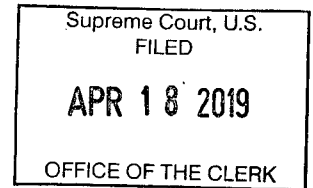


No. 18. 1573

ORIGINAL

In The
Supreme Court of the United
States



Petitioners Zsolt Petko and Zsuzsanna Adam

v.

Respondent(s)

On Petition For Writ Of Certiorari To

Justice of the Peace Penny Pope, Galveston County
Precinct 3, Galveston, Texas
(Name of court that last ruled on merits of the case)

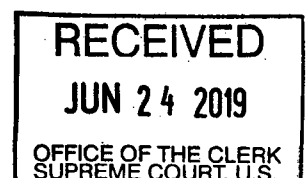
PETITION FOR WRIT OF CERTIORARI

Zsolt Petko and Zsuzsanna Adam

100 W Texas Ave Apt 823

Webster, TX 77598

Tel: 956-369-7125 and 956-369-7123



QUESTION(S) PRESENTED

Case No: 16-TOW03-0097

Court: Justice of the Peace, Precinct 3, Galveston
County, Texas

Judge: Penny Pope

Date: November 8, 2016

Question 1:

Does towing a person's car constitute a legal action
(TOC Sec. 2308.001)?

Question 2:

Does a person subjected to a legal action (i.e. towing)
has the burden of proof to prove innocence or burden
of proof rests with the one who initiated legal action
(i.e. tower)?

Question 3:

Can a justice of the peace overlook factual evidence
that unequivocally proves case in favor of plaintiff
and claim existence of probable cause to justify
ruling in favor of defendant (TRCP Rule 1 in
Appendix N)?

Question 4:

Can a justice of the peace preclude plaintiff from the
opportunity to prepare a response by allowing
defendant to modify testimony and introduce new
evidence at the hearing without notifying plaintiff
ahead of time before the hearing (US Constitution
Amendments V, VIII, and XIV in Appendix N)?

Case No: CV-0077741

Court: Galveston County Court of Law No. 2,
Galveston, Texas

Judge: Barbara Roberts

Date: November 2, 2017

Question 5:

Can a county court judge hold a hearing without notifying a plaintiff and communicate with defendant only at the hearing (TRCP Rules 161, 165a, TRAP 52.11)?

Question 6:

Can a county court judge deny the basic right to be heard in trial and fair and equitable legal process from plaintiff by disregarding the merits, evidence, and facts of a case that s/he is in possession of and allow defendant to call for default judgment and dismiss a case against defendant at a hearing in the absence of plaintiff when plaintiff was not informed about the hearing (US Constitution Amendments V, VII, VIII, and XIV; and Freeman v. Freeman, 327 S.W.2d 428, 431 (1959); Mapco, Inc. v. Forrest, 795 S.W.2d 799 (Tex. 1990); State v. Herrera, 25 S.W.3d 326, 327-28 (Tex. App. – Austin 2000, no pet.); Smock v. Fischel, 207 S.W.2d 891, 892 (Tex. 1948); Leeper v. Haynsworth, 179 S.W.3d 742, 745 (Tex. App. – El Paso 2005, no pet.) in Appendix N)?

Question 7:

Is granting a hearing/rehearing discretionary in circumstances when one of the participants was not invited to a previously held hearing, where key decision about a case was made (TRCP Rules 21, 24, 161, TRAP Rules 52.9 and 61 in Appendix N)?

Question 8:

Can a county court judge uphold a default judgment s/he made based on the absence of plaintiff from a hearing while said judge recognized plaintiff was not notified and did not know about the hearing (TRCP Rule 239; and Smith v. Lippman, 826 S.W.2d 137, 138 (Tex. 1992); Hughes v. Habitat Apartments, 860 S.W.2d 872, 872-873 (Tex. 1993); R.T.A. Int'l v. Cano, 915 S.W.2d 149, 150-151 (Tex. App. – Corpus Christi 1996, den.); Dowell Schlumberger, Inc. v. Jackson, 730 S.W.2d 818, 818-819 (Tex. App. – El Paso 1987, re. n.r.e.) in Appendix N)?

Question 9:

Does a county court judge have supervisory power over a justice of the peace and does that mean s/he has duty to initiate appropriate action upon becoming aware of inappropriate actions by people under his/her supervision (TCJC Canons 3C, 3D, and 6 in Appendix N)?

Case No: 01-17-00918-CV

Court: Court of Appeals For The First District of Texas, Houston, Texas

Judge: Laura Higley,

Date: April 3, 2018

Question 10:

Can an appeals court judge dismiss an appeal claiming plaintiff did not respond to the court when said judge is in possession of plaintiff's response evidenced by tracking and signature confirmation at the United States Postal Service (TRCP Rules 21, 21a, 24 in Appendix N)?

Question 11:

Can an appeals court judge claim plaintiff did not pay fees to county court and disregard and displace plaintiff's letter, in which plaintiff offers proof of payment to county court (TRCP Rules 24 and 77, TRAP Rules 34.5(e), 52.11, and 61, and FRCP Rules 60 in Appendix N)?

Question 12:

Does an appeals court judge have supervisory power over county court and justice of the peace, and does that mean s/he has duty to initiate appropriate action upon becoming aware of inappropriate actions by people under his/her supervision (TCJC Canons 3C, 3D, and 6 in Appendix N)?

Case No: 18-0860

Court: Supreme Court of Texas, Austin, Texas

Judge: No name was disclosed to us

Date: January 18, 2019

Question 13:

Can a state supreme court lift a previously granted abatement in a case without having the purpose of abatement achieved and/or with no change to the case (i.e. without sufficient reason)?

Question 14:

Does the law that requires parties in a lawsuit to disclose communication between each other to the other parties not involved in said communication apply to state supreme courts (TRCP Rule 21 in Appendix N)?

Question 15:

Can a state supreme court deny explanation or findings of facts and conclusions of law about a key decision (such as lifting abatement) related to a case (TRCP Rule 296 in Appendix N)?

Question 16:

Can a state supreme court deny access to case documents that are on file when appellee/plaintiff appears and requests to see them?

Question 17:

Can a states supreme court dismiss a case claiming that appellee/plaintiff did not pay petition fee by deadline when said court did not set a deadline for payment (TRAP Rule 52.11 in Appendix N).

Question 18:

Do justices of a state supreme court have supervisory power over appeals court judges, county court judges, and justices of the peace of the same state, and does that mean state supreme court justices have duty to initiate appropriate action upon becoming aware of inappropriate actions by people under their supervision (TRCP Rules 18a, 18b, TCJC Canons 3C, 3D, and 6 in Appendix N)?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Ken's Towing & Paint & Body Shop, Galveston,
Texas
5100 Post Office Street, Lot #1, Galveston, Texas
77551
Tel: 409-741-2000 (office)
Tel: 409-762-2700 (phone)

Carelton Courtyard Apartments, Galveston, Texas
215 Market Street, Galveston, Texas 77550
Tel: 409-762-2688

Attorney Ashley Joyner for Carelton Courtyard
Apartments and Ken's Towing
Mills Shirley LLP, 2228 Mechanic Street, Suite 400,
Galveston, Texas 77550
Tel: 409-763-2341

Justice of the Peace Penny Pope, Galveston County
Precinct 3, Galveston, Texas
600 59th Street, 1st Floor, Galveston, Texas 77551
Tel: 409-770-5455

Judge Barbara Roberts, Galveston County Court of
Law No. 2, Galveston, Texas
600 59th Street, Suite 2001, Galveston, Texas 77551
Tel: 409-766-2200

Judges Laura Carter Higley, Terry Jennings, and
Evelyn Keyes, Court of Appeals For The First
District of Texas, Houston, Texas
First Court of Appeals, 301 Fannin Street, Room 245,
Houston, Texas 77002-2066
Tel: 713-274-2700

Supreme Court of Texas, Austin, Texas
Supreme Court Building, 201 West 14th Street,
Room 104, Austin, Texas 78701
Tel: 512-463-1312

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TABLE OF AUTHORITIES CITED

On the page provided, list the cases, statutes, treatises, and articles that you reference in your petition, and the page number of your petition where each authority appears.

CASES

Cases are cited below and the verbatim text appears after the text of the constitutional provisions, treaties, statutes, ordinances and regulations in Appendix N.

Evons v. Winkler, 338 S.W.2d 265, 269 (Civ App. – Corpus Christi 1965, ref. n.r.e)

Freeman v. Freeman, 327 S.W.2d 428, 431 (1959)

Mapco, Inc. v. Forrest, 795 S.W.2d 799 (Tex. 1990)

State v. Herrera, 25 S.W.3d 326, 327-28 (Tex. App. – Austin 2000, no pet.)

Smock v. Fischel, 207 S.W.2d 891, 892 (Tex. 1948)

Leeper v. Haynsworth, 179 S.W.3d 742, 745 (Tex. App. – El Paso 2005, no pet.)

Smith v. Lippman, 826 S.W.2d 137, 138 (Tex. 1992)

Hughes v. Habitat Apartments, 860 S.W.2d 872, 872-873 (Tex. 1993)

R.T.A. Int'l v. Cano, 915 S.W.2d 149, 150-151 (Tex. App. – Corpus Christi 1996, den.)

Dowell Schlumberger, Inc. v. Jackson, 730 S.W.2d 818, 818-819 (Tex. App. – El Paso 1987, re. n.r.e.)

STATUTES AND RULES

Due to lengthy provisions involved, they are cited below and the verbatim text of the constitutional provisions, treaties, statutes, ordinances and regulations involved in the case appear in the same order as listed below in the Appendix N.

Amendment V of the Constitution of the United States

Amendment VII of the Constitution of the United States

Amendment VIII of the Constitution of the United States

Amendment XIV of the Constitution of the United States

Section 1.

FRCP Title VII. Judgment, Rule 60. Relief from a Judgment or Order (a) Corrections Based on Clerical Mistakes; Oversights and Omissions

TRCP Rule 1. Objective rules

TRCP Rule 18a. Recusal and disqualification of judges

TRCP Rule 18b. Grounds for recusal and disqualification of judges

TRCP Rule 21. Filing and serving pleadings and motions (b) Service of Notice of Hearing.

TRCP Rule 21a. Methods of service (e) Proof of Service.

TRCP Rule 24. Duty of clerk

TRCP Rule 77. Lost records and papers

TRCP Rule 161. Where some defendants not served

TRCP Rule 165a. Dismissal for want of prosecution

TRCP Rule 239. Judgment by default

TRCP Rule 296. Request for findings of facts and conclusions of law

TRAP Rule 34.5.(e) Clerk's Record Lost or Destroyed.

TRAP Rule 33. Preservation of Appellate Complaints

TRAP Rule 52.9. Motion for Rehearing

TRAP Rule 52.11. Groundless Petition or Misleading Statement or Record

TRAP Rule 61. Reversible Error

Texas Code of Judicial Conduct Canon 1: Upholding
the Integrity and Independence of the Judiciary

Texas Code of Judicial Conduct Canon 2: Avoiding
Impropriety and the Appearance of Impropriety in
All of the Judge's Activities

Texas Code of Judicial Conduct Canon 3: Performing
the Duties of Judicial Office Impartially and
Diligently; B. Adjudicative Responsibilities.

Texas Code of Judicial Conduct Canon 3: Performing
the Duties of Judicial Office Impartially and
Diligently; C. Administrative Responsibilities.

Texas Code of Judicial Conduct Canon 3: Performing
the Duties of Judicial Office Impartially and
Diligently; D. Disciplinary Responsibilities.

Texas Code of Judicial Conduct Canon 6: Compliance
with the Code of Judicial Conduct

OTHER

Apartment Lease Contract Section 21. Parking

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Due to lengthy provisions involved, they are cited below and the verbatim text of the constitutional provisions, treaties, statutes, ordinances and regulations involved in the case appear in the same order as listed below in the Appendix N.

Amendment V of the Constitution of the United States

Amendment VII of the Constitution of the United States

Amendment VIII of the Constitution of the United States

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TRCP Rule 21a. Methods of service (e) Proof of Service.

TRCP Rule 24. Duty of clerk

TRCP Rule 77. Lost records and papers

TRCP Rule 161. Where some defendants not served

TRCP Rule 165a. Dismissal for want of prosecution

TRCP Rule 239. Judgment by default

TRCP Rule 296. Request for findings of facts and conclusions of law

TRAP Rule 34.5.(e) Clerk's Record Lost or Destroyed.

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TRAP Rule 52.9. Motion for Rehearing

TRAP Rule 52.11. Groundless Petition or Misleading Statement or Record

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Texas Code of Judicial Conduct Canon 3: Performing
the Duties of Judicial Office Impartially and
Diligently; D. Disciplinary Responsibilities.

Texas Code of Judicial Conduct Canon 6: Compliance
with the Code of Judicial Conduct

Texas Occupations Code Sec. 2308. Vehicle towing
and booting

OPINIONS BELOW

We have not been informed and have no knowledge whether in our case any opinion has been published in a publication or appeared elsewhere besides any of the courts' website, or if any opinion has been designated for publication but has not yet been published. Rulings, decisions, orders, opinions, and responses of the courts are listed in the appendix as stated below, we do not if they are reported or unreported.

The opinion of the highest state court to review the merits appears at Appendix A to the petition.

The opinion of the Galveston County Court of Law No. 2 appears at Appendix M to the petition.

The opinion of the Court of Appeals for the First District of Texas appears at Appendix J to the petition.

The opinion of the Supreme Court of Texas appears at Appendix B to the petition.

JURISDICTION

The date on which the highest state court decided our case was January 18, 2019. A copy of that decision appears at Appendix B.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

STATEMENT OF THE CASE

Introductory

Our case is particular because it is not associated with the judgment of a single court, instead what we are asking the Supreme Court of the United States is to review our questions related to a sequence of judicial proceedings from the justice of the peace where we filed law suit through trial court (where there was no trial or review of the merits of our case) and appeals court, and finally state supreme court because of the errors and mishandlings that affected our case and led us to question the appropriateness and legality of the actions of those who made decisions in our case, as we describe in details below.

Case No: 16-TOW03-0097

Court: Justice of the Peace, Galveston County

Precinct 3, Galveston, Texas

Judge: Penny Pope

Date of ruling on merits of the case: November 8, 2016

Our car was towed from the parking lot of our apartment where it was parking legally in accordance with the terms of the Apartment Lease Contract. We filed for illegal tow with the local justice of the peace and presented evidence that proved our case. The JP ignored facts of the case on trial and ruled in favor of local defendant represented by local attorney as evidenced by overlooking the obvious contradiction between

defendant's claim of "Blocking driveway on private property @ apt complex" and the photo defendant brought as supporting evidence that showed another car passing the vehicle accused of blocking driveway (i.e. there is no blockage where there is free passage) and ruling in favor of defendant. JP allowed manipulation by defendant as evidenced by allowing defendant to change testimony in the court hearing without giving advance notice to plaintiff from "Blocking driveway on private property @ apt complex" to "the location of the vehicle interfered with access to the dumpster, which is emptied every Monday, Wednesday and Friday at 6:00 a.m." JP considered defendant's MODIFIED claim of "vehicle interfered with access to the dumpster" equivalent to the term "blocks garbage truck from access to a dumpster" in Section 21.(g) of the Apartment Lease Contract (Appendix N) despite photographic evidence demonstrating the garbage truck passing by the vehicle (same reasoning as above why claim is groundless applies). JP took defendant's word for "probable cause for the removal and placement of the vehicle" without proof and overlooking the obvious contradiction between defendant's claims and photographic evidence demonstrating a car and the garbage truck passing by the vehicle. JP ignored photographic evidence demonstrating dumpster is not emptied at 6:00 a.m. There is contradiction between the judge's statement "No complaint or evidence was presented to the amount of the charges imposed and collected in connection with the removal

and storage” and the very existence of the present lawsuit and the written and photographic evidence on file in the case as mentioned above.

Case No: CV-0077741

Court: Galveston County Court of Law No. 2,
Galveston, Texas

Judge: Barbara Roberts

Date of dismissal: November 2, 2017

Due to judicial error and misconduct at the local justice of the peace we had to appeal to county court, where judge communicated with defendant only about a hearing in the case, did not inform plaintiff, and when plaintiff did not appear at the hearing, used the absence of the plaintiff for justification of ruling in favor of defendant as evidenced by case history. Judge ignored facts of the case and law, condoned judicial error by local justice of the peace (who resides in the same building), allowed defendant's motion for default judgement in the above mentioned hearing and dismissed the case despite the law that requires a judge to consider the facts and evidence in a case even in the absence of the plaintiff (TRCP Rule 239; and Freeman v. Freeman, 327 S.W.2d 428, 431 (1959); Mapco, Inc. v. Forrest, 795 S.W.2d 799 (Tex. 1990); State v. Herrera, 25 S.W.3d 326, 327-28 (Tex. App. – Austin 2000, no pet.); Smock v. Fischel, 207 S.W.2d 891, 892 (Tex. 1948); Leeper v. Haynsworth, 179 S.W.3d 742,

745 (Tex. App. – El Paso 2005, no pet.) in Appendix N), and judge was in possession of the facts and evidence. Judge ignored the fact that defendant's motion for "Default Judgement for Plaintiffs' failure to participate in discovery" was groundless as evidenced by the questions of defendant asking for reiteration of information already communicated to and in possession of defendant and judge (i.e. discovery is complete if the party with questions have been given the answers). Judge ignored the fact that defendant's motion for "Default Judgement for Plaintiffs' ... failure to adhere to this Court's Order to Confer and Mediate" was groundless as proven by written evidence of our intent to mediate that was provided to and was in possession of the judge and defendant (TRAP Rule 52.11 in Appendix N). Judge ignored the fact that defendant's motion for "Default Judgement for Plaintiffs' ... failure to attend the mandatory hearing" was groundless as evidenced by the case history (i.e. a person cannot know s/he has to fulfill an obligation without being informed about the obligation).

Case No: 01-17-00918-CV

Court: Court of Appeals For The First District of Texas, Houston, Texas

Judge: Laura Higley and partners

Date of dismissal: April 3, 2018

Due to judicial error and misconduct at the county court that condoned the judicial error and misconduct at the local justice of the peace, we had to appeal to district court of appeals, where the judges ignored facts of the case and law, condoned judicial error and misconduct by local justice of the peace and county court, and affirmed ruling in favor of defendant using false justification as evidenced by the contradiction between the judges' statement that says "After being notified by this Court's February 14, 2018 Order and Notice of Intent to Dismiss for Want of Prosecution (Appendix K) that this appeal was subject to dismissal for failure to pay the required clerk's record fee, appellants failed to timely respond" and the tracking record and signature confirmation by the Clerk's Office staff at the Court of Appeals For The First District of Texas provided by the United States Postal Service as proof of the appeals court receiving our TIMELY RESPONSE and explanation about paying the above mentioned fee. The judges refused to acknowledge that the court lost our response and the fact that "required clerk's record fee" was paid despite that they were provided and in possession of evidence of our timely response and written confirmation of payment by said county clerk. The judges refused any hearing/rehearing, reconsideration, and explanation (TRAP 52.9 in Appendix N).

Case No: 18-0860

Court: Supreme Court of Texas, Austin, Texas

Judge: No name was disclosed to us

Date of dismissal: January 18, 2019

Due to judicial error and misconduct at the district appeals court that condoned the judicial error and misconduct at the lower courts we asked extension of time for filing petition from the Supreme Court of Texas. Unidentified representatives of the Supreme Court of Texas dismissed our civil appeals case claiming we did not pay fees to said court on time, when the reality and facts are that we notified the Supreme Court of Texas of such serial mishandlings of our case at the lower courts that cannot be attributed to accidental errors: Due to the aforementioned mishandlings we asked the Supreme Court of Texas to abate our case and allow time for correction of those mishandlings at the lower courts (Appendix P). The Supreme Court of Texas granted the abatement. We do not know what happened behind the scenes and behind our back because we were not allowed access to see what is in our case file at the Supreme Court of Texas when we physically appeared and requested such access in Austin, Texas. All we know is without notifying us and without giving proper and appropriate explanation the abatement was lifted (Appendix C, D, E) and we were told to pay the petition fee without a payment deadline, and then our case was dismissed because we missed the nonexistent payment deadline

(Appendix B). We called the Supreme Court of Texas and spoke to the Chief Deputy Clerk, who gave us an invalid explanation why the abatement was lifted: Her explanation was invalid because she claimed the Supreme Court of Texas became aware of new information and she described something that the Supreme Court of Texas would have known from our communication before the abatement was granted unless our communication was not read, which would be contrary to due diligence. Further, the appeals court suspended the rules of operation in the case (Appendix H and TRCP Rule 2 in Appendix N). The Supreme Court of Texas was also informed of the violation of the law and violation of our constitutional rights by the lower courts, and the Supreme Court of Texas failed to exercise due diligence and intervene to stop the illegal practices despite being in possession of evidence proving our claims. By overlooking errors and misconduct committed by the appeals court, the county court, and the JP court that basically cheated us out of fair trial by violating the judicial process the Supreme Court of Texas failed to adhere to Canons 1, 2, 3, and 6 of the Texas Code of Judicial Conduct (Appendix N).

REASONS FOR GRANTING THE PETITION

We are asking the Supreme Court of the United States to grant our petition to show and affirm to people the law and the constitution applies to everybody including legal professionals.

Our case originated from an illegal action, a fact that was overlooked by the very legal professionals who are supposed to protect citizens and uphold the law. Due to their actions, we were denied our basic rights to be heard and to have fair and equitable judicial process.

When legal professionals are disrespecting the principles described in the Texas Code of Judicial Conduct, the Laws of Texas, and the Laws and Constitution of the United States, ordinary people lose confidence in the judiciary system because the judiciary system does not function but serve the private interest of certain individuals who abuse the interest of other individuals, and the costs of keeping the judicial system go to waste or benefit the wrong people.

Because courts are essential part of government, and one of the key principles of democracy - the form of government of the United States - is "equality before the law for all citizens, regardless of race, creed, color, gender, national origin, or other immutable characteristics", when members of the courts do not


respect the principle as demonstrated by their actions, they put democracy in jeopardy.

Our car was towed illegally as showed by facts and evidence both from defendant and plaintiff. The justices and judges who examined our case demonstrated bias in favor of defendant and in favor of each other. We are asking the Supreme Court of the United States to grant our petition so the errors and misconducts in the case can be corrected and fair and equitable judicial process can be reestablished towards us and the general public.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Zsolt Petko

Zsuzsanna Adam

(Signatures)

Date: April 18, 2019