

No. 18-9283

IN THE
SUPREME COURT OF THE UNITED STATES

Constance F. Russell, *Petitioner pro se'*

v.

State of Alabama, ET., AL. *Respondent*

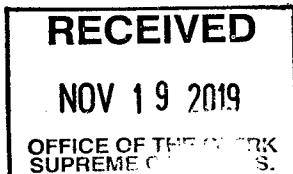
Submitted

November 15, 2019

On Petition for a Writ of Certiorari to the
Alabama Supreme Court

**PETITIONER'S PETITION FOR A REHEARING
(CORRECTED VERSION)**

Constance F. Russell, *Petitioner pro se*
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PARTIES TO THE PROCEEDING

Constance F. Russell is natural born citizen of this country and resides in the city of Huntsville, and the county of Madison Co. of the state of Alabama, and is of age, in these matters, and is the *petitioner pro se'*, in this case.

The Honorable Justices of the ***Alabama Supreme Court***, Bryan J.- Stuart, C.J., and Parker, Main, Mendheim and J J. concurred in presenting a "no opinion ruling", in these matters.

The Honorable Justices of the ***Alabama Court of Civil Appeals***, Thompson, P.J., Pitman, Thomas, Moore, Donaldson, and J.J. concurred in presenting a "no opinion ruling" in petitioner's *hearing and rehearing*.

James Nadler, of First Resolution Investment, Martin Brent Yarborough, attorney w/ Zarzaurt & Schwartz, who were both labeled as the debt buyers of this judgment, Michael F. Robinson, petitioner's retained attorney, only in the Circuit Court of Madison Co. and the United States of America are all *Respondents*.

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CASE LAWS

<i>Kirkland v. Ft. Morgan Authorities</i> -----

1.

Petitioner's Rehearing Brief

On October 7, 2019, this Honorable Court denied petitioner pro se' Writ of Certiorari, with a "no opinion ruling."

On October 30, 2019, Petitioner presented her brief, to this court, for a Petition for Rehearing within the (25) day allotted time, proceeding the October 7, 2019 Denial of her Writ, by this Court.

On October 31, 2019, Petitioner received a letter, from the *Clerk of this Court*, and her *Case Assigner*, stating the deficiency of her rehearing brief and was given (15) days, from the date of the letter to correct her deficiencies.

Pursuant to **Rule 44.1** of *The Federal Rules of this Hon. U.S. Supreme Court*, Petitioner *pro se'* Constance F. Russell now presents her **corrected** brief for a **Petition for Rehearing** that comes before this court within the (15) day allotted time, proceeding the letter issued by the Clerk of this Court.

It is petitioner's argument that this *Corrected Rehearing Brief*, presents **Circumstances** for which only the Honorable Justices of this U.S. Supreme Court, would possess the Constitutional Judicial Power, Authority and Jurisdiction to **Intervene**, and serves as a purpose of bringing attention to important matters that are being challenged by petitioner, in this case and over-looked by this Honorable Court, that would also serve as the need, to reverse the denial of her Writ of Certiorari, in ***the Interest of Justice***.

As a full disclosure, Petitioner pro se' Constance F. Russell make known that because she and her husband has now filed a Constitutional Complaint, in the Federal District Court, 5:19-CV-1597 HNJ against the Federal Judicial Act of 1925 and all of its updated amendments, that she has relied on her husband to assist her in drafting her briefs and all relevant materials, to this court.

Introduction

In 1988, the Alabama Supreme Court ruled on a State-wide *landmark case* entitled, *Kirkland v. Ft. Morgan Authority Sewer Services, Inc.*, 524 So. 2d 600 (Ala. 1988).¹ It was this landmark case that set the standard ,as well as settled the issue, to all of the lower Alabama Courts on how they were to determine in a ***consistent and uniform manner***, on whether they should entertain a Rule 60(b) Motion, based on the (3) requirements needed, that are found in this now established, *Kirkland Doctrine*, along with the Rules and Procedures for the lower courts to follow, in providing *due process* to all defendant(s), who may be attempting to present their Motion to set-aside their judgment, pursuant to the

¹ ***The Standard of Review***, for the Ala. Courts to grant this Motion Request are found in *Kirkland v. Ft. Morgan Authority Sewer Services, Inc.*, 524 So. 2d 600 (Ala. 1988), which specify factors applied for in courts granting Motion for Relief from Judgment, under Ala. R. Civ. P. 60(b).

These specified factors are; 1) defendant must present facts that has meritorious; 2) must not substantially prejudice plaintiff; 3) culpability of the defaulting party's conduct.

3.

provisions found in *The Alabama Rules of Civil Procedures* on Rule 60(b), and in accordance with Article I section 13(2), along with Articles 6 and 10 of the Alabama Constitution of 1901.²

The **facts and evidence** that has now been presented to this Honorable U.S. Supreme Court, through petitioner's pro se' filed and detailed **Appendix**, proves indisputably that she did not receive, through the Lower Alabama Courts, a **consistent and uniform manner of due process**, in accordance to the provisions found in Alabama's own Constitution, as it pertains to the subject-matter of her case and that are found in this landmark case that established a standard of review known as the, "*Kirkland Doctrine*, "that was handed down by this highest court of the state, *Alabama Supreme Court*.

Moreso, the facts of this case, has further proven that when petitioner pro se' Constance F. Russell attempted to approach the Alabama Supreme Court, through a Writ of Certiorari, that detailed how the lower courts did not follow, nor honor their landmark ruling, involving the standard of review, for setting-aside a judgment, she was denied her Writ to the high State Court, "without an opinion."

² Accordingly, the Constitution of Alabama's Declaration of Rights Art. I § 13(2) states the following; This section and Article I section 6, of the Alabama Constitution of 1901, by guaranteeing the due process rights of citizens, and section 10, by holding inviolate a person's right to defend himself in a civil action to which he is a party, elucidate this state's commitment to protect an individual's right to attain adjudication on the merits and to afford litigant's an opportunity to defend. Therefore, a trial court, in determining whether to grant or deny a motion to set-aside a default judgment, should exercise its broad discretionary powers with liberality and should balance the equities of the case with a strong bias toward allowing the defendant to have his day in court, *Kirkland v. Ft. Morgan Authority and Sewer Services, Inc.*, 524 So. 2d 600 (Ala. 1988).

4.

The Writ of Certiorari that has been presented to this U.S. Supreme Court by *petitioner pro se'* Constance F. Russell has no doubt carried a subject-matter that challenges the Constitutionality of the high State Court(s) of Alabama (***Court of Civil Appeals and Alabama Supreme Court***) *Discretionary Authority*, to deny 5th Amendment due process and 14th Amendment equal justice, under the law, on a case that contain merit, by the issuance of a “no opinion ruling.”

Wherefore, the Petition for a Writ of Certiorari, that petitioner pro se' Constance F. Russell has presented to this U.S. Supreme Court has now raised the Questions of Law for Review of the following; 1) Is the law that allows the high State Courts of this type of ***discretionary denial***, Unconstitutional and; 2) does petitioner has the right to challenge this law?

The Intervening Circumstances

The Rules of this Court, along with the October 31, 2019 letter sent by the Clerk of this U.S. Supreme Court and petitioner's case handler, has made known that a Rehearing Brief must state distinctly, grounds limited to Intervening Circumstances, not previously mentioned.

The Intervening Circumstances of petitioner's case is one that should no doubt present extraordinary circumstances , by which the Judicial Powers of this U.S. Supreme Court would be the only court in this land, that is equipped with the Authority and Jurisdiction to entertain.

5.

The Writ of Certiorari that petitioner has presented to this U.S. Supreme Court carried a subject-matter on whether it is Unconstitutional for the Alabama Supreme Court to issue a “no opinion ruling” on a case that contain merit of the lower Alabama Courts failure to follow Rules, Procedures, and a case law, settled by the Alabama Supreme Court, that provides due process and equal protection of the law, to all defendant(s), who seek to have a judgment set-aside.

Unfortunately, to seek justice from these matters by the discretionary review system of this U.S. Supreme Court, on this subject-matter and in its usual format, places petitioner pro se' at a great disadvantage. For the defense of the State, in these matters, would be one of simple reminding this court that they (the State) follow in a *lock-step doctrine*, of this very law, with this U.S. Supreme Court, in being allowed to issue this type of ***discretionary denial***, by the issuance of a “no opinion ruling.”

Wherefore, the only way possible for petitioner to seek review, of her claim of an Unconstitutional Alabama System of Discretionary Appellate Review that has caused injury, by this U.S. Supreme Court, was by she and her husband DeAndre' Russell, who was also a victim and also injured by this Unconstitutional System of Appellate Review, in this very court, filing a lawsuit against the U.S. Congresses that would have passed such a Federal Law, known as the ***Federal Judicial Act of 1925***, and all of its updated amendments, that allows this type of Discretionary Judicial Review, along with the Congresses of the State Alabama that would follow in *lock-step doctrine*, to such a Federal Law, *Federal District Court, case#5:19-CV-1597HNJ*.

It is petitioner pro se' Constance F. Russell's argument to this court that the lawsuit that she and her husband has now filed, on September 27, 2019, whereby they have also presented with their ***Complaint and Summons, a Motion to have their Complaint adjudicated in the proper court, pursuant to 28 §1631***, would now place this Honorable U.S. Supreme Court as being the only court in this land with the Judicial Power to adjudicate such a Complaint. This is due to the fact that it is their understanding that because Congress has granted this court under the *Rules Enabling Act, found in 28 U.S.C. §§ 2071-2077(2006)*³ the authority to prescribe the Rules and Standards, no other court would have the Authority, nor the Jurisdiction to instruct or rule that this highest court in the land, and in this case, because of the lock-step doctrine, the highest court in the State of Alabama, that it is Unconstitutional for them (*highest State and Federal Courts*) to issue no opinion rulings, to cases that may contain merit.

Therefore, the Intervening Circumstances of this case, would dictate and require that the Writ of Certiorari that petitioner pro se' Constance F. Russell has filed with this court, that detailed her claim of the Alabama Supreme Court's issuance of a "no opinion ruling" as Unconstitutional, along with the September 27, 2019 now filed lawsuit that she and her husband has filed against ***the Federal Judicial Act of 1925***, that allows this type of Judicial Review, could only be heard and decided only by this Honorable U.S. Supreme Court, pursuant to ***the Original***

³ 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 Rehearing may be granted.

Jurisdiction Clause of 28 U.S.C. § 1251 and Rule 17 of The U.S. Supreme Court Rules.

***It should be noted that because petitioner and her husband has learned from prior bankruptcy court that making known that one is in another court, is vital in preventing dismissal of a case, she now declare that she has now twice attempted to make known, to this U.S. Supreme Court that she and her husband has filed this Constitutional Complaint, only to have been denied of this information being placed on this docket.**

She further make known of a troubling statement made by her case assigner and the Clerk of this Court, in their October 31, 2019 letter that they sent to her. The last sentence of the letter states that they are returning her Motion to Postpone her Conference, if a no opinion ruling is to be issued, that was made and mailed on September 28, 2019 and received and sign for on October 30, 2019, because this court has already denied her Writ with a no opinion ruling. The problem that petitioner has with this statement is that the motion was made, (8) days prior to the decision of a denial by this court, of a no opinion ruling, which raises the question as to why her motion was not considered and placed on the docket. Proof that the above actions took place has already been presented and made known to this court.

8.

CLOSING REMARKS

The importance of a Judicial Power presenting rulings on what's right, fair and just, to all cases, in a ***consistent and uniform manner***, is the only way that the people of this nation can truly receive equal justice, under the law.

If this is true, this would mean that it is the Judicial Powers, (all State and Federal Courts) created by the Article I Powers of the U.S. Congress, that would play the most vital role of any Governmental Agency, (both state and federal) in maintaining a system in this country, of presenting proper and equal justice through Law and Order, to the citizens of our society that are being governed.

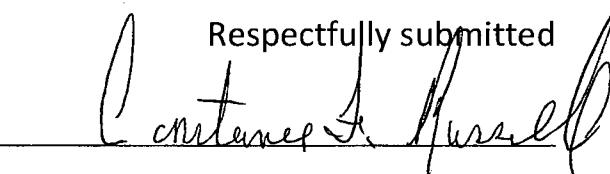
Without this type of justice being administered to all those who seek Judicial Review from these Judicial Powers, (to include the high State and Federal Court(s)) on cases that may contain merit, we are only left with a judicial system that is no longer blind , to a system of providing equal justice, under the law, to a nation of people that are made up of different races, religions and backgrounds, but rather, a judicial system that would display a prejudice, bias and inequality of justice, to many, by and through a Federal Law known as the, Federal Judicial Act of 1925 and all of its updated amendments, that allows the high Judicial Powers to evade not only its highest calling and responsibility to the people of the State and this nation, but moreso to a Constitution that demands that those of this Judicial Power would take an oath to stand in the center, and make rulings on cases, that would display What's right, fair and just, to all, even if those decisions may affect negatively, those of this same judicial power.

9.

No Federal Law should ever allow any member of the Judicial Power to evade this needed, yet burdensome and heavy responsibility. And no Congress should ever create a law that relinquishes its duty and responsibility of making certain that those who have been appointed or elected to this Judicial Power, is exercising that power in a right, fair and just manner, to all who come before them..

CONCLUSION

Petitioner request that an Order to set-aside the “no opinion ruling” would be issued, and that the Petition for Rehearing would be granted, in the Interest of Justice.

Respectfully submitted

Constance F. Russell

Constance F. Russell, *petitioner pro se'*

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November 15, 2019

Huntsville, Alabama 25811