

No. 19-1463 ORIGINAL

In The  
**Supreme Court of the United States**

Supreme Court, U.S.

FILED

JUN 29 2020

OFFICE OF THE CLERK

IN THE MATTER OF THE ESTATE OF  
ZONA MAE OLIVER, DECEASED, SANDRA JEAN  
OLIVER AND JAMES HOWARD OLIVER,

*Petitioners,*

v.

JAMES C. OLIVER, JR., TERRY MICHAEL CARNEY JR.,  
MELISSA M. CARNEY, JANET O. MCLELLAND  
AND JAMES DONALD OLIVER,

*Respondents.*

On Petition For Writ Of Certiorari  
To The Mississippi Court Of Appeals

**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

“A judgment is not void simply because it is erroneous, but only where the court rendering it lacked jurisdiction over the subject matter or the parties, or if it acted in a manner inconsistent with due process of law. 11 Wright Miller, *Federal Practice and Procedure* § 2862 (1973)” *United States v. 119.67 Acres of Land, More or Less, Situated in Plaquemines Parish*, 663 F.2d 1328, 1331 (5th Cir. 1981)

Petitioners, Sandra J. Oliver, James Howard Oliver and the Estate of Zona Mae Oliver have been seeking justice for over seven years as they have been constantly denied their due process rights to be heard before a fair tribunal and subjected to unfair bias and prejudice. The Mississippi Court of Appeals added insult to injury as its Opinion provided all of the case law and argument for the Respondents, even after the Reply Brief clearly took note, requesting all cases be reversed.

In honor of Sandra’s best friend, father and Petitioner, James Howard Oliver, who was 93 years old, a WWII Veteran and who just died on Good Friday, April 10, 2020, Sandra promised to continue to fight for the land he was born on which has been in the Oliver family since 1885 and is wrongfully *being allowed* to be stolen by his brother and his family who have never been held accountable for wasting away the Estate of Zona Mae Oliver, Howard’s mother and Sandra’ grandmother. The questions for review are:

I. Whether four orders issued by the chancery court, when the court did not have jurisdiction over the

## **QUESTIONS PRESENTED – Continued**

Petitioners, should be held as void and vacated pursuant to Rule 60(b)(4).

II. Whether the sustaining of a motion in limine, essentially disposing of all claims and the petitioners' entire case, denying the right to ever be heard before a fair tribunal and present the facts as contemplated by state and federal rules of evidence as well as guaranteed by the Fifth and Fourteenth Amendments is a clear violation in due process rights, an abuse of discretion, manifestly wrong and should be reversed.

III. Whether the Chancellor should have recused herself and granted a new trial after Petitioners filed their 1st Amended Motion for New Trial with Impartial Tribunal or in Alternative to Alter or Amend Judgement, instead of continuing to show prejudice, bias and advocacy for the Plaintiffs, depriving Petitioners of their due process rights.

IV. Whether the Petitioners were denied equal protection of law and due process of law when the Mississippi Court of Appeals' Opinion provided all the case law and argument on behalf the Respondents, twisting, changing and ignoring the facts in order to benefit the Respondents and supported the chancery court ruling.

## RELATED CASES

- Plaintiffs, *Terry Michael Carney, Jr. and Melissa M. Carney v. Defendant, Sandra Jean Oliver*, No. 13-88-ML Montgomery County, Mississippi Chancery Court.  
First Judgment for Partition on February 1, 2016.  
Final Judgment for Partition entered September 30, 2016.
- Plaintiffs, *Sandra Jean Oliver and James Howard Oliver v Defendants, James C. Oliver, Jr., Terry Michael Carney, Melissa M. Carney, Janet Carol Oliver and James Donald Oliver*, No. 15-93-PL, Montgomery County, Mississippi Chancery Court.  
Order entered to transfer and consolidate on November 23, 2016.  
Denial of Motion to Set Aside Transfer and Consolidate Case entered on December 8, 2016. No final judgment ever entered.
- Plaintiffs, *In the Matter of the Estate of Zona Mae Oliver, Deceased, Sandra Jean Oliver Joined by James Howard Oliver v Defendants, James C. Oliver, Jr, Terry Michael Carney and Melissa M. Carney (In re Estate of Oliver)*, No. 13-125-VD, Montgomery County, Mississippi Chancery Court.  
Order of Judgment of Dismissal, Sanctions and Strike Mem. Brief entered November 14, 2016.  
Denial of Motion to Set Aside Judgment for Dismissal and Motion to Set Aside Order to Strike and for Sanctions and Motion to Consolidate with Companion Case (15-93-PL) entered December 28, 2016

**RELATED CASES – Continued**

- Appellants, In the Matter of the Estate of Zona Mae Oliver, Deceased, Sandra Jean Oliver and James Howard Oliver v Appellees, James C. Oliver, Jr, Terry Michael Carney and Melissa M. Carney (2016-01757-COA) Mississippi Court of Appeals from Montgomery County, Mississippi Chancery Court case above (13-125-VD) consolidated with cases below.
- Appellants, Sandra Jean Oliver and James Howard Oliver v Appellees, James C. Oliver, Jr, Terry Michael Carney, Jr., Melissa M. Carney, Janet C. McLelland and James Donald Oliver (2016-01759-COA) Mississippi Court of Appeals from Montgomery County, Mississippi Chancery Court, consolidated cases (13-88-ML) and (15-93-PL)
- Both Appeals Cases (2016-01757-COA) and (2016-01759-COA) All three cases (Estate/Partition/Fraud) were consolidated into one appeal in the Mississippi Court of Appeals on January 18, 2017. Appeals Opinion was issued April 16, 2019.
- *In re Oliver*, Ch13 Case No. 07-50836, (S.D. Miss. 2007) United States Bankruptcy Court, Southern District of Mississippi, Final discharge on June 11, 2012. (Respondent, James C. Oliver, Jr.'s Chapter 13 Case filed June 20, 2007)
- *In re Oliver*, Ch13 Case No. 07-50836,\*2(S.D. Miss. Sept. 28, 2016)
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**PETITION FOR A WRIT OF CERTIORARI**

Sandra Jean Oliver petitions for a writ of certiorari to review the judgment of the Mississippi State Court of Appeals and several of the Montgomery County, Mississippi Chancery Court orders.

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**OPINIONS BELOW**

The April 16, 2019 Mississippi Court of Appeals fifty-three-page Opinion is reported at *Oliver v. Oliver (In re Estate of Oliver)*, (2016-01757-COA/2016-01759-COA) (Miss. Ct. App. Apr. 16, 2019) and reproduced in Appendix App. 1.

The April 24, 2020 Mississippi Court of Appeals (2016-01757-COA/2016-01759-COA) order granting extension of time to file this petition by June 28, 2020 to coincide with the March 19, 2020 U.S. Order 589 due to the Corona Virus is reproduced in Appendix at App. 66.

The March 4, 2020 Mississippi Court of Appeals Denial Without Prejudice for Leave to File Motions in Montgomery County, Mississippi Chancery Court to Vacate Four Void Orders That are of No Consequence Pursuant to MRCP/FRCP 5 and MRCP/FRCP60(b)(1)(4) and Request Appeals Court to Modify its Opinion (2016-01757-COA/2016-01759-COA) is reproduced in Appendix at App. 68.

The January 30, 2020 Mississippi Supreme Court's Denial of Petition for Writ of Certiorari (2016-

01757-COA/2016-01759-COA) is reproduced in Appendix at App. 71.

The September 17, 2019 Mississippi Court of Appeals Denial for Rehearing (2016-01757-COA/2016-01759-COA) is reproduced in Appendix at App. 73.

November 14, 2016 Montgomery County, Mississippi Chancery Court Partition Case (13-88-ML) order overruling Petitioners 1st Amended Motion for a new Trial with Impartial Judge or in Alternative to Alter or Amend Judgment is reproduced in Appendix at App. 134.

September 30, 2016 Montgomery County, Ms. Chancery Court Partition Case (13-88-ML) Final Judgment for Partition is reproduced in Appendix at App. 136

February 4, 2016, *nunc pro tunc*, February 1, 2016 Montgomery County, Mississippi Chancery Court Partition Case (13-88-ML) order denying Petitioners' Motion to Reinstate the Stay and Objection to Continue Any Further Action in the Partition Claim Until all issues are resolved including Litigation of the Fraudulent Conveyance of Property of the Bankruptcy Estate Post-Petition and Notice of Motions Filed in the United States Bankruptcy Court Southern Division of Mississippi as Requested by this Court is reproduced in Appendix at App. 147.

February 1, 2016 Montgomery County, Ms. Chancery Court Partition Case (13-88-ML) First Judgment

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March 20, 2015 Montgomery County, Ms. Chancery Court Partition Case (13-88-ML) Corrected Order Sustaining Motion in Limine is reproduced in Appendix at App. 156.

December 8, 2016 Montgomery County, MS. Chancery Court Fraud Case (15-93-PL) Order Denying Petitioners' Motion to Set aside Agreed Order to Transfer and Consolidate Case is reproduced in Appendix at App. 159.

November 23, 2014 Montgomery County, Ms. Chancery Court Fraud Case (15-93-PL) Order to Transfer and Consolidate Case is reproduced in Appendix at App. 161.

December 28, 2016 Montgomery County, MS. Chancery Court Estate Case (13-125-VD) Order Overruling Motion to Set Aside Judgment for Dismissal and Motion to Set Aside Order to Strike and for Sanctions and Motion to Consolidate with Companion Case (#15-93-PL) is reproduced in Appendix at App. 171.

November 14, 2016 Montgomery County, Ms. Chancery Court Estate Case (13-125-VD) Judgment for Dismiss of Petition to Appoint Adminstratrix, Account for Lost Property, to Account for Misappropriation of Estate Assets with Power of Attorney and for Issuance of Letters of Administration in the Estate of Zona Mae Oliver and is reproduced in Appendix at App. 173.

November 14, 2016 Montgomery County, MS. Chancery Court Estate Case (13-125-VD) Order to Strike and for Sanctions and is reproduced in Appendix at App. 175.

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## **JURISDICTION**

The Mississippi Court of Appeals entered judgment on April 16, 2019. App. at 1. The Mississippi Court of Appeals denied petition for rehearing on September 17, 2019 after granting extension of time to file. App. at 73. The Mississippi Supreme Court denied petition for writ of certiorari on January 30, 2020 after granting extension of time to file. App. at 71. The Mississippi Court of Appeals granted extension of stay of issuance of mandate to file this petition on April 24, 2020 which extended date to file this petition to June 28, 2020. App. at 66. This Court has jurisdiction under 28 U.S.C. § 1254 (1).

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## **STATUTES AND CONSTITUTIONAL PROVISIONS INVOLVED**

The U. S. Constitution Fifth and Fourteenth Amendments provides that no person shall be deprived of life, liberty, or property, without due process of law nor deny any person within its jurisdiction the equal protection of the laws and that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States

The Mississippi Constitution of 1890 Article 3, § 14, 24, 25 provide that no person shall be deprived of life, liberty, or property except by due process of law; that all courts shall be open and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice shall be administered without sale, denial, or delay and that no person shall be debarred from prosecuting or defending any civil cause for or against him or herself, before any tribunal in the state, by him or herself, or counsel, or both.

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## STATEMENT

The three cases that make up this petition all stem back to when Respondent, James C. Oliver, Jr. (“JC”) brother of Petitioner, James Howard Oliver (“Howard”) obtained a power of attorney from his mother who at the time had already become incapacitated and had to have twenty-four hour care in 1996. JC began using the POA for more than the benefit of his mother and Howard lived in Florida and never knew the estate of his mother was being wasted away by cutting timber several times, selling the cows, using land as collateral for personal loans and selling other property of the estate and when their mother, Zona died in 2004, Howard was led to believe the only asset left of the estate was the 398 acres of land Howard was born on. Howard was not told by JC’s daughter and Respondent, Janet Carol McLelland, (“Janet”) that JC had some strokes in 2003 leaving him unable to manage money and daily affairs

and that she had gotten his power of attorney so he had no business managing their mother's estate and Janet by law was required to inform Howard of that information, otherwise be held responsible as well for JC's actions. JC and Janet continued to waste away the estate unbeknownst to Howard and his daughter and Petitioner, Sandra J. Oliver ("Sandra") until in 2007, JC filed bankruptcy and named Howard as a creditor but never revealed why, but did reveal he had taken a loan out on a 120 acre parcel of estate property that he never paid off with the estate funds and it was being foreclosed on. In 2007 JC and Janet abandoned that 120-acre parcel in the bankruptcy estate allowing it to go to foreclosure and verbally, physically and by their actions abandoned the rest of the 280 acres of land by letting it go to the tax sale. Sandra got the taxes caught up and paid the taxes from 2007 to 2012 when finally able to get them out of JC's name by paying the taxes at the tax sale as instructed to do by the tax office, but by a fluke, they had not notified JC and Janet properly which gave them an extra 60 days to pay one year of back taxes to keep it from being taken out of JC's name. Janet then told Sandra that her daughter and her husband, Respondents, Terry Michael Carney and Melissa M. Carney ("the Carneys") paid the one year back taxes so they could get JC to put it in their name and they wanted half of the land now to hunt on. Sandra told them there was no way they were going to get any of the land now after she began to uncover all of the hundreds of thousands of dollars JC and apparently Janet as well had wasted and given zero to

Howard and they would file suit against JC and thus started these three cases.

The Carneys got the land fraudulently conveyed to them and filed the partition action in May 2013 knowing full well all that was done by JC to waste the estate. Sandra discovered the Estate of Zona Mae Oliver had never been opened so hired an attorney to file the fraudulent conveyance of property and open the estate. He filed the estate case in July 2013, but never told Sandra he had filed it as a separate action but that he filed a motion to stay the partition action until the estate could be opened. Prior to this, back in 2007 Sandra and Howard had tried to save the 120-acre parcel in JC's bankruptcy case and talked to an attorney but never hired him and did not find out until 2014 that the attorney had filed a claim in Howard's name in JC's bankruptcy case.

On October 22, 2013 a hearing was held with Chancellor Lundy and Sandra was able to testify about JC's wasting of the estate and he determined the claim was not time barred as just discovered in 2007 and due to JC's bankruptcy case time had been tolled. Taken directly from Sandra's Amended Brief in Appeals and from the transcripts that opposing counsel, Lane Greenlee and Chancellor Lundy exchanged evaluations as shows that Greenlee knew exactly what should have happened and would have happened if Chancellor Lundy had not had to recuse himself in August, 2014:

"GREENLEE: "The next thing is she is wanting to stop the partition. She has filed in this case, Sandra Oliver versus JC Oliver. 13-7-0125. Basically, to open up her grandmother's estate, and as part of that, then she wants to force JC Oliver to do an accounting for his activities as attorney in fact, then she hopes to obtain a judgment against JC Oliver. And then, she hopes to have the Court impose that judgment as a lien on the land, which is now owned by Dr. And Mrs. Carny. And then, she hopes to have the Court use that lien as an offset to give her more than 50 percent interest to the land that she thinks she is entitled to. That's sort of her thought path. Now, all of this is based on equity. Because her plea was filed some nine years after – I believe it was nine years and four months after her grandmother died. The statute on equitable claims is ten years. So, she barely slid in under that ten-year statute. That is why we're here on equity so her whole cause of action is based upon equity. She wants an accounting. She wants an equitable lien. She wants that equitable lien imposed by successor and title." (T. at 37-38.)

THE COURT: But see, that counsel, that proved they were sole heirs to that property. It does not say equal shares, does it? (referring to the determination of heirs done in 2004 but not to the distribution of assets that the Court heard showing the evidence regarding J.C. and Janet's actions in wasting the estate.)

THE COURT: What I understand the witness to testify to, she didn't find out about some things until 2007. *Id.* at 39-40."

At the time Chancellor Lundy, without anyone doing any discovery regarding the bankruptcy, decided since Howard had not filed a claim in JC's bankruptcy case that he did not still have a claim so denied the motion to stay the partition claim and Sandra's first attorney withdrew right after that as he had never stepped foot in the door of a courtroom before and wanted Sandra and Howard to settle and give them half.

Meanwhile Sandra discovered in February 2014 that a claim was filed in Howard's name and hired another attorney with bankruptcy experience to file to get the bankruptcy reopened, file the fraudulent conveyance of property, do discovery and all else in the Partition case. This attorney would not return Sandra's calls and no one in his office knew anything about Sandra's case and at one point this attorney told Sandra "she was going to have to jump through hoops when this was all over," which made no sense at all, but later did. Nine days before trial was set for May 22, 2014, this attorney told Sandra he was not going to file anything for her anywhere in any case, so she fired him immediately. Sandra then filed her first pro se motion requesting sanctions against this attorney plus to correct the facts misstated in the October 22, 2013 hearing about the claim in Howard's name, a motion for the fraudulent conveyance as well as sanctions against opposing counsel and the Carneys for filing a frivolous

partition claim. Sandra has letters the attorney sent Sandra before filing the claim proving they all knew about all that JC had done and the Carneys refused to talk directly to Sandra until they got the land put into their name in October 2012 and then wanted it split in half at that point. The Carneys, of their own free will paid Sandra back for some of the taxes she had paid but that was not what had saved the land nor made up for all of Howard's inheritance that should have been put into a constructive trust in 2005 that would have been worth over \$750,000 in 2013 with interest based on what the estate should have been worth when Zona died in 2004.

Chancellor Lundy continued the trial date so Sandra could find adequate counsel and set the new date for August 5th, 2014. Sandra hired counsel again requesting him to file the fraudulent conveyance of property as the Carneys had no right to own any of the land but he filed a motion to controvert all of the wasting of the estate for an equitable claim for Sandra against the ½ undivided interest the Carneys were claiming to own. Unfortunately, Chancellor Lundy had to recuse himself on August 5, 2014 so it would be reassigned which turned out to be Sandra's worse nightmare.

After Chancellor Lundy recused himself and Sandra's new attorney, James Powell ("Powell") filed the motion to controvert, then opposing counsel, J. Lane Greenlee ("Greenlee") *now* filed the motion in limine to prevent Sandra from ever again being able to give the testimony she was allowed to present that provided proof of the equitable claim against the Carneys, JC

and Janet. Greenlee was claiming because Howard had not filed a claim he was barred, but now it was because he had filed a claim that all was barred, but no one was ever allowed discovery to take place to see what extent the claim was that was filed in Howard's name as it was just assumed Howard was barred and that Sandra was barred.

The February 2, 2015 hearing came and three motions were set to be heard including the motion in limine, the motion to controvert and Sandra's pro se motion filed in May, 2014 with the new Chancellor Daniels, not just a bench hearing as is what ended up happening. The courtroom was packed and the previous attorneys kept a mound of papers on the desk where Sandra and her attorney were to sit, but they did not budge when the case was called. They knew, as did Greenlee, that there was no way Sandra was ever again going to be allowed to present any evidence or even speak about JC and the breach of fiduciary duty and fraud he committed.

The Chancellor was talking about the long pro se motion Sandra had filed the very second she walked into the courtroom. Here is the basic premise of what occurred taken from Sandra's Amended Brief and directly from the Transcripts Vol. 10 or 10@46-75 in Ap. Record:

THE COURT: I think that's basically what I get, and I don't really – quite honestly, I don't think I need any testimony. I've read your arguments . . .

THE COURT: – request for the determination of heirship and I saw Lee Bailey did that, and then I – in some of her stuff, I read that there was – they were going to try to sell some of the land or something. I don't know and that Martha Bailey was handling that. So that may have been why they even did that at that time. I don't know. I'm just supposing that they both did that together back in 2004. . . . .

MR. POWELL: what assets had been sold - right – what assets had been deposited of.

MR. POWELL: Okay. Well, I've – I've got – and that's why we need a hearing. I think – I think the Court needs to see these things and we need to make –

MR. GREENLEE: If it please the Court, you you've read my argument. My – my argument is very simple. . . . The bankruptcy court has a venue and a remedy for these kinds of claims. It's called a complaint to avoid the discharge. It's a full adversarial proceeding. Discovery can be had. All of the claims can be developed. They didn't take advantage of that. They waited too late, and it's over. I think the law says it's over, and I respectfully submit.

THE COURT: And I – I tend to agree, Jimmy, that – I mean, bankruptcy law because I am very familiar. I practiced bankruptcy law. –

THE COURT: . . . . especially when I practiced law and I did a lot of bankruptcy court, . . . . But if Mr. James C. Oliver had not

listed James Howard Oliver as a creditor, then his claim maybe would not have been barred.  
If you read the – on the discharge notice, it says the things that would not be discharged. – it's my opinion as far as a legal opinion – and I'm the one that has to make the call on this – that her claim – her claims, because she just took her claim from her dad or grandfather or whoever –

MR. POWELL: Her dad

THE COURT: – James Howard Oliver is – that Ms. Oliver's claims about something that James C. Oliver did a long time ago were – are barred now because of the bankruptcy. And you know, so in light of that and because of that, because of my understanding of the law, I would grant Lane's motion in limine, which basically is granting – you know, saying that her other claims are barred. And, you know, I'd be happy to sign an order to that effect, and if she disagrees, that might be a point to bring up on appeal you know, to do an interlocutory appeal, you know. So if I'm wrong, let the appellate court above me tell me I'm wrong, and we'll go ahead and deal it with.

The Chancellor said she read the whole file and was talking about some of the things Sandra had filed in her pro se motion but at the time Sandra and Powell never knew that Sandra's motion she filed in May, 2014 was never filed correctly by the clerk and most of it was left out as the main part filed was the request for sanctions against the attorney she fired. Sandra later realized when going over the transcript for appeals that

the Chancellor had to have seen the motion outside of the Courtroom prior to the very first hearing when she totally wiped all of Sandra's claims and case off the map and Sandra had sent Greenlee a copy so that could have been how she saw it . Sandra also realized after Chancellor Daniels admitted to ex parte communication at the last hearing on November 14, 2016, as she said she stayed the Estate case until after the Partition claim was done which is the *exact same thing opposing counsel said* when he filed his motion to dismiss the Estate case claiming it had been stayed which was false and never happened except between the two of them under the books because if the Estate was allowed to be opened and JC held accountable for his actions, the partition case would be a moot point.

Sandra also realized and documented it as well in her filings in the bankruptcy case, her appeals brief, motion for rehearing and in detail in her petition for writ of certiorari filed in Mississippi Supreme Court that the entire hearing on February 2, 2015 was planned as the *two attorneys* with all the mound of papers on the desk where Sandra and Powell were supposed to sit, that were not budging, ended up being the attorney Sandra had fired in May 2014 that had told her she was going to have to jump through hoops when this was all over. Sandra documented the exact words Chancellor Daniels told them as she left for lunch, "that they would take back up where they left off when she got back from lunch" as they knew not to move their stuff as no way Sandra was ever going to see the

light in Chancellor's Daniels dark tunnel she had planned for her.

Powell did file a motion to reconsider the ruling and or have another hearing as "her ruling was erroneous based on no facts at all and denied Sandra's right to have a hearing and present facts disposing of her claims all based her past bankruptcy experience and reading the file," but never pursued it.

Greenlee immediately filed to set a date for trial saying *all issues have been resolved* which was the farthest thing from the truth and Sandra requested Powell to file all of claims separate before the SOL ran out on charging JC as it was obvious Sandra was never going to have a fair day in court with Chancellor Daniels. The time had been tolled to file against JC until his bankruptcy case closed so the Fraud case was filed on June 10, 2015, one day before the SOL ran out and included Janet and the Carneys now as they were all in conspiracy to cheat Howard and Sandra out of their inheritance before Zona died and now still years later.

Powell told Sandra about the middle of July that the Partition case had been stayed so Sandra was given 90 days to try to reopen the bankruptcy case to get a ruling on the debts owed to Howard and then the case would go back on the docket for trial. Powell failed to tell Sandra he had signed an agreed order to that which Sandra never agreed to plus signed an agreed order on June 29, 2015 agreeing to consolidate the Fraud case with the Partition case even though Sandra had told him that she would never do that and never

wanted to step foot in her courtroom ever again. Sandra asked Powell several times to file a motion to get her recused and off of the case due to her bias and refusing Sandra's due process rights, but Powell said he still had to deal with her in the future and could not do that. Sandra did file a judicial complaint again against Chancellor Daniels around June 2015 that went nowhere and would have filed the recusal herself had she known she could do that.

Sandra, being a nurse by profession, then proceeded to call attorneys who she could not afford to get the bankruptcy case reopened and then on January 29, 2016 managed to file something resembling a motion to reopen the bankruptcy but also requesting an injunction to stop the partition action from going forward until a determination of the debts that were listed to be nondischargeable were declared. Sandra uncovered quite a bit of fraud that took place in that case, specifically the fact that JC had defaulted on his mortgage to Wells Fargo in March and June of 2008 and the Trustee and JC's Attorney and even Trustmark Bank who had the land deed of trust on the 120 acres covered it up as his case should have converted to a Chapter 7 or been dismissed when that happened, but his final discharge papers in 2012 claim he never defaulted on anything. A new bankruptcy judge had taken it over in about 2010 and Sandra asked her at the February 2016 hearing in person why his bankruptcy case was not dismissed or converted when he defaulted on his mortgage and she said he did not have mortgage which I politely informed her that he did and when he

defaulted on it, but no action was ever taken on the part of the bankruptcy judge.

Meanwhile Powell had told Sandra that the land was going to be partitioned no matter what if she did not get the things filed in the bankruptcy court on time, but failed to tell Sandra he was going to sign an agreed order to partition the land knowing Sandra wanted to fight the fraud case and he basically quit helping her fight for anything and threw her under the bus. Sandra did not find out until getting the record on appeal that he had signed the agreed order to partition the land. Thankfully Sandra on her own, on the same day they were having a hearing on February 1, 2016 that Sandra could not go to as she had just returned from filing all the bankruptcy documents, she filed a request to reinstate the stay and objected to any further action in the partition case until all issues were resolved including the litigation for fraudulent conveyance of bankruptcy estate property post-petition which was the land JC conveyed to the Carneys. App. @ 147 That motion Sandra filed ended up being her objection to the agreed order she did not know was being filed and Powell had the decency to verbally reserve Sandra's right to object to partition based on what she had filed as is on the transcripts. The February 1st, 2016 filing of the First Judgement for Partition App. @149 was signed as an agreed order for which is was not agreed to and Chancellor Daniels knew it as well as Powell and should have prompted the chancellor to not sign it without Sandra's signature and is one of the void

orders since it was entered without jurisdiction over Sandra.

The final hearing was held on September 27 2016 and at this point, Sandra had never been in front of Chancellor Daniels in court or ever spoken a word to her and the very first words Chancellor Daniels said to Sandra was "I dont want to hear any conversation from you." Sandra was again refused her right to testify about the taxes she had paid which was written into the first judgment for partition since Powell did not have Sandra's taxes she had paid information and the Carneys put theirs into evidence. Needless to say, down to the last detail the Chancellor could take away from Sandra and show who was in charge, Powell has said Sandra had wanted the East portion of the land because it had sentimental value and Sandra said her dad was born there. Chancellor Daniels said she might "flip a coin to decide" but she was the judge and got to make those decisions and of course, gave Sandra the West side and bill for almost \$10,000 and the Carneys got a refund of about \$500.00.

Taken directly from Sandra's petition for Writ of Certiorari filed in the Mississippi Supreme Court to show some of the statements made to Sandra in the only two times she was ever before Chancellor Daniels, how one could not readily hear and see the bias and prejudice she had against Sandra and know she would never get a fair trial would be impossible to most. Taken from the transcripts of September 27, 2016 and post-trial hearing, November 14, 2016, this are a few of the statement made directly to Sandra:

"I just want a – that requires a "yes" or "no." Doesn't require a three-page Response. Please just answer his question. I don't need to hear all the history . . . **I've already ruled on the 2009 taxes, so you don't get to put on any proof. We've already I've already made a judgment on it, so you don't get to put on proof of 2009.** . . . Okay, I'm not going to listen to this. . . . Well, let me just explain to you and I've explained to you over and over again about the bankruptcy. The bankruptcy -and you keep saying you didn't make all your claims that you needed to . . . You keep making all of these allegations . . . that you didn't get to give all the testimony you wanted to or you've discovered some other things. I am going to dismiss the petition that you have filed. And I don't understand why you – I don't understand -well, I did. I think I actually enjoined the. I put a freeze on the pursuance of you pursuing anything in the estate until we dealt with the petition, the partition action. And so I'm going to grant the motion to dismiss. **I know you're doing a last ditch effort to try to re-litigate something that has been litigated. Sandra, this stuff has been litigated in the bankruptcy court. It has been litigated in the partition action.** It has been litigated and re-litigated and re-litigated and **you're grasping at straws. . . about my ruling. If you have a problem with my ruling, appeal it. Be careful.** I mean, you're representing yourself right now, so I want you to – this is just a word of advice to you, be

careful that you do not put untrue libelous statements in your pleadings, in your, you know, or you can be sanctioned. You can be sued. And, you know, I'm not going to allow it here without sanctioning you. This has got to stop . . . **You know, you're done in this court. You done.** Okay If you step into this – if you are stepping in and acting as your own attorney You have 30 days to submit the \$1,650 to the Court." T@\*80-122 & 123-145.

The day after the final hearing on September 27, 2016 in the Partition case, the bankruptcy ruling was released that *just happen to say* that Sandra's request for an injunction was a moot point since the Partition case was closed, yet the judgement was not entered until September 30, 2016 and this ruling certainly was not written the morning of September 28, 2016. The ruling only stated it was too late for Sandra to reopen the bankruptcy case in order have an adversary hearing to determined non dischargeable debts. Nowhere did it ever say the debts owed to Howard from JC were discharged, but Chancellor Daniels and Greenlee sure made it sound like that is what it said and the Appeals court sure took their word for it. The ruling did clearly state, once Sandra discovered what the actual criteria was for res judicata to apply as noted in *In re Oliver*, Ch13 Case No. 07-50836,\*2(S.D. Miss. Sept. 28, 2016)

**-Page 2 “Findings of Fact/Conclusion of Law”-**  
¶2 “On June 10, 2007 James C. Oliver, Jr. (“JC”) filed petition for Chapter 13 relief Dkt. No. 1 JC is Howard’s brother and Sandra’s Uncle. **\*\*JC did not list Howard in**

**his original schedule and statements as either a creditor or a co-debtor.**\*\* See Dkt. No. 12 at 9-12, 14. On November 2, 2007, Howard filed an unsecure claim in J.C.'s bankruptcy in the amount of \$26,080.50 plus additional unliquidated damages related to the alleged conversion of property belonging to Zona Mae Oliver ("Zona Mae"), J.C. and Howard's mother. . . . JC received a discharge on June 11, 2012 and the case was closed on Dec. 11, 2012."

*In re Oliver*, Ch 13 Case No. 07-50836, 2017 WL 1323467 (S.D. Miss. Apr. 10, 2017) Additional ruling on April 10, 2017. On page 10 of this ruling:

"Lastly, Sandra asserts that the estate of Zona Mae Oliver, Howard's and J.C.'s mother, was not listed as a creditor in this bankruptcy. Dkt. No. 156 at 3. This allegation is irrelevant to whether or not Sandra, on behalf of Howard, may reopen the case to have his debt declared nondischargeable. Even if J.C. owed a debt to Zona Mae Oliver's estate, then that debt would be separate and apart from any debt owed to Howard. Sandra did not request to reopen the case to seek relief related to an alleged debt owed to Zona Mae Oliver's estate. Regardless, unlisted debts are generally excepted from discharge. 11 U.S.C. § 523(a)(3) (2010)."

Chancellor Daniels knew all of this every time she claimed all the debts were discharged and dismissed the Estate case based on res judicata. App. @173 The Appeals Opinion even took judicial notice of the

bankruptcy rulings but chose to ignore and twist all the facts to fit their disposition. App. @1. The Appeals Opinion even stated Sandra had waived the issue of bias and prejudice because she never filed a motion to have her recuse herself but failed to note the request for New Trial with Impartial Tribunal that Sandra pointed out in the motion for rehearing and Cert. that she filed.

Shortly thereafter Powell withdrew and Sandra was all Pro Se and Greenlee filed to dismiss the Fraud case and the Estate case which had both sat dormant and Sandra did not even discover until getting certified documents in September, 2015 that the Estate case had ever been filed. Greenlee files a motion to enter the agreed order from June 29, 2015 that Sandra knew nothing about to consolidate the CLOSED Partition case and the OPEN Fraud case on November 11, 2016. App. @164 Greenlee managed to get Chancellor Lynchard to sign the 2015 agreed order on November 23, 2016 App. @161 after Sandra fervently objected to it in writing and then had a hearing on November 30, 2016 Sandra had set up in October for a pre-trial hearing to start that case, but Chancellor Lynchard refused to address anything as he stated it was already transferred to Chancellor Daniels. knowing the open case was transferred to a closed case so if the abuse was not enough, what else was Sandra in store for as the violations in due process rights were overflowing.

Sandra had never been notified the Fraud and Partition case were consolidated and filed appeal notices for all three cases. She also filed Motions to Set

Aside the Dismissal of the Estate Case which included the Sanctions and striking of her Mem. Brief and Motion to Set Aside the Consolidation of the Fraud and Partition cases and moved on as there were many motions Powell had filed that never got answered. However, the Supreme Court Clerk needed a final order in these cases and called the Chancery Clerk to get one. App. @159&171. So, the overruling of those motions just mentioned were then signed ex parte without a notice of a hearing because there were no hearings, they just needed a final order and Sandra would never know the difference, but she did. And Chancellor Lynchard, ironically even signed the one for Greenlee that he no longer was even the Chancellor for. Sandra did mention it in her Appeals brief and noted the non-agreed order and those without notice were not valid, but again all was ignored.

It truly would not have a made a difference at all when Sandra discovered the void orders or the true facts about the bankruptcy debts not being discharged as it even appeared the Appeals Court had it in for Sandra as well and some mighty close ties of all of the “good old boys club” in Mississippi that look out for each other as there was no way a Pro Se litigant was ever going to win against that crowd. Sandra did hire an attorney to do the appeals but the attorney had his law clerk read it and wrote up a 20 page brief with only 3 issues from all 3 cases when Sandra had given him a list of about 10 and none of those 3 included the void judgements. He agreed to let Sandra write it and then

he would fix it, but then refused so Sandra was on her own again.

As stated in one of the questions, the abuse was overwhelming and then to have the Appeals' Court Opinion provide every single bit of case law and argument on behalf of the Appellees was unimaginable especially since Sandra made the court aware of it in advance, but perhaps a pro se person just never does stand a chance, not in Mississippi anyway. But this Appeals Court just did not get it wrong, it literally twisted facts and made statements that were not even close to the truth or what was in the casefile and as it stated in one of its footnotes they rearrange issues and facts to "fit their disposition" and was to make sure Sandra and Howard Oliver were not going to get their day before any court

Sandra even gave the Appeals Court the chance to modify its opinion by requesting the leave to file in chancery court to vacate the void orders filed in February, 2020 App. @75, so why do others deserve justice and Sandra, Howard and the Estate of Zona Mae Oliver do not ?

As much as Sandra has had to endure fighting for justice the past seven, really thirteen years to keep the land that has been in the Oliver family since 1885 and the unfortunate passing of her father who truly was her best friend and lived with her since 2009, this Honorable Court should allow Sandra to be the first person since Sloan in 1978 to argue before this Court, but given the facts presented to this Honorable Court with

the point blank void orders, abuse of discretion not only by the lower court but by the highest court in Mississippi, there would not be much to argue about and would be such an incredible honor to be allowed to come before this Court and certainly well deserved.

So many people all over the country suffer at the hands of bias and prejudice judges with violations in due process rights having their property taken away and worse and it has got to stop. Winning battles like these are well worth it and not just for oneself but for the other little guy. Had Sandra given up when her third attorney joined the good ole boys club by signing those 2 agreed orders without her knowledge or permission her family land and heritage would be lost forever.

If these cases are not reversed, consolidated and removed from Montgomery County Chancery Court, then Sandra will probably just end up back in Appeals court as Chancellor Daniels will really make Sandra pay for this "stunt." Even though Sandra should be able to get the four orders vacated, that will not be an easy task as this is so complicated most attorneys run in the opposite direction and Sandra not be put through any more of this.

Sandra has been forced to fight pro se as a daughter, a granddaughter, a mother, a grandmother, a sister, a friend, a nurse and as a fighter against the good ole boys club but never as an attorney.

*It was not Sandra's choice to present any of this pro se as she was forced to fight for justice due to the*

*bad choices in the attorneys* made over the past 7 years in litigating these 3 cases, but the unfair, unjust, and constant violations in Sandra's due process rights have totally been unbelievable, but *those* actions and violations *were choices made* by the Mississippi Chancery Court, the Mississippi Appeals Court and now the Mississippi Supreme Court and all of the officers within it who took an oath to fight for truth and justice. Sandra prays this Great and Honorable Court will immediately reverse these cases, order them to be consolidated and transferred to a circuit court in a different county as this Court should be aware of the reputation Montgomery County, Mississippi obtained when this Court overruled a case from the same county about a year ago.

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#### **REASONS FOR GRANTING THIS PETITION**

##### **I. THIS CASE GIVES ABSOLUTE PROOF THAT IT CONTAINS AT LEAST FOUR ORDERS THAT ARE VOID AND SHOULD BE VACATED AND LEAVES NO ALTERNATIVE BUT TO REVERSE THESE EVEN WITHOUT BRIEFING STAGE.**

Taken directly from *Carter v. Fenner*, 136 F.3d 1000, (5th Cir. 1998) that put it so nicely:

Typically, “[m]otions under Rule 60(b) are directed to the sound discretion of the district court, and its denial of relief upon such motion will be set aside on appeal only for abuse of that discretion.” *Seven Elves v. Eskenazi*, 635

F.2d 396, 402 (5th Cir. 1981). When, however, the motion is based on a void judgement under rule 60(b)(4), the district court has no discretion, the judgement is either void or it is not. *Recreational Properties, Inc. v. Southwest Mortgage Services Corp.*, 804 F.2d 311, 313-14 (5th Cir. 1986). Unlike motions pursuant to other subsections of Rule 60(b), Rule 60(b)(4) motions leave no margin for consideration of the district court's discretion as the judgments themselves are by definition either legal nullities or not. The Seventh Circuit has explained that when the motion is pursuant to Rule 60(b)(4), however, the review is plenary and courts have little leeway as it is a *per se* abuse of discretion for a district court to deny a motion to vacate a void judgment. *United States v. Indoor Cultivation Equipment From High Tech Indoor Garden Supply*, 55 F.3d 1311, 1317 (7th Cir. 1995). A judgement is void for purposes of Rule 60(b)(4) if the court that rendered it entered an order outside its legal powers. *Id.* at 1316; *In the Matter of Edwards*, 962 F.2d 641, 644 (7th Cir. 1992). The Ninth Circuit's approach is also instructive: "We review *de novo*. . . . a district court's ruling upon a Rule 60(b)(4) motion to set aside a judgment as void, because the question of the validity of a judgement is a legal one." *Export Group v. Reef Industries, Inc.*, 54 F.3d 1466, 1469 (9th Cir. 1995).

**II. ALL OF THESE RULINGS ABSOLUTELY CONFLICT WITH THIS COURTS RULINGS AS WELL AS MISSISSIPPI'S AND COURTS ALL OVER THE NATION BUT MISSISSIPPI NEEDS HELP TO FIX THEIR BROKEN SYSTEM OF ABUSE AND VIOLATIONS IN DUE PROCESS RIGHTS DESERVING OF ALL AMERICANS.**

In regard to “non” agreed orders, the Court faced a similar scenario in *McDonald v. McDonald*, 850 So.2d 1182 (Miss.Ct.App. 2002), *aff’d on cert.*, 876 So.2d 296 (Miss. 2004). *McDonald* differs from the present case because it dealt with a modification for visitation. Mr. McDonald, after a hearing was held, decided to not sign an agreed order. *Id.* As a result, his wife filed a *Motion for Entry of Agreed Order*, much like in this matter. The Chancellor signed and entered the order, absent Mr. McDonald and his attorney’s signature. The Court agreed, in dicta, that “there must be consent for a consent decree.” *Id.* The Court also noted, however, that “[a] consent judgment is in the nature of a contract,” meaning that it is binding. *Id.* at 1189. This also differs in that Mr. McDonald first agreed in open court and then changed his mind regarding some issues later discovered, but Sandra and Howard never agreed to consolidation of the cases in court or in writing even though her previous attorney had signed it 1.5 years prior to that, it could still not be held as legal and binding since done without their knowledge and permission just like the agreed order to partition the subject land that Sandra did not find out was signed until preparing for this appeal. Again, Sandra never agreed –

openly or otherwise – to consolidation of the cases and did 100% object to the consolidation in all of written filing. Because the Fraud case dealt with fraudulent conveyance of property to Appellees subject in the partition case, notably Sandra and Howard sought on February 1, 2016, to have the Court reinstate the stay in the Partition proceedings until the Fraud case could be heard and all issues resolved with the Estate case as well, but that motion was denied when the Partition case was still active and open. (Vol. 2, *Part/Fr. R.* at 232-239; 245.) This agreed order was signed by Chancellor Lynchard on November 23, 2016. (Vol. 6, *Part/Fr. R.* at 882-883.) The date of the agreed order was changed from “2015” to “2016” when it was given to the Chancellor. *Id.* Sandra and Howard filed a Motion to Set Aside Agreed Order To Transfer and Consolidate Case and for Sanctions against Attorney Greenlee on November 28, 2016 for attempting to delay and hinder prosecution of the Fraud case by presenting to the Court an invalid “agreed order” knowing the cases were not consolidated and never agreed to be consolidated by the plaintiff here now as pro se violating MRCP 11. *Id.* at 884.

**III. THE INSURMOUNTABLE AMOUNT OF BIAS AND PREJUDICE AIMED DIRECTLY AT SANDRA BY CHANCELLOR DANIELS SHOULD NEVER HAPPEN TO ANYONE EVER AGAIN AND THIS COURT CAN USE THIS CASE TO HELP NOT JUST THE PRO SE LITIGANT BUT ALL WHO DESERVE DUE PROCESS RIGHTS BEFORE A FAIR TRIBUNAL TO LET ALL KNOW IT WILL NOT BE TOLERATED.**

Sandra and Howard have a Constitutional Right to a Fair Trial Before a Judge Free From Even the Appearance of Bias pursuant to Fifth Amendment, U.S. Constitution; Fourteenth Amendment, Section I, U. S. Constitution; Article 3, § 14, 24, 25 Mississippi Constitution of 1890. Firmly established in our federal and state constitutions and in our jurisprudence, is the requirement that our courts provide litigants a fair, impartial tribunal and judges are required to uphold the Constitutions of Mississippi and the United States. *Schmidt v. Bermudez*, 5 So. 3d 1064, 1072-73 (Miss. 2009). The *Schmidt* court also stated, at 1073, although speaking of jury trials, this Court pronounced the following principle which is equally applicable to trials before the court without a jury: 'Respect for the sanctity of an impartial trial requires that courts guard against even the appearance of unfairness for 'public confidence in the fairness of jury trials is essential to the existence of our legal system. Whatever tends to threaten public confidence in the fairness of jury trials tends to threaten one of our sacred legal institutions.' *Hudson v. Taleff*, 546 SO.2d 359, 362-63 (Miss.1989)

(citing *Mhoon v. State*, 464 So.2d 77, 81 (Miss. 1985) (quoting *Lee v. State*, 226 Miss. 276, 83 So.2d 818 (1955)). The previous rulings in the Mississippi Supreme Court conflict with what should have taken place as it found that “[A] judge must disqualify when that judge’s ‘impartiality might be questioned by a reasonable person knowing all the circumstances including but not limited to instances where . . . the judge has a personal bias or prejudice concerning a party.’” *Dillard’s, Inc. v. Scott*, 908 So.2d 93, 98 (Miss. 2005) (quoting Code of Judicial Conduct, Canon 3(E)(1)). Judges are presumed “sworn to administer impartial justice” and that the judge is also qualified and unbiased. *Bredemeier v. Jackson*, 689 So.2d 770, 774 (Miss. 1997). The standard for determining if a judge has a personal bias is a “reasonable person” standard. *Code of Judicial Conduct, Canon 3(E)(1)*. It is necessary to ask if a reasonable person would have doubts about a judge’s impartiality. *Dillard’s*, 908 So.2d 93, 98 (see *Frierson v. State*, 606 So.2d 604, 606 (Miss. 1992)). The Court in *Dillard’s* noted that in order to overcome the natural presumption that a judge is qualified and unbiased, “the evidence must produce a reasonable doubt about the validity of the presumption.” *Id.* (citing *Turner v. State*, 573 So.2d 657, 678 (Miss. 1990)). Furthermore, the Court determined the ramifications of hostility from a trial judge. *In Re Blake*, 912 So.2d 907 (Miss. 2005) (holding that hostility by a trial judge towards an attorney would make a reasonably prudent person question whether the attorney’s client would receive a fair hearing in court, and that the recusal of the judge was warranted).

**IV. SANDRA KNOWS WITHOUT A SHADOW OF A DOUBT THAT HAD CHANCELLOR LUNDY NOT HAD TO RECUSE HIMSELF THAT THIS CASE WOULD NOT HAVE ENDED UP HERE BEFORE THIS COURT TODAY.**

Petitioners pray this Honorable Court would grant this Petition and automatically reverse it without further delay as it deserves that. Petitioners deserve to have their cases consolidate before one is closed and the other still open so the Estate of Zona Mae Oliver can be opened properly and justice finally achieved not only for Sandra but for her father and Petitioner, James Howard Oliver who Sandra knows is watching from above and smiling. Petitioners request this Honorable Court order the transfer to a different county in circuit court but if going back to the same court there are no other chancellors there who can take it as two have been biased and the other already had to recuse himself.

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## **CONCLUSION**

The petition should be granted and respectfully and immediately reversed without the need for briefing allowing for instant consolidation and change in district and courts.

Respectfully Submitted,

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June 28, 2020