

Docket Number 19-1268

SUPREME COURT OF THE UNITED STATES

Jacob C. Springer, U.S. Army, Retired and
T. Jeanetta Springer--
Petitioners *Pro Se*

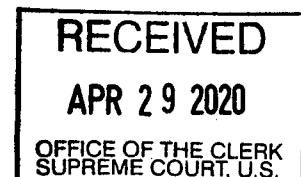
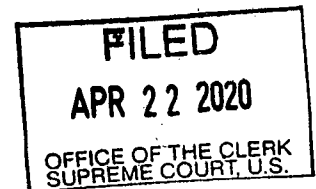
V.

Wells Fargo Bank, N.A.,
as successor of Wachovia Bank, N. A.,
formerly known as Southtrust Bank, N. A.,
SIROTE & PERMUTT, P. C.,
VERNON BARNETT,
Commissioner,

Respondents

ON PETITION FOR WRIT OF CERTIORARI TO THE
COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

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QUESTIONS PRESENTED

1. If you demand a trial by jury and pay the fees to the Court for it, can the court force you (as a *pro se*) to a bench trial to cover up Color of Law Abuses?

2. Should a Federal Judge recuse himself or herself when it can be proven that he or she withheld information as part of an ongoing conspiracy?

3. Should a Judge recuse himself or herself from a case where bias is (or appears to be) present on the part of the Judge where his or her conduct in the first case could only be considered as shock the conscience?

4. Should two state-court decisions be inextricably intertwined where this foreclosure was initiated in the same court as the ongoing conspiracy?

5. Should the United States District Courts use Rooker-Feldman Doctrine when case precedence for the decisions rendered by the State Courts were nullities and the State itself waived judicial immunity of the judge?

6. If the state waived the immunity of the judicial officer because of willful misconduct, why should that judge's order still be good, in which the decision violates petitioners' rights to due process?

LIST OF PARTIES

All parties appear in the caption of this case on the cover page.

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PETITION FOR WRIT OF CERTIORARI

Petitioners Jacob C. Springer, U.S. Army Retired, *Pro Se*, and T. Jeanetta Springer, *Pro Se*, respectfully prays together that a Writ of Certiorari be issued to review the Judgement of the United States Court of Appeals for the Eleventh Circuit entered into this proceeding.

OPINIONS BELOW

The first case, which involved an automobile accident (which Judge Wallace Capel invoked *Rooker-Feldman Doctrine*), after approaching the United States Court of Appeals for the Eleventh Circuit, I brought the case to the Supreme Court of the United States.

Once I returned to the United States Middle District Court for the Middle District of Alabama, the case was dismissed *without prejudice*. The State Courts of Alabama would not issue opinions because by waiver of immunity, it placed this case in Federal Court.

Once again it was dismissed due to subject matter jurisdiction after they had received the consent of the State of Alabama.

The foreclosure eviction took place October 15th, 2015. I filed the suit about the Wrongful Foreclosure October 17th, 2017. At that time, I asked Judge Wallace Capel to recuse himself. I felt that we would have a better chance of being heard by a different Judge or Magistrate because of the decision Capel rendered in the first case.

In Judge Capel's denial for recusal, he stated, "there were two cases in which I was a part of (that I oversaw)." He listed the cases *Springer v. Perryman, et. al.* (3:11-CV-936-CWC) and (3:15-633-WKW-CWC) *Springer v. Perryman*.

I also filed a complaint with the Judicial Inquiry Commission of the Eleventh Circuit that Judge Capel, under Title 18, United States Code §4, "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

In *3:11-CV-936-CWC Springer v. Perryman*, Judge Capel knew there was deprivation of civil rights taking place under Title 18, U.S. Code, §242.

I told Judge Capel back in 2011 that if nothing was done about the denial of due process in the Circuit Court of Randolph County, Alabama, that this foreclosure would happen. It did.

This foreclosure was designed and orchestrated by an individual named as defendant in the first case. The process was to have me endorse a check where there is no record of anyone signing a release form to receive over One Hundred and Forty Thousand Dollars (\$140,000.00).

The Circuit Court of Randolph County, Alabama used these tactics of bench trials so that, regardless of the Constitution, the *Rooker-Feldman Doctrine* allows these decisions to remain standing in the United States District Court. The truth of the matter is, as I have tried to present the whole time, I have tried to represent myself because as a *pro se* litigant, the doors of justice have been barred and closed on any party's self-representation.

It appears the bias is so permeable that it is virtually impossible for a citizen to have equal protection under the law. By the United States District Court upholding the actions and decisions (or lack thereof) which are unconstitutional, even if the State removed the case to Federal Courts, Judge Wallace Capel still said they have no subject matter jurisdiction.

JURISDICTION

The United States Court of Appeals for the Eleventh Circuit rendered its decision on the 23rd of January, 2020.

This petition is timely filed within 90 days of that date. The Jurisdiction of this court is invoked under Title 28, United States Code §1254.

CONSTITUTIONAL AND REGULATORY PROVISIONS INVOLVED

United States Constitution Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**United States Constitution
Seventh Amendment**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of common law.

**United States Constitution
Fourteenth Amendment
Section I**

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.

**Constitution of Alabama, 1901
Article 1, Section 11**

That the right of trial by jury shall remain inviolate.
Amendment 317-3 Removal from Office

Title 42, United States Code, §1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

I beg you not to dismiss this case. The truth, the morality, the justice, the issues involved are beyond argument. Your honors, please do not judge this case or any other case by its advocate. What is this all about? Why are we here a second time, complaining of the same issues that I complained of in the first case? Why do we take the time of this court to plead our case yet again? Because it is not our case alone. It is the case of all people denied an inalienable right by willful and arbitrary actions by public officials.

We MUST be protected and shielded from such malice. And where can we look for such equal protection for relief? Where else, but to the Constitution of the United States; the ethic, the soul and the gravity of the American System. And, to this great court, wherein lies the great responsibility to see that "IMPARTIAL JUSTICE" is done. Your honors, it is unlawful to deny a man due process because he is a *pro se* litigant and/or because of the accident of his birth, the end being unlawful. It is equally unlawful to use any means to accomplish that unlawful act.

Your honors, this is the SUPREME TRUTH: "something that is morally wrong, can NEVER be legally right."

In January 2010, I filed a complaint in the United States District Court for the Middle District of Alabama complaining the judges and lawyers had conspired against me. At that time, the case was titled Springer v. Perryman.

In my answer in opposition to the Judge's Recommendations, I informed the Court at that time that if they did not do anything about the way my Constitutional rights were being violated in the Circuit Court of Randolph County, Alabama, that they would attempt to foreclose on my wife's house.

The Middle District Court dismissed my case under Roquer-Feldman Doctrine as a "state-court loser". The case then went to the United States Court of Appeals for the Eleventh Circuit, which they stated that there was a jurisdictional bar and affirmed. I brought the case to the Supreme Court of the United States, under docket number 10-1126, requesting a writ of certiorari. The Cert was denied in May 2011.

The four individuals named in the case had waived their rights to respond in This Court.

I then contacted the Alabama Attorney General's office in 2011, and I was informed by them they only '...represent state employees.'

By the State Attorney General waiving the immunity of state officials, which was completely ignored by the Middle District Court, they dismissed the case under subject matter jurisdiction.

REASONS FOR GRANTING THE PETITION

The reason why this Court should grant the petition is that this would nullify the gross miscarriage of justice. When the State and lower Federal Courts ignore equal protection under the law for all citizens, whether you are *pro se* or represented by an attorney, equal justice **MUST** apply for *All*. You can't have a double standard where judges and attorneys make the rules on how the outcome of a case to be. Where they go out of their way to wear you down so that the *pro se* would give up on the pursuit of equal protection when no other would take the case to help them.

The United States District Court for the Middle District of Alabama has a *pro se* assistance program, however, they would not let me enter that program. Out of all the lawyers and judges who have looked at this case, the issues in this case were simple.

The Rights to a Trial by Jury. When the state courts are allowed to take away this right and have a bench trial, the outcomes will always be the same. Where conflict of interest, fraud upon the court, and *ex parte* communications where officers of the court *openly make remarks that Springer can't get over the hurdle of Rooker-Feldman Doctrine.* Where one judicial officer ignores fraudulent mistakes by the other judges to make it look like this was a legal procedure.

Cf. Marshall v. Jerrico, Inc.,

446 U. S. 238, 242 (1980) (noting the importance of “preserv[ing] both the appearance and reality of fairness,” which “ ‘generat[es] the feeling, so important to a popular government, that justice has been done’”) (quoting *Joint Anti-Fascist Refugee Comm. V. McGrath*, 341 U. S. 123, 172 (1951) (Frankfurter, J., concurring)).

The standard that ought to be adopted for all allegations of an apparent fixed predisposition, extrajudicial or otherwise, follows from the statute itself: Disqualification is required if an objective observer would entertain reasonable questions about the judge’s impartiality. If a judge’s attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified.

On the 6th of December, 2017, I filed a motion asking Judge Capel to recuse himself from the case due to past rulings made by him and also the fact he showed favoritism to the State Court Officials. Alabama Constitution, Amendment 317 ratified;3. A judge may be removed from office due to willful misconduct in office.

The State of Alabama gave consent for a case to be moved from State Court to Federal Court. The case was then dismissed by the Middle District Court under the Rocker Feldman Doctrine. I was still called a State Court loser. This is why I strongly know that Judge Capel showed a double standard in administering justice.

In *Rippo v. Baker* 580 U.S. ____ (2017), The opinion states, “Recusal is required when, objectively speaking, ‘the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable.’” Due to this, the previous judgment was vacated and Rippo’s case was remanded for further proceedings. The Court further noted that the Due Process Clause was “intended to prevent government officials ‘from abusing [their] power, or employing it as an instrument of oppression.’”

“A judge is liable for injury caused by ministerial act; to have immunity, the judge must be performing a judicial function.” (100 U.S. 339; 2 Harper & James *The Law of Torts*, 1642-1643 (1956) The presence of malice and the intention to deprive a person of his constitutional rights he exercises no discretion or individual judgment; he acts no longer as a judge, but as a “minister” of his own prejudices.”

In *Cooper v. Aaron*, 358 U.S. 3, “No state legislator or executive or judicial officer can war against the Constitution without violating his solemn oath to support it.” (P. 358 U.S. 18)

Caperton v. A. T. Massey Coal Co., 556 U.S. 868 (2009), is a case in which the United States Supreme Court held that the Due Process Clause of the Fourteenth Amendment requires a judge to recuse himself not only when actual bias has been demonstrated or when the judge has an economic interest in the outcome of the case but also when "extreme facts" create a "probability of bias."

As written in *Marbury v. Madison*, 5 U.S. 1 Cranch 137 (1803)

“The oath of office, too, imposed by the Legislature, is completely demonstrative of the legislative opinion on this subject. It is in these words:

“I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States.”

Why does a judge swear to discharge his duties agreeably to the Constitution of the United States if that Constitution forms no rule for his government, if it is closed upon him and cannot be inspected by him?

If such be the real state of things, this is worse than solemn mockery. To prescribe or to take this oath becomes equally a crime.

It is also not entirely unworthy of observation that, in declaring what shall be the supreme law of the land, the Constitution itself is first mentioned, and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank.

Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written Constitutions, that a law repugnant to the Constitution is void, and that courts, as well as other departments, are bound by that instrument.

CONCLUSIONS

As pro se litigants, we come to this court a second time, requesting that the cases rendered in the Randolph County Circuit Court of Alabama, be remanded for a new trial. The Circuit Court has a problem with allowing pro se litigants the rights of Due Process of the law. In a case not pertaining to this, the Middle District Court of Alabama, warned the Randolph County Circuit Court over 40 years ago about Due Process violations. They have not changed.

The wrongful foreclosure was initiated to cover up a previous decision rendered by this court. The attorney that represented us was allowed to recuse himself from representing us because I, Jacob Springer, would not endorse a check issued by the Circuit Court. His primary job was to get me to endorse the check which showed unlawful conduct in Springer vs. Perryman.

The only reason they have bench trials in the Circuit Court in Randolph County is because they have an advocate in the Middle District Court who will use the Rooker Feldman Doctrine to bar all pro se' litigants from receiving justice. The right to have a trial by jury is what we have been seeking for over 17 years but has fallen on deaf ears. The very same judge that I asked him to recuse, and he would not, because he used his judicial protection to protect the wrongdoers.

The right to a trial by a jury does not require a "Solomon's Decision".

Respectfully Submitted, April 15, 2020

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256-375-2862

APPENDIX