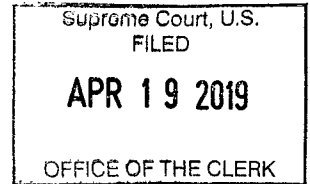


No. 18-8994

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



In the Matter of: ABIE WOLF, also known as Abraham C. Wolf; formerly doing business as
Mac H. Auto General Mechanic and Repair

PETITIONER

v.

RANDOLPH OSHEROW;

RESPONDENT

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

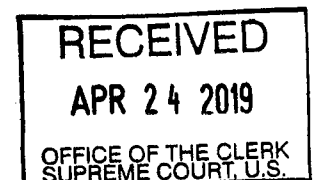
Petitioner

Abie Wolf Pro se

Po Box: 963073

El Paso, TX 79996

[Tel.] (409) 877-2224



QUESTION PRESENTED

1. Whether or not the Lower Court is talking about Petitioners Discharge and that's not what Petitioner appealed.
2. Whether or not the United States Trustee and the Respondent Randolph N. Osherow at the 341 Creditors Meeting were talking on the phone and said **"Mr.Osherow: "Okay, Mike. I'm going to conclude the meeting. You know, I extended the deadline to object to the discharge"** he was talking to Mike Epstein the United States Trustee **"You know, I extended the deadline to object to the discharge"**. This is so clear what the Trustee said by his own words, there was a previous decision and a plan that was made before the meeting to Object to Abie Wolf's Discharge. Which is documented on the Transcript from the Federal Court Reporters of San Antonio Inc.
3. Whether or not Petitioner appealed the "Order Dismissing Trustee's Objection To Reclassify Claim 1-1 Filed by Bonnie & Garry Starr as an Unsecured Claim and Denying Related Response and Objection by Abie Wolf and Elvis Wolf" which the Lower Court did not talk about what Petitioner appealed and they talked about a completely different thing.
4. Whether or not the Lower Court is going by what the District Court and the Bankruptcy Court decided on which is why Petitioner appealed the Order, because they are not going by the United States Bankruptcy Rules which even the Fifth Circuit is not following the rules they are just going with the wrong information from the District Court and the Bankruptcy Court.
5. Whether or not the Lower Court is talking about the first objection dated December 27, 2016 or the second objection dated December 29, 2016 that Petitioner did not appeal and is not talking about the Order dated August 1, 2017 which is the subject of this Appeal.

LIST OF PARTIES

Petitioner

Abie Wolf Pro se

Po Box: 963073

El Paso, TX 79996

Respondent

Randolph N. Osherow Chapter 7 Trustee,

342 West Woodlawn, Suite 100

San Antonio, Texas 78212

TABLE OF CONTENTS

| | Page |
|--|------|
| QUESTION PRESENTED..... | i |
| LIST OF PARTIES..... | ii |
| TABLE OF AUTHORITIES..... | iv |
| OPINIONS BELOW..... | 1 |
| JURISDICTION..... | 1 |
| RELEVANT PROVISIONS INVOLVED..... | 1 |
| STATEMENT..... | 2 |
| REASONS FOR GRANTING THE PETITION..... | 7 |
| CONCLUSION..... | 10 |
| APPENDIX | |
| Circuit Court Opinion | 1a |
| Circuit Court Judgment | 3a |
| District Court Order..... | 5a |
| Order Denying Panel Rehearing..... | 18a |

TABLE OF AUTHORITIES

| | Page |
|---|------|
| CASES | |
| <i>In re Anderson v. City of Bessemer</i> 470 U.S. 564 (1985) | 7 |
| <i>In re Burks v. United States.</i> 437 U.S. 1 (1978) | 7 |
| <i>In re United States v. Cronic</i> 466 U.S. 648 (1984) | 7 |
| <i>Cordell PEARSON, et al., Petitioners, v. Afton CALLAHAN.</i> 129 S.Ct. 808 (2009)555 U.S. 223 | 9 |
| GEORGIA v. RANDOLPH | |
| 547 U.S. 103 (2006)..... | 9 |
| <i>US v. Jenkins,</i> 345 F. 3d 928 - Court of Appeals, 6th Circuit 2003..... | 9 |
| <i>Ealy v. Littlejohn,</i> 569 F. 2d 219 - Court of Appeals, 5th Circuit 1978..... | 10 |
| <i>United States Supreme Court Gibson v. Florida Legislative Comm</i> 372 U.S. 539 (1963)..... | 10 |
| <i>Cordell PEARSON, et al., Petitioners, v. Afton CALLAHAN.</i> 129 S.Ct. 808 (2009)555 U.S. 223..... | 10 |
| <i>Garrison v. Colvin,</i> 759 F. 3d 995 - Court of Appeals, 9th Circuit 2014..... | 10 |
| <i>Vizcarra v. Thaler,</i> 133 S. Ct. 2763 - Supreme Court 2013..... | 11 |

OPINIONS BELOW

The case is presented to this Honorable Court from an appeal from a decision of the Fifth Circuit Court of Appeals, which decision is dated January 9, 2019.

The Petitioner had filed an original appeal from a decision of the United States District Court for Western District of Texas dated August 8, 2017 denying Petitioners *"Answer to Claims Objection to Reclassify and Objection to Improper Proof of Claim 1-1 in the amount of \$404,024.99 filed by Randolph N. Osherow Chapter 7 Trustee"*.

JURISDICTION

The statutory provision for this Court's jurisdiction is 28 U.S.C. Section 1254. Petitioner timely filed a extension on Petition for Panel Rehearing and the Fifth Circuit denied the Petitioners' Extension on Petition for Panel Rehearing on January 29, 2019.

RELEVANT PROVISIONS INVOLVED

FRBP 9011(b)

Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. If you sign the Proof of Claim, you declare under penalty of perjury that the information provided is true and correct."

18 U.S.C. 152 and 3571 "Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both."

STATEMENT

Procedural History

Abie Wolf had a mechanic shop in El Paso, Texas he received a phone call from Garry Starr and Bonnie Starr she asked him to help her tow and fix her 1999, 18 year old motor home she was driving it in the I-10 and the engine got seized and she told him she forgot to put oil in the engine. Abie Wolf towed the motor home to his shop and worked on it, he contacted Garry Starr and Bonnie Starr for them to pay him for the towing, labor, and the parts they never paid him for anything. Abie Wolf filed on the Small Claims Court a law suit against the Starr's on 06/20/2012 Case Number 412-00603-CV, and he was the plaintiff on that case. After Abie Wolf filed in the Small Claims Court Garry Starr and Bonnie Starr contacted Abie Wolf and told him their going to come and pay him for the towing, labor, and parts Abie Wolf asked his 12 year old daughter Sarah to take pictures on her cell phone of the situation, Garry Starr and Bonnie Starr got mad and they told Abie Wolf's daughter not to take pictures and they started acting violent and they took the phone from Abie Wolf's Daughter and threw her to the ground and smashed the phone and Garry Starr got a gun from the truck he was driving, everything was recorded on the phone and all the evidence is in the Sheriff's Report. Look at the El Paso County Sheriff's record. After Abie Wolf got his legal ownership for the motor home he received a lawsuit that was filed by a lawyer his name is Juan Carlos, this lawyer has a history going after businesses just thinking they have money and files a lawsuit against them, he has his connections and he moved the case from the Court Number 3 to the 243rd District Court to Judge Luis Aguilar who he is conspiring with, until now we don't know how the case got transferred, this Judge

Luis Aguilar was reprimanded and it was in the El Paso News (ABC 7) on November 8, 2017.

That Judge Luis Aguilar entered a judgment for over \$400,000.00 against Abie Wolf. Abie Wolf timely appealed that judgment to the Eighth Court of Appeals and it is still pending undecided at the Eighth Court of Appeals.

The Bankruptcy Court issued an Order on 08/19/2013 on that Order the Court said "The Court conducted a hearing on the Motion for Extension of Stay Pursuant to 11 U.S.C 362(c)(3)(B) filed by Abie Wolf, Debtor, and the Amended Objection thereto filed by Garry and Bonnie Starr ("Starrs"). The Court finds that the Debtor has presented evidence in support of a finding of good faith in the filing of the present case." Abie Wolf he never finished his schooling he left school in the 7th grade now he is over 60 years old and because of all the stress he went through he had a stroke and he is in Social Security Disability, See *Garrison v. Colvin*, 759 F. 3d 995 - Court of Appeals, 9th Circuit 2014, and he got Divorced because he can not protect his 12 years old daughter from Garry Starr and Bonnie Starr and some other issues because of what he went through in this case and he is getting help from the people at the Church and he is doing his Appeal Pro Se without an attorney. Abie Wolf filed a malpractice lawsuit against Attorney Salvador C. Ramirez the one who filed Abie Wolf's Bankruptcy case after 3 months from the date he had Abie Wolf sign the petition, and because he should not file a Chapter 7 Bankruptcy Case if there is a fraud judgment because this is against the Federal rules and he is an attorney and he broke the Federal Bankruptcy law by filing that Chapter 7 Bankruptcy case, and he never explained or had Abie Wolf sign a contract as Federal Bankruptcy Rules 11 U.S.C. 528(a) say "Further, Client(s) acknowledge that Client(s) have been advised that 11 U.S.C. 528(a) requires

Client(s) to sign a written contract for bankruptcy assistance services as defined in 11 U.S.C. 101(4)(A) within (5) business days of the first consultation". In the end it shows so clear there is a conspiracy between him and the Trustee, to go after money that belongs to Abie Wolf's family and ex-wife even after they were divorced and there is a Judgment from a State Court that shows that the properties are her sole properties, look at the Divorce Decree Judgment from the 434th Judicial District Court Fort Bend County, Texas Cause No. 14DCV-214910 , where it says "IT IS ORDERED AND DECREED that the husband Able Wolf, shall pay, as a part of the division of the estate of the parties, and shall indemnify and hold the wife and her property harmless from any failure to so discharge, these items: H-1. All debts, charges, liabilities, and other obligations incurred solely by the husband from and after February 2012 unless express provision is made in this decree to the contrary."

Also Abie Wolf filed against that lawyer (Juan Carlos) who got that \$400,000.00 judgment because that lawyer used a title from another state to illegally get that judgment.

The Trustee filed an Adversary Proceeding under rule 548 that rule never complied with what the Trustee got from Abie Wolf's ex-wife and his son because Abie Wolf has no money to pay and the Judgment is still at the Court of Appeals undecided. It seems like the Trustee is conspiring with the other lawyers and is behind everything from the 341 Creditors meeting when he was talking to someone on the phone, but thanks to the San Antonio Court Reporters that recorded everything **"Mr.Osherow: "Okay, Mike. I'm going to conclude the meeting. You know, I extended the deadline to object to the discharge"** he was talking to Mike Epstein

the United States Trustee **"You know, I extended the deadline to object to the discharge"**.

This is so clear what the Trustee said by his own words, there was a previous decision and a plan that was made before the meeting to Object to Abie Wolf's Discharge. After the meeting the Trustee said he denied Abie Wolf's Discharge because Abie Wolf did not pronounce his Ex-wife name correctly at the 341 meeting. How can a person who already made up his mind and he said **"You know, I extended the deadline to object to the discharge"** and he denied Abie Wolf's discharge because he blames Abie Wolf for not pronouncing his Ex-wife name correctly at the meeting. How can somebody say clearly **"You know"** that means something was planned and his decision was made before the meeting. Both the Trustee's Randolph N. Osherow and the guy he was talking to on the phone saying **"Mr.Osherow: "Okay, Mike. I'm going to conclude the meeting. You know, I extended the deadline to object to the discharge"** they both filed an Adversary Proceeding against Abie Wolf's discharge, Abie Wolf's ex-wife, Abie Wolf's son, and Abie Wolf's father in law's properties, now everything is clear because the Trustee collected over \$800,000.00 in properties and cleared for himself and his lawyer over \$100,000.00 for not even one Proof of Claim for a Debtor that does not have money just going after Abie Wolf's family's money he is breaking the law and abusing his power. Its so clear the Trustee is a lawyer and he hired James Brewer as a lawyer for him for a case that doesn't need him to hire an attorney because there is no Creditors but whoever the Trustee want's to make them look as a Creditor the Trustee got \$43,422.62 on 02/20/2017 for the First Interim Fee Application.

of Kemp Smith LLP as Attorneys for Randolph N. Osherow, Chapter 7 Trustee also he got on 06/14/2017 for the Second and Final Fee Application of Kemp Smith LLP as Attorneys for Randolph N. Osherow, Chapter 7 Trustee \$8,892.59 he didn't stop there he got another \$20,000.00 beside about another \$40,000.00 only with paperwork he printed and he showed it as his expenses it is unconstitutional what the Trustee did and he never went by United States Federal or Bankruptcy Law. After all that he filed a "Claim Objection to Reclassify Claim 1-1 filed by Bonnie & Garry Starr as an Unsecured Claim in the Amount of \$404,024.99 (With 30-Day Language)". The Bankruptcy Court dismissed the Trustee's filing but it did not accept Abie Wolf and the party involved for the Objection for that Proof of Claim he is trying to reclassify under Bankruptcy law the Debtor and any party has a right to Object. Elvis Wolf filed his Objection on July 18, 2017, because Elvis Wolf never filed Bankruptcy and the Trustee took his money and Elvis Wolf sent a Certified Letter to the Trustee and they never responded. Elvis Wolf works as a Law Enforcement Officer and what the Trustee did to him is unconstitutional.

The Trustee is using Garry and Bonnie Starr's name on the appeal but Garry and Bonnie Starr are not parties to the appeal and never filed an appeal or answered an appeal. The Trustee is using their name to mislead everybody, there is only one Improper Proof of Claim.

The Fifth Circuit erred when they followed the District Court, and the Bankruptcy Court which they where wrong in the first place and thats why Abie Wolf appealed to the Fifth Circuit and they did not follow the United States Federal Laws and the United States Federal Bankruptcy Laws and Rules and they did not come up with a new decision to show

why they affirmed the Order from the Bankruptcy Court and the District Court and under what rules they allowed an Improper Proof of Claim which was not signed by the Creditors and they admitted that. Which is so clear FRBP 9011(b) it says "*Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. If you sign the Proof of Claim, you declare under penalty of perjury that the information provided is true and correct.*" and 18 U.S.C. 152 and 3571 which says "*Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both.*"

REASONS FOR GRANTING THE PETITION

1. Whether or not the Lower Court is talking about Petitioners Discharge and thats not what Petitioner appealed.

Abie Wolf appealed a Bankruptcy Court "Order Dismissing Trustee's Objection To Reclassify Claim 1-1 Filed by Bonnie & Garry Starr as an Unsecured Claim and Denying Related Response and Objection by Abie Wolf and Elvis Wolf" and the Fifth Circuit is talking about Abie Wolf's discharge which was a plan between the Trustee and the United States Trustee (Mike Epstein) so Abie Wolf would not get a discharge and they would go after that Improper Proof of Claim that was signed by an unknown person and not signed by the Person who was suppose to sign it. See *In re Anderson v. City of Bessemer* 470 U.S. 564 (1985), *In re Burks v. United States* 437 U.S. 1 (1978) and *In re United States v. Cronin* 466 U.S. 648 (1984).

2. Whether or not the United States Trustee and the Respondent Randolph N. Osherow at the 341 Creditors Meeting were talking on the phone and said "Mr.Osherow: "Okay,

Mike. I'm going to conclude the meeting. You know, I extended the deadline to object to the discharge" he was talking to Mike Epstein the United States Trustee "You know, I extended the deadline to object to the discharge". This is so clear what the Trustee said by his own words, there was a previous decision and a plan that was made before the meeting to Object to Abie Wolf's Discharge. Which is documented on the Transcript from the Federal Court Reporter of San Antonio Inc.

There is only one improper Proof of Claim that was filed by an unknown and it was signed by an unknown which is the subject of this appeal. Both the United States Trustee and the Chapter 7 Trustee illegally and unlawfully tried to protect that Proof of Claim and they planned on that 341 meeting to get Petitioner Abie Wolf to the point to deny his right and take his constitutional right away from him to file Bankruptcy and go after Abie Wolf's family someone who did not file Bankruptcy or have anything to do with the lawsuit about the motor home and (that lawsuit is still at the Eighth Court of Appeals undecided). The Trustee was conspiring with another party but thanks to the San Antonio Court Reporters Inc that documented their conversation.

3. Whether or not Petitioner appealed the "Order Dismissing Trustee's Objection To Reclassify Claim 1-1 Filed by Bonnie & Garry Starr as an Unsecured Claim and Denying Related Response and Objection by Abie Wolf and Elvis Wolf" which the Lower Court did not talk about what Petitioner appealed and they talked about a completely different thing.

The Lower Court never went by the United States Federal Law or United States Bankruptcy Law about the main issue and the subject of this appeal *"Order Dismissing Trustee's Objection To Reclassify Claim 1-1 Filed by Bonnie & Garry Starr as an Unsecured Claim and Denying*

Related Response and Objection by Abie Wolf and Elvis Wolf" but they went to something that was never appealed which the Bankruptcy Court and the District Court were talking about "The district court explained its affirmance in an impressive and thorough twelve page opinion, the "Amended Order" issued on June 21, 2018. The court properly observed that Wolf's case centers on his allegation that the proof of claim was forged and not actually signed by Garry Starr. The court correctly held that that assertion had been foreclosed by final orders of the bankruptcy court that had not been appealed." That's why it's not understandable why the Lower Court won't look at the Order that Petitioner Appealed and they look at something else. See *Cordell PEARSON, et al., Petitioners, v. Afton CALLAHAN* 129 S.Ct. 808 (2009) 555 U.S. 223, *GEORGIA v. RANDOLPH* 547 U.S. 103 (2006), and *US v. Jenkins*, 345 F. 3d 928 - Court of Appeals, 6th Circuit 2003.

4. Whether or not the Lower Court is going by what the District Court and the Bankruptcy Court decided on which is why Petitioner appealed the Order, because they are not going by the United States Bankruptcy Rules which even the Fifth Circuit is not following the rules they are just going with the wrong information from the District Court and the Bankruptcy Court.

The United States Constitution gave Petitioner Abie Wolf a right to file Bankruptcy under "Article 1, Section 8, Clause 4 of the United States Constitution authorizes Congress to enact "Uniform Laws on the subject of Bankruptcies throughout the United States." It provides that Congress shall enact bankruptcy laws to allow Americans to exercise their bankruptcy

rights. *So filing for bankruptcy relief is your constitutional right, specifically guaranteed by the U.S. Constitution"* The United States Bankruptcy Court for the Western District of Texas El Paso Division took the rights away from Petitioner many times Abie Wolf tried to file for Bankruptcy just for the reason to get to the point where they work with some lawyers to do what they did, it wasn't right when they did not follow the United States Law and that's why they denied that Objection for that Improper Proof of Claim. See *Ealy v. Littlejohn*, 569 F. 2d 219 - Court of Appeals, 5th Circuit 1978, United States Supreme Court *Gibson v. Florida Legislative Comm* 372 U.S. 539 (1963), and *Cordell PEARSON, et al., Petitioners, v. Afton CALLAHAN* 129 S.Ct. 808 (2009) 555 U.S. 223.

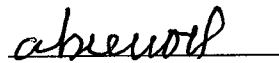
5. Whether or not the Lower Court is talking about the first objection dated December 27, 2016 or the second objection dated December 29, 2016 that Petitioner did not appeal and is not talking about the Order dated August 1, 2017 which is the subject of this Appeal.

The Lower Court should make a decision on the "*Order Dismissing Trustee's Objection To Reclassify Claim 1-1 Filed by Bonnie & Garry Starr as an Unsecured Claim and Denying Related Response and Objection by Abie Wolf and Elvis Wolf*" which is the subject and the main purpose of this Appeal. Why is the Lower Court talking about the first objection dated December 27, 2016 or the second objection dated December 29, 2016 that Petitioner did not appeal? See *Garrison v. Colvin* 759 F. 3d 995 - Court of Appeals, 9th Circuit 2014.

CONCLUSION

For the foregoing reasons, Abie Wolf, the Petitioner, respectfully request that this Honorable Court grant this Petition for Writ for Certiorari, See *Vizcarra v. Thaler*, 133 S. Ct. 2763 - *Supreme Court 2013*, or in the alternative vacate the Lower Courts Order, and grant Abie Wolf's Objection, and disallow that 1-1 Improper Proof of Claim, Garry Starr and Bonnie Starr. Petitioner requests all other relief, at law or in equity, to which he may be entitled to.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Abie Wolf', is written over a horizontal line.

Abie Wolf Pro Se,

Po Box: 963073

El Paso, TX 79996