

No. 18-5765

IN THE
SUPREME COURT OF THE UNITED STATES

DeAndre' Russell, *Petitioner pro se'*

v.

Redstone Federal Credit Union/Anthony Ingegneri, et.
Al., *Respondent*

Submitted

December 20, 2018

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
Eleventh Circuit**

PETITIONER PRO SE' CORRECTED

PETITION FOR REHEARING

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i.

LIST OF PARTIES PURSUANT TO RULES 14.1(B) AND 29.1

Petitioner pro se' DeAndre' Russell, filed suit for injuries caused by those of his (2011) bankruptcy, on December 31, 2013 and March 27, 2015. Redstone Federal Credit Union, attorney(s) for Redstone Federal Credit Union, C. Howard Grisham and Jeffery L. Cook, John Larsen and Melissa Larsen (2011) bankruptcy attorney(s) for debtor/petitioner, Philip A. Geddes and Michael Ford Federal Bankruptcy Trustees, in the (2011) bankruptcy, Anthony Ingegneri, Revenue Officer for the Alabama Dept. of Revenue, Mark Petterson, Revenue Officer for Alabama Dept. of Revenue, Mark Griffin, attorney for the Alabama Dept. of Revenue, Kelley Askew Gillikin, assistant Attorney General/attorney for the Dept. of Revenue and the UNITED STATES OF AMERICA are all Respondent(s).

ii.

CORPORATE DISCLOSURE STATEMENT

DeAndre' Russell is an owner/master mechanic, who closed his automotive shop in (July of 2007) and now services a select group of (loyal customers only) at their home and/or place of business. He has no parent or publicly held companies owning 10 percent or more of its stock.

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1.

PETITIONER'S (Corrected) PETITION FOR REHEARING

Pursuant to **Rule 44.2** of The Rules of this Hon. Supreme Court, Petitioner pro se' DeAndre' Russell presents his brief for a ***Corrected Petition for Rehearing*** that comes before this court within the (15) day allotted time, proceeding the Nov. 5, 2018 denial of the Writ, and the Nov. 28, 2018, ***Deficient Petition for Rehearing***, for purposes of presenting arguments on his restricted grounds specified in Rule 44.2 that should meet the Intervening Circumstances of substantial or controlling effect and substantial grounds not previously presented, and that these ***presented grounds*** should serve as the need, to reverse the denial of this Writ of Certiorari, and to issue a Grant of the Writ to this case, in ***the Interest of Justice***.

Case Law states that, when the U.S. Supreme Court issues a denial of a Writ of Certiorari, without an opinion, that the denial does not mean that the case did not have merit, but rather, it simply means that less than (4) of the high court justices did not agree on the importance of the matter.⁶

⁶ Denial by federal Supreme Court of Petition of Writ of Certiorari decides nothing and means only that the court refuses to hear the matter. Application of Sullivan, D.C. Utah 1954, 126 F. Supp. 564.

Petitioner contends that there may be issues surrounding this case, whereby the refusal to allow adjudication of these matters, may present a gross violation of his ***Civil and Constitutional Rights***, along with continual irreparable harm, and due to the "***Special Circumstances***" that he contend may be involved, may now require Congressional attention.⁷

THE (4th) ELEMENT OF RES JUDICATA

From day one, of these matters, petitioner pro se' was simply seeking relief from a creditor and their collection agents, who was causing irreparable harm, over a consumer debt, for which he (petitioner) had later ***discovered***, in his (2011) bankruptcy, that they had committed predatory practices, that had never been litigated, in state court.⁸

⁷ *Matthews v. Eldridge*, 442 U.S. 319, 333 (1976) "Parties whose Rights are to be affected are entitled to be heard." *Baldwin v. Hale*, 68 U.S. (1 Wall) 223,233 (1863).

⁸ *Copeland v. Merrill Lynch Co., Inc.* 47 F.3d 1415 (5th Cir. 1995) Copeland maintains that the statements made in bankruptcy court in ACE's confirmation hearing collaterally estop Merrill Lynch from litigating the existence and breach of the alleged July 31 Agreement in this proceeding. Collateral estoppel applies to bar litigation of an issue previously decided in another proceeding by a court of competent jurisdiction when four conditions are met: **(1) the issue under consideration is identical to that litigated in the prior action; (2) the issue was fully and vigorously litigated in the prior action; (3) the issue was necessary to support the judgment, in the prior case; and (4) there is no special circumstances that would make it unfair to apply the doctrine.** *United States v. Shanbaum*, 10 F.3d 305,311 (5th Cir. 1994).

3.

The Writ of Certiorari that petitioner pro se' has presented to this Honorable U.S. Supreme Court, has now carried at the center, the subject matter of a denial, by the Lower Circuit Court and all courts below its jurisdiction, petitioner's right to receive any relief, from these matters on grounds of *res judicata*.

It is this subject matter that was the basis of the (2011) bankruptcy, for which this suit has its origins. It is this subject matter that was the basis of the Eleventh Circuit Court of Appeals ruling(s) in affirming all lower court(s) decisions to dismiss petitioner's lawsuit. And it is this subject matter that is now one of (3), that has been brought to this court's attention, in petitioner pro se' Writ of Certiorari.

The Eleventh Circuit Court of Appeals stated in its Oct. 3, 2017 Order that petitioner's (Dec. 31, 2013) filed suit on those of his (2011) bankruptcy is barred and should be dismissed because the doctrine of *res judicata*, would now apply to that (2011) bankruptcy.

Petitioner argues that to allow their decision to stand would now create a new issue concerning the Nov. 5, 2018 denial of his writ, by this court. This is because the case of *Copeland v. Merrill Lynch* raises the

question of the 4th element, as to determining whether the res judicata doctrine should be applied which refers to whether there would exist, "***special circumstance***" that would make it unfair to apply the doctrine.

The special circumstances, in this case, was made known in Petitioner's Writ to this court, from the now known fact that new facts and evidence and a worsening of the earlier conditions, *Lawlor v. National Screen Service*, was presented to all courts, and that involved ***a discovery of a false claim*** that was inserted into this (2011) bankruptcy by State Officials of the Alabama Dept. of Revenue and again in the (2014) bankruptcy.

The record is now also indisputable that these special circumstances of new facts and a worsening of the earlier conditions, has yet to receive any hearings or adjudication, as to whether it was sufficient for meeting the requirements in spoiling the res judicata effect, for which every lower court involved in these matters, has dismissed petitioners filed suit(s), based on this *doctrine of res judicata*.

In addition to the upcoming topic that will discuss ***the intervening circumstances of substantial grounds***

that were not previously presented, petitioner ends this topic by stating that the denial of his Writ, by this Hon. Court without an opinion would now leave open this unanswered issue as to whether petitioner's presented claim of his new facts and evidence and a worsening of the earlier conditions met the needed requirements, for spoiling the res judicata effect. Furthermore, to deny this writ without an opinion would not only go against settled case law that this Hon. Supreme Court issued and handed down, to the lower courts in *Lawlor*, which still applies to this day, but it would now cause this cycle of filing new suits against the same parties, to work its way through the court system again. This would mean that we would all eventually end right back here, in this court again.

Finally, because this case from the beginning has centered around the subject matter of res judicata, to deny petitioner's Writ by this Hon. Court, without an opinion, would only further deny his right to be heard, (5th Amend, U.S. Const.) on this matter, for which petitioner would claim that this topic should also serve as a prelude to the, "*Intervening circumstances of*

substantial grounds that were not previously presented.

THE INTERVENING CIRCUMSTANCE OF SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED

The Writ that Petitioner pro se' has presented to this court has carried as its primary subject matter the issues of res judicata as it pertains to default judgments, and the lower Federal Courts lack of attention to the new facts and evidence and/or a worsening of the earlier conditions that was presented for spoiling the res judicata effect. Although petitioner contends that these issues should have presented sufficient grounds for granting the Writ, there also exist another issue that presents substantial grounds for this court exercising its intervening powers, that was not mentioned in the writ. The Intervening Circumstances of substantial grounds that was not previously mentioned, would now stem from the now presented newspaper article (exhibit 6a) that displays how the State of Alabama receives an "F" rating on how it treats its citizens, when it comes to consumer debt and a "fresh start." It further describes how Alabama is one of (3) states, that is classified as the worst in the nation, in these matters.

The article notes that one reason Alabama is one of the worst in the nation is because the State has not kept up with the nations changing economy, in relation to higher wages, the worth of a debtor's valued property and the amount on exemption(s) that the state allows. Alabama exemption laws of today, are still based in a period when property was of much less value. It is these low and draconian exemption deductions that are not only inconsistent with other states, but it is also these same unconstitutional low exemptions, that are allowing Debt Buying Collection Agencies to easily seize and confiscate a debtor(s) property and assets.

To allow many of the citizens of Alabama, who for many reasons, may have experienced an unforeseen travesty, such as a loss of job, health reasons, etc., to now lose their primary assets, which is typically their home and/or vehicles, **which often provides a minimum fresh start for recovery**, over what often amounts to small consumer transactions, such as small loans and/or credit card debt, presents a deprivation by Alabama of its citizen's Property Rights. It should further be noted that the Alabama Laws that are depriving its' citizens of their property rights, are also allowing many of its

citizens to fall prey to the predatory practices of the very creditors and their collection agents, who are now seizing the unfortunate debtor's property. No state, in this nation, should create laws that forces its citizens into poverty by debt collectors, and at the same time provide no means for its citizens to receive a fresh start, from that debt.

These Laws and actions, by the State of Alabama should be classified as a violation of the (Equal Protection Clause) of the 14th Amendment to Alabama Citizens who are a victim to such laws, and who have had to endure these types of losses.

Article III § 2 of the U.S. Constitution states that; *"The Judicial Powers shall extend to all cases, in law and equity, arising under this Constitution, the Laws of the United States, between a State, or the Citizens thereof."*

Petitioner pro se' contends that the above actions that are being committed by the State of Alabama, to its citizens, is a violation of the equal protection clause and should now serve as the intervening circumstances of substantial grounds that were not previously presented.

CLOSING REMARKS

Congress has granted this court under The Rules Enabling Act, found in 28 U.S.C. §§ 2071-2077 (2006) the authority to prescribe the Rules and Standards for which even a petition for a rehearing may be granted. In cases such as the *Rehearing of Kennedy v. Louisiana*, 128 S. Ct. at 2650 this court concluded that the (2) primary standards that it uses for determining whether to grant a rehearing were, *a) a National Consensus of the states “evolving standards of decency” and b), this court’s independent judgment.*

The newspaper article, that petitioner has now presented as (exhibit 6a) make clear that a national consensus exists around the country by other states, their lawmakers and its citizens, that the *evolving standard of decency* does not permit their state to allow its citizen the poor exemption rates on their property and assets that Alabama Laws allows. These other states further do not allow creditors and their collection agents to easily seize property and impoverish its’ citizens of their state. This along with these same states offering more protections and remedies for its’ citizens, who may have had a temporary set-back, to receive a fresh start.

The article displays that Alabama offers little to no such relief to its citizens.

Petitioner pro se' is asking this court to use its', "independent judgment" to declare these acts by the State of Alabama to be deemed unconstitutional to its citizens and reverse the denial of the Writ and grant a rehearing, in these matters, in the Interest of Justice.

As to the statements that were made in the Closing Remarks and Conclusion of petitioner's Nov. 28, 2018 *deficient* Petition for Rehearing, Petition pro se' deeply apologize for any words that he may have used that offended this Hon. Court and your (9) Hon. Justices and is still prepared to face the consequences of his words.

But with all due respect, I will not retract from the statements of the allege, "misconduct," by the judges of the lower courts, in these matters, (28 U.S.C. § 351) nor the personal letters and copies of his Petition for Certiorari and Rehearing brief that has now been sent to the Senate Judiciary Committee, and the Civil Rights Division of the Justice Dept.. And why!

11.

Because more now than before, what this Petition for Rehearing Brief ultimately displays is that the State of Alabama is one of (3) states that is unconstitutionally infringing on its citizens property rights, with outdated and unfair laws, that is allowing debt collector's to easily seize its citizens property and that does not provide a "fresh start" for its citizens.

No, your Hon. Justices, I will not retract from the statements from the deficient Rehearing Brief, because what is now indisputably clear is that the record of these cases will now show that neither the bankruptcy judges of the (2011) and the (2014) bankruptcy proceedings, (who has been given authority, by Congress under Title 11 §105(a) to address these issues), nor petitioner's (2011) bankruptcy counsel(s), nor the (2011 and 2014) trustee's, in these matters, did anything to protect petitioner, his property and assets, from the unfair laws that Alabama is inflicting upon its citizens.

This along with the fact that all appellate judges, in these matters, have ignored facts and evidence that could offer relief, that has yet to receive a hearing nor any adjudication on the subject matter, should not only raise the question as to whether the courts have

violated petitioner's Civil and Due Process Rights, but it should also raise the question to Congress of whether courts discretion to evade issues that may violate Federal Laws and a parties Constitutional Rights, may be avoided by no mention of the facts and evidence, in a judicial ruling or by a "no opinion ruling," *Leiser Law Firm v. Supreme Court of Virginia, et,al., Civil No. 1:14-CV-407(E.D. Va. May 27, 2015*

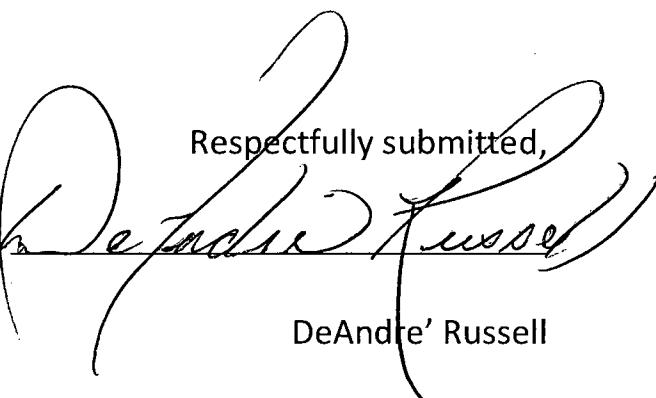
As to the laws of Alabama and the unfair treatment of its citizens concerning, Consumer Law, this court should know that as I write and present this brief for a Corrected Petition for Rehearing, to this Hon. Court, another application for an extension of time to file another Writ is being written that pertains to a case involving my wife, who has now also been denied her due process rights by the Alabama Supreme Court, by a "no opinion" ruling, that will once again display how Alabama is treating its citizens, when it comes to Consumer Debt, and a "Fresh Start," for its citizens, *Kirkland v. Ft. Morgan Authority and Sewer, 524 So. 2d 600 (Ala. 1988).*

13.

The issues that are set forth in this Petition for Rehearing are those that petitioner would now argue should meet the requirements of this Supreme Court Rules governing the intervening and substantial grounds that were not previously presented, in Petitioner pro se' Aug. 14, 2018, revised Writ of Certiorari.

CONCLUSION

For the reasons set forth in this Rehearing Brief, Petitioner pro se' pray that the Petition for Rehearing would be granted along with instructions that would grant him just and equitable relief, in these matters.

Respectfully submitted,

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December 19, 2018