerk of the Superior Court filed and executed its "Notification of Filing Notice of Appeal" of the original Appeal Notice filed on 03/30/2017. App.26a-27a.

On 12/15/2017, after opening and closing briefs were filed, and after oral argument, the Appellant Division of the Superior Court took the matter under submission. App.8a

On 12/18/2017 the Appellate division affirmed the Trial court Judgment and mailed. App.6a.

On 01/04/2018 Appellant/Plaintiff filed a Notice of Appeal, Appealing the Appellant Division of the Superior Court decision of 12/15/2017 affirming the "trial court's Judgment" to the First District Court of Appeal, (20) twenty days after the order entered and (17) days after it issued (Colbert Dec. Motion to Vacate Dismissal). App.24a-25a.

On 01/17/2018 Appellant/Plaintiff filed its Amended Notice of Appeal to the First District Court of Appeals of the decision mailed 12/18/2017 affirming the trial court's Judgment 30 days after the order issued with all Judgment after jury trial and denied JNOV and all 4 Notices of Appeals attached. App.21a-23a.

On February 15, 2018 Appellant/Plaintiff filed in the First District Court of Appeals it's Civil Case

Information Statement Containing copies of the Notice of Appeal filed 03/30/2017, 4/25/2017, 1/4/18 and 1/17/18. App.18a-20a.



REASON FOR GRANTING THE PETITION

I. GOOD CAUSE EXISTS FOR REVIEW

Where, as here, appellate submitted all (4)-four of its appeal notices and only (2-two) accounted for. This omission deprived Plaintiff of its lawful judicial review. Appellant paid all fees.

Appellant admitted in its Motion to Vacate Involuntary Dismissal that it does not wish to appeal the denied petition for Rehearing denied 01/16/2018 by the Appellant Division of the Superior Court. Colbert Dec-Motion to Vacate. App.14a-17a.



CONCLUSION

Appellant/Plaintiff respectfully request that the Petition for Review be granted, due to omission of (two) timely filed notices of appeal of 3/30/2017 amended 4/25/2017 confirmed by the Appellant Division of the Superior Court clerk 4/25/17 omitted in the review of the Appeals court record and whatever the United States Supreme Court deems fair and just.

Respectfully submitted,

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FEBRUARY 11, 2019

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