

Supreme Court, U.S.

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19-1470

No. 20-_____

In the
Supreme Court of the United States

SAMUEL AMBROSIO GURROLA,

Petitioner,

v.

WALGREEN COMPANY,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Can the world's largest pharmacy chain influence a State to fabricate evidence to achieve its monopoly goals, abridge plaintiff's rights and steal plaintiff's property in violation of the fourth and fourteenth amendments?
2. Did the Fifth Circuit Court of Appeals (Fifth DCA) err dismissing a case being that it exceeded 1 year under Texas statute of frauds when it should have been promissory estoppel because Plaintiff made a substantial 92% delivery?
3. Did the Fifth DCA err in dismissing a fraud claim when a deposition notice was sent to the Walgreen District Manager sent to run the entire purchase and transfer operation was not a District Manager, or supervisor, he was not even a Walgreen employee, he was a person working as a government agent and as such, plaintiff was deprived of his fifth amendment privilege and deprived of his property. This occurred 5 days after the District Court dismissed the case, the Fifth DCA affirmed the lower Court stating plaintiff should have known about the rogue before the case was dismissed?
4. Is 100% control of a market up from 10% control obtained by buy outs and force outs a monopoly?
5. In applying *Res Judicata*, is the Fifth DCA committing manifest injustice?
6. Was the destruction of plaintiff's typewriters in the last days of this case considered obstruction?

PARTIES TO THE PROCEEDINGS

Petitioner

- Samuel Ambrosio Gurrola, an individual

Respondent

- The Walgreen Company

LIST OF PROCEEDINGS

United States Court of Appeals for the Fifth Circuit
No. 17-51108

Samuel A. Gurrola, Plaintiff-Appellant v. Walgreen Company, Defendant-Appellee

Date of Final Opinion: January 30, 2020

United States District Court,
Western District of Texas, El Paso Division

No. EP-17-CV-00078-DCG

Samuel A. Gurrola v. Walgreen Company

Date of Final Order: November 15, 2017

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Samuel Ambrosio Gurrola respectfully file a Petition for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.



OPINIONS BELOW

The opinion of the Fifth Circuit Court of Appeals dated January 30, 2020 is reproduced at App.1a. The District Court opinion, dated November 15, 2017, is reproduced below at App.7a. That opinion granted Walgreen's Motion to Dismiss.



JURISDICTION

This petition is filed within 150 days of the decision of the Fifth Circuit entered on January 30, 2020. (App.1a).

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- **U.S. Const. amend. IV**

The people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

- **U.S. Const. amend. V**

No person "shall be deprived of life, liberty, or Property" without due process, the "takings clause" and 14th amendment equal protection clause states the Government must pay for what it took.

- **U.S. Const. amend. XIV.**

No person shall be deprived, of life, liberty, or Property without due process of the law.

- **15 U.S.C. § 2—The Sherman Antitrust Act**

Every person who shall monopolize or combine or conspire with other person or persons to monopolize any part of the trade or commerce among the several states or with foreign nations shall be guilty of a felony.

- **15 U.S.C. § 15—The Clayton Act Section 4**

Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor . . . and shall

recover threefold the damages by him sustained and the cost of the suit, including reasonable attorney fee.

- **Fraud by Embezzlement, Texas Penal Code Title 7 Chapter 31**
- **Statute of Frauds, Texas Business and Commerce Code Chapter 26 26.02 Promissory Estoppel Exception**
- **Obstruction 18 U.S.C. § 1505, obstruction of proceedings before departments, agencies and Committees**



STATEMENT OF THE CASE

I. Promissory Estoppel

On or about September 20, 2014, Angela Moore from Walgreen's acquisition department called me to see if I was interested in selling my pharmacy, Palafox Pharmacy for a price of one million five hundred thousand dollars. I Agreed. Part of the agreement was to let an electronic company that can retrieve information from computers named Infowerks, they 'audit' prescriptions, who is the customer, what is the phone number, who is his doctor, what medications he or she gets, what strength the medications are, and whether the medicine for acute or chronic treatment. The Walgreen sent one Mark, he called himself Mike, Saenz together with a blond lady. Mr. Saenz was sent to insure that all the procedures were followed, took inventory, removed and took ten prescription records to audit, checked every

bottle for expiration dates and took with him those medications that expired.

The Walgreen's District Manager was adamant in coming after we closed, and insisted on complete secrecy, always calling at 9 p.m. before he came in. On or about October 8, he always called himself Mike not Mark, I have a witness, and tells me that Walgreens would buy me and shook hands on it. The next day, Mr. Saenz walks in at 9 p.m. and asked me if I was going to be suspended. I told him yes, but that would have no impact on the pharmacy operations because I had obtained an interim pharmacist, Mr. Jay Yasgour to be the pharmacist in charge while I was suspended for 3 months. Mr. Saenz told me the deal was off, but I found out when I filed this complaint that the defendant, walked away with a total of one million, eight hundred and fifty thousand dollars without paying a penny for the contract which violates the forum State, Texas penal Code Title 7, Fraud by embezzlement and because I delivered on 92% of the agreement then promissory estoppel would supplant the oral contract clause under the Texas Statute of Frauds Business and Commerce Code Chapter 26.

Moreover, on May 19, 2017 on a Court mandated meeting between both opposing parties which defendant, but Walgreens Company refused to attend, Plaintiff proposed in writing and that is in the record that because plaintiff had made a partial delivery, then the exception to the Texas Statute of Frauds should apply a copy of which was sent to the attorney of defendant, because the defendant refused to comply with the Court Order, then defendant waived raising an objection, a motion to the effect was filed and ignored ROA 67, *Ruzick v. Conde Nast Public*

ations, Inc., 939 F.2d 578 (8th Cir. 1991), *FEI Co. v. Republic Bank*, S.E. No. 268700 WL 231612 at *2 (Mich. Ct. App. Aug. 10, 2006), *B & W Glass Inc. v. Weathershield MFG, Inc.*, 829 P.2d 809 (Wyo. 1982), *Welch v. Coca Cola Inters.*, S.W.3d 532, 536 (Tex. App.—Tyler 2000).

II. Fraud and Constitutional Violations

Plaintiff was not on the Pacer electronic system and being that the Court Scheduling order mandated that discovery would end on November 28, 2017 on or about the 14th of November, Plaintiff saved enough money, as defendant pretty much put him out of business, to hire a summons server to serve the Walgreen District Manager, Michael as he called himself or Mark Saenz, a deposition notice. The summons server told me no one at the Walgreen company had ever heard of him, That the district manager was someone else, he was not a pharmacy supervisor either, Mr. Saenz was not even a Walgreen's, employee. Mr. Saenz was in fact a government agent working for Gay Dodson at the time. Ms. Dodson, Secretary and Chief Executive Officer, Pharmacy for the State of Texas, the government, who had previously suspended Plaintiff, when Plaintiff returned from suspension, Ms. Dodson prosecuted the Plaintiff again, this time using the stolen federal documents, prescription records of a Mr. Hector Galindo, in an effort to give the market to the Walgreen Company, thus achieving a complete dominance, monopoly for the world's largest pharmacy chain. As such Mr. Saenz misrepresented himself and the Walgreen Company sent a rogue for the conversion, theft of 92% of the assets of Palafox Pharmacy. Because he was acting as a government agent, Plaintiff had his 4th, 5th and 14th amendment

guarantees violated., the takings clause of the 5th amendment, the due process clause of the 4th, 5th, and 14th amendment violated, *Rose Mary Knick v. Township of Scott Pennsylvania, et al.*, No. 17-347 United states Supreme Court, *Jacobs v. United States.*, 290 U.S. 13, 54 S.Ct. 26, 78 L.ED. (1933).

The stolen medical records for the malicious prosecution to close the Plaintiff leaving defendant, as the only pharmacy in the disputed area, 4 years prior there were six pharmacy, now it would have no competitors, leaving nothing to chance Ms. Dodson and cohorts with the help of one of defendant's, Walgreen's, customers, Ms. Dodson participated in getting one Mr. Lorenzo Ureno to fabricate evidence and obtain a search Warrant for the Plaintiff's pharmacy to which Ms. Dodson alluded to the day she prosecuted Petitioner with the stolen medical records of Mr. Hector Galindo, with the help of Daniel Armistead who provided the stolen documents, who is the director for the medical clinic that was sending all the business to the Walgreen Company for the monopoly of the area. Ms. Dodson was keeping a visual contact of Petitioner so when Petitioner filed the papers for the deposition of Mr. Saenz the possibility of exposing her and Mr. Saenz was eminent the revealing of Mr. Ureno's relationship with the illegal tracking, intimidating and the people giving those orders was real. The District Court summarily dismissed the case, thirteen days before the Order of Discovery expired. Hence a violation of the equal protection clause, the 4th, 5th and 14th amendments. Briefly put, Ms. Dodson's outrageous behavior the fruits of which the Respondent enjoyed violate the most decent forms of society, it violates 18 U.S.C. § 1505 Obstruction of

proceedings before departments, agencies and committees, Texas Penal Code Chapter 39 Abuse of Office.

III. Obstruction, Intimidation, Destruction of Writing Equipment

Petitioner can prove The rogue District Manager and Ms. Gay Dodson were one and the same and as such a violation of the Sherman Antitrust Act, Conspiracy, *Collins v. Hardyman*, 341 U.S. 651, 715 S.Ct. 937, L.Ed. 1253 (1951), Promissory Estoppel, Clayton Act and all their elements are there Respondent used unceasing, oppressive, abuse of confidence methods to expand its monopoly. *Res Judicata* would be manifest injustice.

IV. Monopoly

Respondent is already the planets largest pharmacy chain, there is no question to the effect, the question is did it obtain its monopoly in the disputed Texas-New Mexico Corridor through nefarious means, like sending a rogue Walgreen' Pharmacy District Manager, get the aid of the State of Texas to Close the competition through stolen documents and having one of its customers fabricate evidence for illegal search and seizure and track and defeat this case. The Sherman Act says if this is true then the Respondent violated the Act.



REASONS FOR GRANTING THE PETITION

The reasons I ask the Court to Grant this petition are two. First to prevent manifest injustice. The second reason is to prevent unjust enrichment.

I. FEDERAL AND STATE LAWS MUST NOT BE VIOLATED.

1. The theft of Mr. Hector Galindo's medical records for malicious prosecution, the false affidavits of Mr. Lorenzo Ureno to track this case. The use of a rogue misrepresenting himself as a high profile Walgreen's executive were the children of Ms. Dodson's imagination the embezzlement, the violation of antitrust laws are all nefarious dealings which respondent used to enrich itself. It is a morsel plate full of sins that range for the Klu Klux Act of 1871 to the Sherman Antitrust Act, from embezzlement to civil right violations.

II. THE APPEALS COURT ERRED IN STATING THAT PLAINTIFF WAIVED DISCOVERY THOUGH IT CAME DURING THE COURT ORDER TIME FRAME AND ITS PRESENTATION PRECLUDED BY AN EARLY UNEXPLAINED DISMISSAL.

1. Court order discovery was to end on November 28, 2017
2. District Court Dismissed case dismissed case November 2017
3. Mr. Saenz, the rogue misrepresenting himself as a high official member, Walgreens District Manager was beginning to get discovered 3 to 5 days later.

4. Petitioner's typewriters were getting vandalized to the point that he had to file his papers handwritten.

5. Mr. Saenz was found keeping a low profile at a University Health Center as an employee, not as the Walgreen's District Manager He claimed to be.

III. THE MONEY STOLEN BY RESPONDENT MUST BE RETURNED.

1. Unjust enrichment is wrong.



CONCLUSION

This Court should grant this Petition for Writ of Certiorari and prevent unjust Enrichment and, manifest injustice by granting Promissory Estoppel, permitting Petitioner to file his amended complaint. Thank you very much for reviewing my case.

Respectfully submitted,

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