

18A1031

No. 18-8013

Supreme Court, U.S.
FILED

MAR 29 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Paul Pieczynski— PETITIONER

VS.

WELLS FARGO BANK— RESPONDENT

COMMON PLEAS COURT OF LUZERNE COUNTY PENNSYLVANIA

Honorable Justice Samuel Alito

APPLICATION TO STAY EJECTMENT

APPLICATION TO STAY EJECTMENT

The Petitioner, a Sovereign Natural Individual is coming to the Supreme Court of the united States of America to seek a stay on an ejectment from an order from the COMMON PLEAS COURT OF LUZERNE COUNTY, PENNSYLVANIA (Appendix B). This request is pursuant Supreme Court Rule 23 and 28 U.S.C. §2101(f). Relief was sought in the Common Pleas Court and denied (Appendix A). The Petitioner brought the case to the Supreme Court from the Third Circuit. Relief was sought in the Third Circuit Court and denied (Appendix C). The case being docketed with the Supreme Court of the united States of America, a stay is being requested until review. Effective date of ejectment is April 24, 2019 (See Writ of Ejectment Appendix D). Petitioner was informed the attorney's scheduled a sale of the property on April 4, 2019.

The matter involves a "land patent" which makes the Supreme Court of the united States of America the only court of original and proper jurisdiction when it

comes to an attack on the title. This ejectment is an attack on the title. This matter is not, for example, an easement or property line dispute or landlord v. tenant issue which would be state or lower court jurisdiction.

“Being the absolute legal title to land, the land patent, derived from the U.S. Constitution, makes the United States of America a party of interest in any attack on that title in courts of law. The only court of original and proper jurisdiction is the Supreme Court of the United States. The lesser federal courts cannot rule on the force and effect of the patent. They must abide by the legislative intent” [quoting David Johnson, secretary, Oakland Citizens for Justice, quoting corpus juris secundum].

Summa Corp. v. California, 466 US 198 (1984). The land is secured by patent under the Guadeloupe Hidalgo Treaty. The treaty falls under clause of the Constitution, which proclaim that Treaties are the supreme law even over a State’s foundational Constitution.

[Klais V. Danowski, 337 Mich. Reports 1964, Michigan Supreme Court] held that, based on the supreme law of the land, patents to land were not cut off by the subsequent creation of the state and that the state has no jurisdiction on the patented lands.

Brief History

The ejectment action, (from a foreclosure and sheriff sale in June of 2016), was commenced in the state court in February of 2018. The Petitioner moved the matter to federal court. The District Court ruled no jurisdiction because of timely removal rule and that a land patent is not federal jurisdiction. The Appellate Court affirmed the lower court and denied a petition for rehearing. The cases that many courts rely on are Hilgeford v. Peoples Bank, 776 F.2d 176, 178 (7th Cir. 1985) and Nixon v. Individual Head of St. Joseph Mortg. Co., 612 F. Supp. 253 (N.D. Ind. 1985). Both are rulings from the same judge approximately two months apart. Brief summary of the court’s ruling was that no land patent exists because it was a piece

of paper signed to oneself or self-executed. In Hilgefurd v. Peoples Bank Judge Willian C. Lee states;

"The blatant insufficiency of the "patent" is evident when it is compared to the copy of a land patent attached to the plaintiffs' "Motion Barring Action of Ejectment." That copy, which is apparently of the original land patent for part of the property which is the subject matter of this cause, bears the signature of the President of the United States by his appointed Secretary of the Interior. It is clearly a grant from the United States to a private citizen (one Reuben Montgomery). Plaintiffs' "land patent" is obviously insufficient when compared to this valid patent.

This explanation is a total misunderstanding of the updating and perfecting a patent. The Court sanctioned the Hilgefurd's and other people were criminally sanctioned for updating and perfecting a patent based on a totally erroneous misunderstanding of how to perfect the patent. Notice the Court said valid patent. The update is not the "Patent", the original is the one and only Patent and one is updating or perfecting title to the original Patent and embracing all the original rights and privileges with the update.

Judge Lee writes in Nixon v. Individual Head of St. Joseph Mortg. Co., 612 F. Supp. 253 (N.D. Ind. 1985).

The court wishes to reiterate its warning in Hilgefurd that the filing of lawsuits based upon land patents which purport to grant a land patent unto one's self will draw immediate and severe sanctions from this court. The identical language of the "land patent" in this case and in the Hilgefurd case suggest to this court that some party is responsible for the broad dissemination of the obviously false and frivolous legal concepts which have led to this suit and the suit in Hilgefurd. If in fact someone has provided the plaintiff here with these spurious materials and arguments, the court notes that the plaintiff would have a solid claim for damages in the amount of the sanctions issued here for the misrepresentations which resulted in this frivolous lawsuit. The judicial waste occasioned by the continuous dissemination of these incorrect legal concepts will continue to draw

the swift response of this court. The court hopes that this clear signal will discourage others from following such false prophets.

Argument

The sovereign people of these united States of America have relied on Supreme Court rulings, treaty Law, legal writings, the Constitution, the four corners of the Land Patent document, the motivation and intent of the founding fathers, the intent of congress and the Doctrine of Relationship Back. Are all mentioned responsible for the broad dissemination of the obviously false and frivolous legal concepts? Can the people no longer rely on these documents?

District Judge William C. Lees' opinion in Hilgeford;

"These provisions allow the United States to grant title to public land to private individuals, thereby creating private title in the patent holder, and extinguishing title in the United States. The "patent" involved here is not a grant by the United States; it is a grant by the plaintiffs. The "patent" here is not a grant to some other holder so as to pass title on to another party; it is a self-serving document whereby the plaintiffs grant the patent to themselves."

Judge Lee says the patent is private title to private individuals and the United States extinguished title in the united States. The united States could never issue another title since it extinguished all rights to do so. The patent from this point on is updated or perfected. Should the property under patent become divided the other parcels will update to the original patent. Should an owner desire to change a Deed to Patent one would have to possess the portion of property to be updated. For example the reader of this document could not update the Petitioners' title. The Petitioner, a Sovereign Natural Individual has to update or perfect the patent. Should the property be assigned to another party before the patent is updated than the current assigned owner would have to update the Patent if

desired. One is not granting or signing a patent to oneself but following the mandates and updating or perfecting the patent with the original rights and privileges to oneself. The update has to be self-executed. This Petitioner, a Sovereign Natural Individual has recorded the process in the Luzerne County Recorder of Deeds office. Public notice is in the recording and still available online. The county accepted the recording, not a registration.

The Grantee/Assignee is mandated, pursuant to Article VI Sections 1, 2, 3, Article IV Section 1 Clause 1 and 2, Section 1 Clause 8, 2; Section 4; the 4th, 7th, 9th, and 10th Amendments [United States Constitution 1789-91], and numerous legislated positive laws, to update the Land Patent by acknowledgment, taking delivery, accepting, taking possession, occupying, and bringing forward the land patent into the grantee/assignee's name. This is the only lawful method that Perfect Title can be held in our names. For explanation see *Wilcox v. Jackson* 13 PET. U.S. 498, 101 ED. 264.

Statute 249 The Doctrine of Relationship Back

The doctrine of relation is applicable to public land transactions under a federal patent. When necessary to give effect to the intent of the statute or to cut off intervening claimants, the patent is deemed to relate back to the time of the inception of the patentee's claim to the land. When the doctrine applies, the last proceeding which consummates the conveyance of the public land is held to take effect by relation back as of the day when the first proceeding was had. This relation back is also effective in favor of persons to whom the claimant has assigned or transferred rights in the land before the issuance of the patent.

Sanford v Sanford, 139 US 642. In case of ejectment, where the question is who has the legal title, the patent of the government is unassailable. As an assignee, whether he be the first, second or third party to whom title is conveyed, shall loose none of the original rights, privileges or immunities of the original grantee of the land patent. No state shall impair a private contract, U.S. Constitution Article 1, section 10.

Hogan v Pace, 69 US 605. A patent certificate, or patent issued, or confirmation made to an original grantee or his legal representatives of the grantee or assignee by contract, as well as by law.

The following facts are undeniable. Fact: The Land Patent exists in the historical record of the property since March 16, 1812. Fact: A certified copy of the Land Patent and update is recorded in the Recorder of Deeds office of Luzerne County. Fact: A copy of the perfected update of the patent is in the record of this matter in the lower Courts. Fact: The Petitioner is in possession of a certified copy with gold seal and embossed raised stamp of the Land Patent. This can be presented to the Court with a couple days notice. Fact: the Supreme Court of the united States has ruled that the Land Patent is superior title. Fact: A certified copy of the land patent is evidence in all courts. 43 USC 59 where originals would be evidence. Section 57 covers the states of Oregon and California. Section 58 covers Louisiana. 43 USC 83 covers the evidentiary effect of certified land patents for all states. All the courts in the United States must take judicial notice of these federal patents and their evidentiary effect under these federal statutes.

The Petitioner never signed away any Rights to the Land Patent. The Patent states; "to heirs and assigns free and clear"... .."forever." We are still in the forever time frame. The courts have expressed that the Land Patent is superior to statutes.

Wineman v. Gastrell, 53 FED 697, 2 US App. 581 (1892) "The court is bound by the supremacy clause of the Constitution to uphold the treaty making your Patent a statutory limitation throughout the land."

The Petitioner in a "Petition for Writ of Certiorari" is asking the Court to

decide if a Land Patent still has legal authority as a title to land and should the people be sanctioned for following and relying on all of the citations mentioned in this writing and more? Are attorney's operating in fraud when attacking the Patent?

[Hughes V. Miller's Mutual Fire Insurance co., 246 s.w. 23 (1923)] "it is the largest estate in land that the law will recognize, a fee simple estate still exists even though the property is mortgaged or encumbered."

Can the people of these united States of American still rely on the Supreme Court of the united States of America rulings?

United States v. Bishop, 412 U.S. 346 (1973). "If you've relied on prior decisions of the Supreme Court you have a perfect defense for willfulness."

Conclusion

The Courts have relied on and labeled cases "land patent cases" sometimes when they have nothing to do with ejectment. That would mean the veracity of the title is not challenged. The other fallacious argument is the land patent is meritless because it's a self-executed document and one has signed a patent to him/herself. It is clear by the courts opinions that there is a lack of understanding of updating a land patent. Certainly the united States of America the grantor, did not expect the grantee to live forever. That possibility of demise or exchange of ownership was considered in the land patent document with the phrase "to heirs and assigns forever." Change of ownership would require an update, not a new patent. Exclusive rights of a patent would be lost and a patent would be meaningless should a new patent be created.

The Petitioner is a God created Natural Individual. God created man in His own Divine image --Genesis 1:26. The Petitioner is not a state created entity. Not by birth, employment or by oath. Unless Congress or the Supreme Court invalidates the Land Patent the State or Federal Courts would have no subject matter jurisdiction in this ejectment matter or in personam jurisdiction. The ejectment order derives from a misunderstanding rather than on any support of law on the face of the record. The lower courts did not provide an opinion when denying the stay. This matter docketed with the Supreme Court of the united States of America, a stay should be granted until the Courts review.

The Petitioner, a Sovereign Natural Individual respectfully asks the Honorable Justice Samuel Alito and the Honorable Supreme Court of the united States of America to grant a stay in enforcement of the order of ejectment from the COMMON PLEAS COURT OF PENNSYLVANIA.

I, Paul Pieczynski, declare that the statements made are true and correct to the best of my understanding and knowledge.

Date: March 29, 2019

by: Paul Pieczynski
private American National

Attached:

- Appendix A Order from Luzerne County Common Pleas Court—Denied Stay
- Appendix B Order from Common Pleas Court for ejectment
- Appendix C Order from Third Circuit-- Denied Stay
- Appendix D Writ of Possession from Common Pleas Court

No. 18-8013

IN THE

SUPREME COURT OF THE UNITED STATES

Paul Pieczynski---PETITIONER

VS.

WELLS FARGO BANK---RESPONDENT

PROOF OF SERVICE

I, Paul Pieczynski, do swear or declare that on this date, March 29, 2019, as required by Supreme Court Rule 29 I have served the enclosed "Application to Stay Ejectment" to the party to the above proceeding and the party's counsel. They are served by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. The names and addresses of those served are as follows:

Timothy C. Jones, Esquire 215 563-7000 Ext. 31218
PHELAN HALLIMAN DIAMOND & JONES LLP 1617 JFK Blvd. Suit 1400
One Penn Center Plaza Philadelphia, Pennsylvania 19103

Well Fargo Bank, N.A. 8480 Stagecoach Circle Frederick, MD 21701-4747

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 29, 2019

by: Paul Pieczynski

IN THE COURT OF COMMON PLEAS
OF LUZERNE COUNTY

WELLS FARGO BANK, s/b/m to
Wachovia Bank, national Association

Plaintiff

v.

PAUL PIECZYNSKI

Defendant

Civil Division

NO. 2017-1027

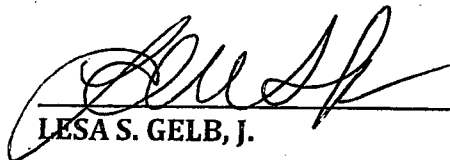
PROTHONOTARY LUZERNE COUNTY
FILED MAR 22 '19 PM2:35

ORDER

AND NOW, this 20th day of March, 2019, the Court has determined that pending disposition of this matter in the Supreme Court of the United States of America, the stay of ejectment is DENIED.

The Clerk of Judicial Records-Prothonotary is directed to serve notice of the entry of this Order pursuant to Pa.R.C.P. 236.

BY THE COURT:


LESA S. GELB, J.

Copies:

Timothy C. Jones, Esquire
One Penn Center at Suburban Station
1617 JFK Blvd., Ste. 1400
Philadelphia, PA 19103

Paul Pieczynski
462 Carverton Road
Wyoming, PA 18644

Appendix A

IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY, PENNSYLVANIA

Wells Fargo Bank, N.A. s/b/m to Wachovia Bank,
National Association
Plaintiff

Civil Division

No. 2017-1027.

vs.

Paul Pieczynski Or Occupants
Defendant

PROTHONOTARY LUZERNE COUNTY
FILED JAN 11 '19 PM3:28

ORDER

AND NOW, this 11th day of January, 2018, the

Court has determined that Plaintiff is entitled to summary judgment as a matter of law, and therefore:

Orders and Decrees that judgment is entered in favor of Plaintiff and against Defendant, Paul Pieczynski or Occupants, for immediate possession of the premises located at 462 Carverton Road, Wyoming, PA 18644-9361.

BY THE COURT:

THE OFFICES OF JUDICIAL RECORDS
& SERVICES OF LUZERNE COUNTY,
PENNSYLVANIA SHALL GIVE NOTICE
OF THIS ORDER TO ALL PARTIES
PURSUANT TO PA R.C.P 236



Appendix B

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

March 14, 2019

No. 18-1294

Wells Fargo & Company, N.A.,
s/b/m to Wachovia Bank, National Association

v.

Paul Pieczynski,
Appellant

(M.D. Pa. No. 3-17-cv-00422)

Present: RESTREPO, BIBAS and NYGAARD, Circuit Judges

1. Motion filed by Appellant Paul Pieczynski to Enjoin Ejectment pending the Supreme Court Proceedings.

Respectfully,
Clerk/clw

ORDER

The foregoing motion is denied.

By the Court,

s/ Richard L. Nygaard
Circuit Judge

Dated: 3/18/19

CLW/cc: Steven J. Adams, Esq.
Vishal J. Dobarra, Esq.
Mr. Paul Pieczynski

Appendix C

WRIT OF POSSESSION (Ejectment Proceedings PRCP 3160-3165)

WELLS FARGO BANK, N.A. S/B/M TO
WACHOVIA BANK, NATIONAL
ASSOCIATION

Plaintiff

Vs.

PAUL PIECZYNSKI Or occupants

Defendant

IN THE COURT OF COMMON PLEAS OF
LUZERNE COUNTY, PENNSYLVANIA

No. 2017-1027

Term: 20 ____ J.D.

No. 2017-1027

Term: 20 ____ E.D.

WRIT OF POSSESSION

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF LUZERNE:

To the Sheriff of Luzerne County, Penna.

Lockout Date & Time
Wednesday April 24, 2019
at 1000am

(1) To satisfy the judgment for possession in the above matter you are directed to deliver possession of the following described property to:

WELLS FARGO BANK, N.A. S/B/M TO WACHOVIA BANK, NATIONAL ASSOCIATION

Plaintiff(s)

being: (Premises as follows)

462 CARVERTON ROAD
WYOMING, PA 18644-9361

(2) To satisfy the costs against the defendant(s) you are directed to levy upon any property of the defendant(s) and sell his her (or their) interest herein.

Joan Hoggarth sm

Prothonotary, Court of Common Pleas of
Luzerne County, Pennsylvania

Dated: 1/28/19
(SEAL)

By: _____
Deputy

NOTE: if the judgment includes profits or damages, or if the attachment execution for costs is desired, the plaintiff may issue a separate WRITE of Execution under Rule 3102.

Appendix D