

No. 18-5178

IN THE

SUPREME COURT OF UNITED STATES

KIMBERLY BALTIMORE,

Petitioner

v.

FRANK STEVEN BUCK, individual,

FRANK STEVEN BUCK, et al

Respondent(s)

On Petition For Writ of Certiorari
To The Supreme Court of Alabama

PETITION FOR REHEARING

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October 18, 2018

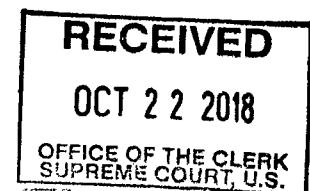


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PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, petitioner, Kimberly Baltimore, hereinafter, Baltimore respectfully petitions this Court for rehearing of its October 1, 2018 order which denied the petition for writ of certiorari filed by Baltimore originally on June 4, 2018, and (2) granting the petition for writ of certiorari. The grounds for rehearing are stated below:

FACTUAL & PROCEDURAL BACKGROUND

A. Proceedings Below

Baltimore was in two accidents in or around January 19, 2012 and on or around May 1, 2013. Baltimore hired and entrusted the law firm of attorney Frank S. Buck. Baltimore was hit from behind in both accidents. During the litigation, Frank S. Buck and all attorneys involved tried to tell me that I would not receive anything if I did not take what they (all attorneys involved) were offering. Although, Buck bragged about how big the case was. Then one day he turned his back on me. Not only did Buck turn his back, after Baltimore informed Buck that she may need more surgery, Buck advised, "Baltimore that you better not." He then went on to say that, "I have a business to run, I have to pay out thousands of dollars a month." (like he was entitled), An attorney is not supposed to get rich on the backs of his clients, he is supposed to represent them with fiduciary duty. He would not be where is now without his clients, literally.

Per All about accidents.com via Nolo.com Alabama is an "at-fault" state. It states as follows:

Alabama is an at "Fault" Insurance State. State insurance laws in the U.S. typically come in one of two flavors: "no-fault" and "fault" (at "fault" system is also known as an "at-fault" or "tort" system in some states). Alabama is a "fault" state when it comes to car accidents and insurance coverage. This means that the fault (or legal responsibility) of the drivers involved in the crash will affect how and in what way compensation is paid to those who are injured – or whose property is damaged – as a result of the accident.

B. Proceedings Before This Court

Still proceeding pro se, Baltimore timely filed a petition for a writ of certiorari and motion to leave to proceed in *forma pauperis* in this Court. The respondents chose not to respond to the petition, their only concern is that this case is "public information." Baltimore has been accused of filing frivolous claims in the past and in this case. Baltimore, files pro se, not to be a pest to the judicial system but because I have found out that attorneys' stick together, Alabama courts stick together, all courts stick together. Especially in Jefferson County, Alabama; Alabama period. When Baltimore tried to find attorneys to sue Buck, I was told the same thing, over and over, "We don't do that in Alabama." (we don't sue other lawyers). Buck was glad to point out where I had gone and what was said. Baltimore found out that not only does attorneys bother to NOT represent you to the best of their ability, attorneys are **ALWAYS, ALWAYS** beating their clients out of something. A prime example, the contract states the attorney will get thirty (30%) if he is able to win on your behalf. He then throws in expenses, which somehow always makes your contract percentage that goes up to like ninety (90%). And then if he can't get you to agree, he just forge your signature and you then get 0000.one (0000.1%) percent. Then the legal and whole towns laughing at you because the courts are going to let them use the "because I said so defense" and the pattern is never broken. If attorneys and the courts were not so greedy, maybe the courts won't be bothered with our (pro se litigants) arrogant bodies and appeals. But that is the way of the world. Not only is this the way of the world, but corruption is all around us. Attorneys have done this for centuries. That is why I never wanted to be an attorney. I figured if I had to cheat someone to better myself, then I don't need it. God Bless You All!

1 Timothy 6:10 King James Version (KJV)

10 For the love of money is the root of all evil

Moreover, that's where the kangaroo court was born around the nineteenth century. A kangaroo court really refers to defendants, but I think it should also refer to pro

se litigants, whether plaintiff or defendants. A kangaroo court affords, abuse of process, forgery that includes and not limited to attorney misconduct, abuse of discretion, false accusation, miscarriage of justice, legal ethics, right to a fair trial loopholes, ineffective assistance of counsel. Everything that Baltimore's case consists of, which makes this a federal question, a direct violation and conflict of the U S Constitution's Fourteenth Amendment Section 1.

Kangaroo Court: [Slang of U.S. origin.] An unfair, biased, or hasty judicial proceeding that ends in a harsh punishment; an unauthorized trial conducted by individuals who have taken the law into their own hands, such as those put on by vigilantes or prison inmates; a proceeding and its leaders who are considered sham, corrupt, and without regard for the law. The concept of kangaroo court dates to the early nineteenth century. Scholars trace its origin to the historical practice of itinerant judges on the U.S. frontier. These roving judges were paid on the basis of how many trials they conducted, and in some instances their salary depended on the fines from the defendants they convicted. The term kangaroo court comes from the image of these judges hopping from place to place, guided less by concern for justice than by the desire to wrap up as many trials as the day allowed. West's Encyclopedia of American Law, edition 2. Copyright 2008 The Gale Group, Inc.

Slang for a court of law in which the violations of procedure, precedents, and due process are so gross that fundamental justice is denied. It usually means that the judge is incompetent or obviously biased. kangaroo court a travesty of a court where there maybe some of the paraphernalia or procedure of a court but the essence of a court hearing is absent, i.e. a fair hearing. Collins Dictionary of Law © W.J. Stewart, 2006

REASONS FOR GRANTING THE PETITION

I. The preponderance of the evidence and the burden of Proof.

In civil cases, the plaintiff has the burden of proving his case by a Preponderance of the evidence. A "preponderance of the evidence" and "beyond a reasonable doubt" are different standards, requiring different amounts of proof. The burden of proof is often said to consist of two distinct but related concepts: the burden of production, and the burden of persuasion.

Standards

Depending on the jurisdiction and type of action, the legal standard to satisfy the burden of proof in U.S. litigation may include, but is not limited to:

beyond a reasonable doubt
clear and convincing evidence
preponderance of the evidence
probable cause
reasonable belief
reasonable indications
reasonable suspicion
some credible evidence
some evidence
substantial evidence

Last updated in June of 2017 by Stephanie Jurkowski.

So, to be clear, during the initial trial, Baltimore was not given the opportunity to prove anything. Instead, my case was just dismissed. It didn't matter, because I was in the courtroom without an attorney. Moreover, a federal question was created at that very moment, because I am a nobody without an attorney. Is it an attorney fiduciary duty to serve his client? It does not matter. Anyone that practice law or have money can buy and or do anything he wants. He does not have to play by any rules. Remember you are only pro se. It does not matter that he forged your signature and defrauded you. It does not matter that Buck waited seventy-nine (79) days to file a motion. We will put you in your place, you are arrogant and pro se. It also does not matter that Buck violated the Alabama Rules of Professional Conduct

(ARPC) 8.4. The law does not apply to him, even if you can prove "beyond a reasonable doubt" (by Curt Baggett) that he committed fraud and you hired him (Buck) to represent you. Who is Curt Baggett anyway? He is not one of us, so we can just ignore him.

37 C.J.S. Forgery § 4 Corpus Juris Secundum | April 11, 2017 Update.

Forgery. § 4. Intent to defraud states:

An intent to defraud is an element of the crime of forgery. The elements of the crime of forgery include knowledge that the instrument was forged, or knowledge of the falsity of the instrument and the intent to defraud. Under other authorities, either at common law or under statute, intent to defraud or defraud or injure or to harm or defraud or deceive another, is an element of forgery, since forgery is a specific intent crime. Typically, an intent to defraud is found where defendant intends to cause a pecuniary loss or gain for purposes of a conviction under a forgery statute. For the purpose of establishing the offense of forgery, an intent to defraud is an intent to deceive another person for gaining a material advantage over that person or to induce that person to part with property or alter that person's position by some false statement or false representation of fact, wrongful concealment or suppression of the truth or by any artifice or act designed to deceive. The intent to defraud need not include the expectation of personal advantage to the accused for purposes of forgery, and an intention to prejudice or to assist in prejudicing some other person is all that is required. An intent to defraud, as an element of forgery, is broad enough to include an intent to deceive for reasons other than pecuniary gain, and may exist where property rights are not involved. Other authority states that only schemes to prejudice, damage, or defraud persons as to their legal rights, generally money or property, are within the ambit of forgery. Notwithstanding that there may have been an intent to deceive, there is no crime of forgery unless the making of an instrument is accompanied by an intent to defraud—there must be a potential benefit to the maker or potential injury to the defrauded party.

II. The Constitution and Pro Se litigants.

I have heard all my life, that do not go to court without an attorney, because That is an automatic loss. Not only are pro se litigants disrespected in the Courtroom, but it's like the attorneys' and judges' sends us a message of "how dare you represent yourself, and I spent years and money to get where I Am." It does not matter how right we (pro se litigants) are, we will certainly lose. The majority of the time when that happens (in the way of losses) is in direct conflict and violation of the Constitution.

Fourteenth Amendment Section 1, Which states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

If a court waives a litigant's constitutional rights, the waiver is considered a "contumacious action . . . directed against the roots of our system of federalism."³³ Thus, the constitutional rights of the litigants restrict judicial power as a matter of individual ²⁵ See *supra* note 18. ²⁶ See *Louisville & Nashville R.R. Co. v. Mottley*, 211 U.S. 149, 152 (1908).

What's the use of having a constitution, if the person making the laws don't abide by it, or the person that governs the laws does not abide by it?

A Vox Media © 2018 Vox Media, Inc. weighs in (not on the pro se litigant, but the future of the Supreme Court) on an article dated Oct 12, 2018, 8:10am EDT, titled:

The Case for Abolishing the Supreme Court. A Harvard law professor on whether it's time to rethink the nation's highest court. The United States Supreme Court Building in Washington, DC. When he was arguing for the ratification of the Constitution, Alexander Hamilton wrote that the judiciary "will always be the least dangerous branch to the political rights of the Constitution," in part because he believed the federal courts would stand above the political fray and act as a bulwark against tyranny from all directions. But it's hard to defend the Supreme Court on these grounds today. As my colleague Matthew Yglesias noted last week, the Court is now a blunt political instrument, used repeatedly to undermine outcomes of democratic governance — often on behalf of corporate interests. And the recent disaster that was the Brett Kavanaugh confirmation has further delegitimized the Court in the public's mind. Whether it's time to rethink the nation's highest court. So, it's perfectly reasonable to ask if we should abolish the Supreme Court, or at the very least strip the Court of its ability to overturn laws that it rules unconstitutional. If the Court is no longer a neutral arbiter of the law, if it's gradually shape-shifting into a partisan weapon, then maybe it's time to rethink its role in our constitutional system.

III. The Role of Alabama Rules of Civil Procedure (ARCP) and Federal Rules of Civil Procedure (FRCP) 60(b)(2)

Alabama Rule of Civil Procedure (ARCP) 60B Motion for fraud, that states as follows:

b) Mistakes; inadvertence; excusable neglect; newly discovered evidence; fraud, etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or

taken." This rule does not limit the power of a court to Entertain an independent action within a reasonable time and not to exceed three (3) years after the entry of the judgment (or such additional time as is given by § 6-2-3 and § 6-2-8, (Code of Alabama 1975) to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.

CONCLUSION

For the foregoing reasons, and for the reasons stated in the petition for writ of certiorari, petitioner prays that this Court grant rehearing of the order of denial, vacate that order, grant the petition for writ of certiorari, and review the judgment below

Respectfully Submitted,



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