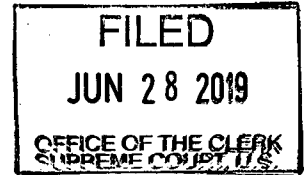


19-31
No. _____



In The
Supreme Court of the United States

—◆—
CAROL M. KAM, PRO SE,

Petitioner,

v.

DALLAS COUNTY and STATE OF TEXAS,

Respondents.

—◆—
**On Petition For Writ Of Certiorari
To The Fifth Circuit Court Of Appeals**

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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QUESTION PRESENTED FOR REVIEW

Does the Rooker-Feldman Doctrine apply to two Void [not voidable but, void] "proposed" State Court Rulings produced by a former Associate Judge, employed solely by Dallas County, who failed to acquire authority from the Judge of Record for the Dallas County Probate Court or the State Probate Court Judge, as required by State Law, to enter a Dallas County Probate Court and who failed to obtain a sign-off of his rulings from the Judge of Record within 30 days of their creation, as required by State Law?

For the record, the Dallas County employed Associate Judge has been removed as a Jurist by the State of Texas as the State has deemed him to be unfit.

PARTIES TO THE PROCEEDING

All parties to the proceeding are named in the caption of the case as recited on the cover page. There are no government corporate parties requiring a disclosure statement under Supreme Court Rule 29.6.

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CITATIONS TO THE OPINIONS AND ORDERS BELOW

The decision of the Fifth Circuit Court of Appeals is unpublished. The Petitioner filed for a rehearing which was denied.

The decision by the Fifth District Court in North Texas is published.

STATEMENT OF JURISDICTION

The Fifth Circuit Court of Appeals has denied the Petitioner's request in a final ruling dated April 12, 2019. Jurisdiction in this Court is proper per Title 28 USC, Section 1254 as the Supreme Court has the right to review an Appeal Court Ruling via a Writ of Certiorari.

APPLICABLE LAW

Texas Government Code:

54A.207[a] “. . . a judge of a court may refer to an associate judge any aspect of a suit over which the probate court has jurisdiction . . .”

54A.208[a] “A case may be referred to an associate judge by an **order of referral** in a specific case or an omnibus order specifying the class and type of cases to be referred.”

54A.209.17.c “. . . The judge of the referring Court **shall** sign the order not later than the

30th day after the date the associate judge signs the order.”

54A.212[f] *“After a hearing conducted by an associate judge, the associate judge **shall** send the associate judge’s signed and dated report including the proposed order, and all other papers relating to the case to the referring court.”*

54A.214[b] *“ . . . or the right to a de novo hearing before the referring court is waived, the decisions and recommendations of the associate judge or the proposed order or judgement of the associate judge **becomes** the order or judgement of the referring court **at the time** the judge of the referring court **signs** the proposed order or judgement.”*

54A.215[b] *“The judge of the referring court **shall** sign a proposed order or judgment the court adopts as provided by subsection [a][1] not later than the 30th day after the date the associate judge signed the order or judgement.”*

54A.217[b] *“Except as provided by subsection [c], the date the judge of a referring court signs an order or judgement is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or a supreme court” [“c” refers to 54A.209.16 where all parties have agreed to the associate judge’s ruling in writing, which is not applicable].*

42 SECTION 1985 *“ . . . If two or more persons in any state . . . conspire . . . for the purpose of depriving . . . equal protections of the laws . . . the party so injured or deprived*

may have an action for the recovery of damages occasioned by such injury or deprivation against any one or more of the conspirators.

U.S. Constitution 14th Amendment "... All citizens have equal protection of the laws ..."

28 USC SECTION 1738 "... The records and judicial proceedings of any court, or any such state, territory or possession, of copied thereof, shall be provided or admitted in other courts within the United States and its territories and possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a *certificate of a judge of the court* that the said attestation is in the proper form...."

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STATEMENT OF THE CASE AND RELEVANT FACTS

[R.E. Indicates an item from the Record of Excerpts from the Fifth Circuit Court of Appeals Submittal]

The Case is based on Judicial Misconduct by two Dallas Probate Courts during the period 2011 to 2013 to cover for the gross incompetence, unethical behavior, and ineptitude of a Dallas Probate Attorney, David Pyke. Pyke was never employed by my Father or my Brother. Pyke mishandled and squandered assets from both my Father and my Brother's estates and the Court system was used to cover for the misconduct and used to punish me for exposing the complete idiocy of this man. Not only was I denied my Civil Rights to fair Trials but the courts were

actually used in a malicious manner to punish me for "whistle blowing" the gross ineptitude, unethical behavior, and misconduct of Pyke.

The First Case involved my Brother's estate where multiple County and State Courts egregiously covered for the misconduct of Pyke and the unauthorized activities in the Dallas Probate Court. The Federal Courts have limited their pervue to the misconduct of my Brother's case in the Dallas Probate Court. This petition is also solely based on this case.

The second Case involved the gross misconduct by Pyke and the Dallas Probate Court in my Father's estate. While the Dallas Probate Court ruled against me and covered for the gross ineptitude, unethical behavior, and incompetence of Pyke, fortunately this Case was sent to the El Paso Appeal Court and not the Dallas Appeal Court. The El Paso Appeal Court had no predisposed position to cover for Pyke and the Dallas Probate Court. They corrected the judicial error and reversed the Ruling in my favor and granted me all available relief by Law. The Texas Supreme Court upheld the Appeal Court Ruling. While this second case is not part of this Petition for Writ of Certiorari, it will be part of any future negotiations for compensation for my denial of Federal Civil Rights and actual losses

The following is a historical background to my Brother's estate.

In June of 2010, my older brother, Robert S. Kam was diagnosed with Stage IV Pancreatic Cancer. His health deteriorated with time and by mid February of 2011 Robert S. Kam created and fully funded an

Irrevocable Trust which bequeathed me a fixed amount of \$ 10,000. In early March 2011, my brother's girlfriend, observing that my brother no longer had capacity, contacted her attorney, David Pyke, to revise the Trust in order to add her Children and to assign her a greater portion of the Estate. During the initial meeting on March 11, 2011, the Attorney [Pyke] sent my brother home as he admitted Robert Kam was too ill to work with.

By early March 2011, Robert Kam was 8 months into Stage IV Pancreatic Cancer with no remission, was on a significant amount of narcotics to control the excruciating pain, had a valve permanently inserted thru the front of his body into his stomach to frequently drain accumulating fluids, required dialysis every three days due to complete loss of Kidney function three months earlier, had significant loss of liver function with associated accumulation of irretrievable toxins, had an attention span of two minutes, required diapers, was unable to walk unassisted, required 24 hour care, was totally blind in one eye from glaucoma and required very significant correction in the other eye with limited vision due to myopia and glaucoma. By early March 2011 Robert S. Kam had no capacity and was essentially a breathing cadaver.

The girlfriend continued to work with her Attorney [Pyke] and revised the documents to her satisfaction which increased her benefits and added her children as heirs. She wheelchaired Robert back to Pyke's office on March 17, 2011 for an alleged "signing". David Pyke had illegally created an Amended/ Restated Trust without taking the original irrevocable

Trust back through a Court and without notifying any beneficiaries.

Even though Pyke was instructed to add me in as a beneficiary for \$10,000 per the original irrevocable Trust, he failed to do so. Pyke acknowledged, under oath in the trial that the omission of me as an heir in the Trust he created for the girlfriend was his error. My brother Robert was too ill to recognize the omission and it was not discovered until later the night of March 17, 2011 when the Trustee's wife reviewed the Amended and Restated Trust and noted the deficiency and the "**fatal flaw**" to Pyke's work.

While Pyke re-amended the Trust and that added me back in at a later date, it was crystal clear that on March 17, 2011 my brother Robert **did not have legal testamentary capacity**, no less contractual capacity, to sign a Will or Trust. This irrefutable FACT voided all of the documents created by the girlfriend and Pyke that was allegedly signed by Robert Kam on March 17, 2011.

The Medical Records for March 18, 2011 [R.E. 12], the M.D. Anderson Oncologist Report [R.E. 10] and Courtroom Testimony reconfirmed that my Brother **did not** have capacity. Per *Croucher v Croucher* 660 S.W.2d 55 [1983] if one has a history of non capacity immediately before or immediately after an event, he does not have capacity at the time of the event. My brother passed 10 days later on March 28, 2011 while being loaded in a car to be taken to dialysis.

I became very vocal when I discovered the gross ineptitude and incompetence of Pyke and the fact he

was not employed by my Brother to Amend the Irrevocable Trust. Pyke instructed the Trustee to refuse to pay me my inheritance even though it was undisputed by any party in the original Irrevocable Trust and in the Amendment to the Amended Trust.

In order to simplify the Contest of the Case, I joined my Nephew who legally disputed the validity of the Amended Trust which had significantly reduced the inheritance promised to him by his father.

Seven days prior to the trial set by Dallas Probate Judge Michael Miller, my attorney attended a pre trial meeting with Attorney James Fisher representing the Trustee and Pyke. My attorney left at the conclusion of pre trial meeting however, unbeknownst to my Attorney, James Fisher remained and conducted an ex-parte meeting with Judge Miller which resulted in Judge Miller refraining from any future contact with my Counsel, Miller stepping down as Judge for the Trial and the substitution of Associate Judge Peyton to handle the trial. In retrospect, this was a clearly a "set-up" to rig any ruling to maintain professional cover for the gross ineptitude, misconduct, and incompetence of Pyke.

After a 3 day trial, Peyton immediately ruled that my brother Robert had capacity, which was counter to court testimony, the Medical Records, the M.D. Anderson Oncologist report, the facts, Case Law, and all common sense. Even though all parties acknowledged that I was a valid heir for \$10,000 and was not paid, Peyton not only removed me from the estate but charged me with \$226,000 of Court costs as punishment for flagging "Pyke."

During the trial, Pyke claimed that Dr. Robert Beard, a pediatrician, who never treated my brother, was in his office on March 17, 2011 and signed a DNR [State Promulgated Do Not Resuscitate Form]. Pyke's paralegals signed as witnesses to Dr. Beard's signature on this Form that was brought to Pyke's office by the girlfriend. Dr. Beard was not announced as a person of knowledge prior to the trial.

After the Proposed ruling by Peyton, my attorney sought a rehearing with the Judge of Record, Miller. Miller granted the rehearing and it was scheduled for October 16, 2013 with Judge Miller listed to preside.

Pyke nor Fisher had not listed Dr. Beard as a person with knowledge in the Case prior to trial however, Pyke claimed in Court testimony that Beard had intimate knowledge of Robert's Capacity in Pyke's Office on March 17, 2011.

My attorney Subpoenaed Dr. Beard for testimony at the rehearing.

In doing research for the rehearing, Attorney Mark Steirer discovered that as of mid August 2013 there was no Order of Referral of any kind shown in the Court Records. Mark Steirer had made a screen shot of files in mid August that documented this omission. An Order of Referral did not appear in the court Files until Late August and it was post dated to July 16, 2013. This Order was and has never been presented to any party for review at any time. The Court docket numbers also confirm that the document dated July 16, 2013 did not exist and was not filed until late August 2013.

Even though the Court Records listed Miller as the Judge for the rehearing in October 2013, Judge Peyton showed up, with no prior announcement and no authorization from Miller. Peyton refused to allow my attorney to depose Dr. Beard and denied my right to depose a reported medical expert with critical knowledge directly related to the Case.



ARGUMENT FOR ACCEPTING THE PETITION

(A) SUMMARY

[R.E. Indicates an item from the Record of Excerpts from the Fifth Circuit Appeal Submittal]

John Peyton failed to obtain and have authority and thus jurisdiction to hear my Case as required by State Law. The Judge of Record has never signed off on any of the proposed rulings as required by State Law. The County and State have consistently failed to address these deficiencies. Without authorization to be in the courtroom and without the sign off of the Judge of Record, all of Peyton's proposed rulings are "VOID". It is a complete absence of logic to apply the Rooker-Feldman Doctrine to a Void State Ruling.

(B) ABSENCE OF ORDER FOR ORIGINAL TRIAL

A Texas Probate Judge has the right to refer a Case to an Associate Judge however, it can only be done by an Order of Referral issued prior to the event. Refer to Texas Government Codes 54A.207 and 54A.208.

When Peyton walked in the Court room in July 2013, no Order of Referral existed. Per Texas Statute, Associate Judge John Peyton was supposed to have an "Order of Referral" from Probate Judge Michael Miller in Dallas or State Probate Judge Guy Herman in Austin. John Peyton heard my Case in July 2013 and the rehearing on October 2013. State Probate Judge Guy Herman issued an Order of Referral for John Peyton for only August 2013 and September 2013 [R.E. 17 to R.E. 20]. He did not issue any Order for July or October 2013. An Order of Referral was created and filed on or around August 28, 2013. [R.E. 15]. It has numerous factual and technical errors, is signed by an unknown individual, and is worthless as a legal instrument. This Order lists Government Codes 54.610 and 54.618 as the basis for the Referral however, these laws did not exist in 2013 and do not exist today. We do not know the legal basis for the Referral. The "signature" on this Order of Referral is significantly different than Miller's signature on the Notice of Rehearing [R.E. 16] so we have no idea who authored and signed this post dated Order.

Final Judgment signed by John Peyton on August 9, 2013 [R.E. 13 and R.E. 13.1] shows the File Number of 218243.

The post dated Order of Referral dated July 16, 2013, created and filed around August 28, 2013 shows a later file number of 247680.

The Notice of Hearing signed September 17, 2013 has a file Number of 270844.

The Court file numbers are in sequence and the Order of Referral was not created and filed until **AFTER** the Judgment.

To date, Dallas County and the State of Texas have offered no explanation for the late filing, no confirmation of the unknown author or signatory and no explanation for the non-existent laws referenced for this technically worthless instrument. We can reasonably assume that Dallas County and the State of Texas have no explanation to this Court for the incompetence and/or fraud related to this document.

(C) ABSENCE OF ORDER FOR REHEARING

It is undisputed by all parties that no order ever existed for the Oct. 16, 2013 Rehearing.

**(D) REQUIRED SIGN OFF
BY THE JUDGE OF RECORD**

Refer to the following Texas Government Code Laws for Clarity:

54A.209.17.c “ . . . *The judge of the referring Court **shall** sign the order not later than the 30th day after the date the associate judge signs the order.*”

54A.212[f] “*After a hearing conducted by an associate judge, the associate judge shall send the associate judge’s signed and dated report including the proposed order, and all other papers relating to the case to the referring court.*”

54A.214[b] “ . . . or the right to a *de novo* hearing before the referring court is waived, the decisions and recommendations of the associate judge or the proposed order or judgement of the associate judge **becomes** the order or judgement of the referring court **at the time** the judge of the referring court signs the proposed order or judgement.”

54A.215[b] “The judge of the referring court shall sign a proposed order or judgment the court adopts as provided by subsection [a][1] not later than the 30th day after the date the associate judge signed the order or judgment.”

Per Texas Law, Peyton’s rulings are a now only expired proposed Orders and not a Final Order by the Court. Given that we are well past 30 days from the dates of August 9, 2013 and October 16, 2013 when Peyton signed his proposed Orders, the proposed Orders are completely VOID at this time.

Although absent of integrity, Peyton was an experienced associate Jurist and knows Miller had to sign off on his work. Miller never signed off because Peyton never provided the now expired proposed Orders to Miller or Miller found fault with the now expired proposed Orders and Peyton never corrected it to Miller’s satisfaction.

**(E) REQUIRED SIGN OFF BY THE
JUDGE OF RECORD FOR AN APPEAL**

Without Peyton having the Judge of Record sign off on his proposed Orders as required to make an Appealable final Order, Peyton denied me my civil right to take the Probate Court Case to a Texas Appeal Court.

A State Appeal court will **not** accept a proposed Order as a Final Order.

Refer to Texas Government Code 54A.217[b] "*Except as provided by subsection [c], the date the judge of a referring court signs an order or judgement is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or a supreme court*" ["c" refers to 54A.209.16 where all parties have agreed to the associate judge's ruling in writing, which is certainly not applicable with my case].

HAVING AN ORDER WHICH IS SUITABLE FOR APPEAL IS THE ULTIMATE DEFINITION OF A FINAL ORDER BY THE COURT AND THIS LAW CLEARLY AND UNEQUIVOCALLY SHOWS PEYTON'S WORK IS SIMPLY A NOW-EXPIRED PROPOSED ORDER.

(F) APPLICABLE CASE LAW

Illinois Central R.R. Co. v Guy 682 F 3d 381, 390 [5th circuit 2012] This is a Case were the Railroad sued two attorneys in a Federal Court for damages they incurred from a State Court Ruling where the Attorneys were found to have been deceptive. No party contested the validity of the State Court Ruling and it is assumed to be valid.

In essence, the Railroad was seeking compensation for damages directly related to the results of a valid State Court ruling. The 5th Circuit deemed that "The Rooker Feldman Doctrine" did not apply to this case because adjudicating Illinois Central claims did not require the District Court to review any final Judgment by a State Court even though the requested reimbursement are related to the losses in the State Court decision. It is apparently "OK" to seek the losses one incurred in a valid State Court Ruling as long as the ruling itself is not reviewed. As there is no Valid Ruling in my case for this Court to review, it appears I clearly have a right to seek compensation for the losses I incurred in an invalid State Court Procedure.

As in the *Illinois Railroad Case*, Fraud was acknowledged within the State Court Case. The Fraud in my Case is actually more egregious as the Fraud in my Case was actually performed by Officers of the Court and not an outside party.

If one can prosecute and seek compensation for Fraud by a third party in a single valid State Court Case and be able to bypass the Rooker-Feldman Doctrine, I should certainly be permitted to prosecute for compensation for fraud by the Court itself from invalid State Court hearings.

Salinas v U.S. Bank National Association 13-41012 U.S. Court of Appeals for the Fifth Circuit quoting United States v Shepherd 23 F.3d 923, 925 [5th Circuit 1994] observing that the Rooker-Feldman Doctrine would likely not bar federal court review of void state court judgments . . . " . . . a federal court may review

the state court record to determine if the judgment is void . . . a judgment is void . . . ”if the rendering court [1] lacked jurisdiction over the party or his property [2] lacked jurisdiction over the subject matter of the suit [3] lacked jurisdiction to enter the particular judgment rendered; or [4] lacked capacity to act as a court” With no Jurisdiction by Peyton, this quote from this case, from this court, fits my Case to a “T”.

Mosely v Bowie City, Tex 275 Fed Appx 327, 329 [5th circuit 2008] citing Shepherd for the proposition that under some circumstances, a federal court may review the state court record to determine if the judgment is void”

Rooker v Fidelity Trust 263 US at 415, 44 S. Ct. 149: “finding no federal jurisdiction to review state court judgments where the state had subject matter over the underlying case. . . . This clearly implies that if a State Court Judgment is Valid, the Doctrine does not apply.

Travelers Insurance Co v Joachim 315 S. W. 3D 860 863 [Tex 2010] quoting Browning v Prostok, 165 S. W. 3d 336, 346 [Tex 2005] “ . . . A judgment is void only when it is apparent that the court rendering the judgment had no jurisdiction of the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter a particular judgement or no capacity to act.”

The Federal Court has the right, and from a Civil Rights point of view, the obligation to assess my case to determine if the State Judgment is Valid and, if Void, Rooker Feldman cannot and does not apply.

Per First District of Texas Appeal Court ruling Jackson v Saradjian 01-11-00128-CV [2013] “ . . . that a judgment of the Associate Judge become the Judgment of the referring Court only on the referring Court’s signing of the proposed judgment . . . There is no referral Order in this case, so the November 22, 2010 decree signed by an Associate Judge does not even have the standing of a . . . proposed judgment. Because the November 22, 2010 decree was not signed by the District judge, we hold that it has no legal effect as a judgment.”

This ruling by the First District of Texas is extremely clear, pertinent, rational and logical. . . . No Order and No Sign-off creates no Valid Order.

(G) FRAUD/FORGERY

During the trial, Pyke’s two legal assistants initially testified that they witnessed Dr. Robert Beard signing the DNR [Do Not Resuscitate Form]. They later backed-off stating, again under oath, that Doctor Beard was never in their office, yet they signed as witnesses to his signature.

My Family grossly underestimated the Fraud committed by Pyke on March 17, 2011 and after the Probate Trial, we employed a hand writing expert, Curtis Baggett, who confirmed that ALL of the Robert Kam signatures on the March 17, 2011 documents are Forgeries [R.E. 21 to R.E. 23]. Given the March 18, 2011 Medical Record showing a period of syncope and a 69/43 blood pressure reading [R.E. 12], this now

makes perfect sense. It was illegal to Probate the documents with forged signatures. *Aston v Lyons*, 577 S.W. 2D 516, 519 (1979) [TX Civil Appeal]. The handwriting expert who created the reports, is highly reputable and frequently employed by Dallas County.

Judges Miller and Peyton were highly motivated to cover for the gross incompetence, ineptitude, and misconduct of Pyke.

(H) PREGNANCY/JURISDICTION

A woman is pregnant or not pregnant at any time. There is no "in between". The same concept holds true in Law. A Judge has Jurisdiction or he/she does not have Jurisdiction. If he or she does not have Jurisdiction, any ruling made by such Judge has no Force of Law. In addition, any Judicial Act made by a Judge without Jurisdiction can, and in this case, has placed an undue burden on an innocent citizen.

The concept of "Partial Jurisdiction" does not exist in Law. Peyton NEVER had Jurisdiction at any time for either hearing. While this is a simple analogy, it is a very powerful concept that all parties can comprehend.

John Peyton presided over two hearings. From July 22, 2013 to July 26, 2013 and the second on October 16, 2013. There is No Order of Referral for John Peyton from any entity for the October 16, 2013 hearing. There is an Order of Referral filed in the Court in late August 2013. This Order however, **did not exist** prior to late August and it was never provided to any party in the Suit. This Order has numerous technical

and factual flaws, has an unknown signatory, which deem it to be of no legal value and illustrates the Fraud created by someone with access to court Records.

“JUDICIAL POWER IS VESTED IN THE COURT, NOT AN INDIVIDUAL”. When Peyton walked into Miller’s Court on July 22, 2013 and October 16, 2013, he did not have authority from the Judge of Record, Michael Miller. Furthermore, Miller never reviewed or signed off on any ruling by Peyton. Only Miller and Guy Herman can provide authority to Peyton. No other Officer of the Court can do this.

Failure to provide a duly authorized Judge in my trial represents a severe denial of my civil rights.

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JUDICIAL BACKGROUND

The Federal District Court denied the Petitioner’s request based solely on the Rooker Feldman Doctrine which disallows any Federal Court review of a valid State Court Judgement. The District Court failed to address the actual validity of the Judgement and also failed to consider the violations of Federal Civil Rights and the burden placed on the Petitioner related to the process of the “Void” state Judgement.

The Fifth Circuit Court of Appeals upheld the District Court Ruling related to the Rooker Feldman Doctrine. The Federal Appeal Court also failed to address any of the violations of Federal Civil Rights during the State Judicial proceedings and ignored the Fact that the proposed and now expired Ruling by a former

Associate Judge, with no Valid Order of referral, as required by State Law and no sign off by the Judge of Record for the Court, as Required by State Law was and is Void.

Rooker v Fidelity Trust Co. 263 US 413-415, 44 S. Ct 149 [1923]: "finding no federal jurisdiction to review state court judgments where the state had subject matter over the underlying case. . . ." This requires a VALID State Court Judgement where the state court had proper jurisdiction *District of Columbia Court of Appeals v Feldman*, 460 US 462 [1983]. This is also based on a VALID non Federal court decision and is not applicable to this Case.

The case law which defines the Rooker-Feldman doctrine is based on undisputed VALID state court rulings. The District Court and the Appeal Court also refer to additional Case Law which are based on VALID State Rulings. Judge John Peyton was an Associate Judge which required an Order of Referral from the Judge of Record [Miller] or the State Probate Judge [Guy Herman] prior to entering a State Probate Court. John Peyton failed to acquire Orders of Referral for two hearings on my Case in July and October 2013. As an Associate Judge, John Peyton was also required to have the Judge of Record sign off on any of his proposed Rulings within 30 days per State Law. John Peyton has never had the Judge of Record sign off on any rulings in my Case and, as of this date, the proposed Orders are Void.

The importance of this Case is critical to the Law across this Country. Without exception, all prior cases

related to the Rooker Feldman Doctrine rely on VALID State Court Rulings. In this Case we have no Valid State Court Ruling but essentially only a proposed order by an Associate Judge who failed to have the sign off by the Judge of Record within 30 days, as required by State Law. The Dallas District Court and the Fifth Circuit Court of Appeal have now created Case Law that is completely void of Logic and is in complete conflict with all prior Case Law related to the Rooker-Feldman Doctrine.

The Case is also critical as the lower Federal Courts failed to address any of the violations of Federal Civil Rights related to the illegal State Court activities. Per the lower Federal Court rulings one can interpret that holding a trial in a State Court by a Jurist without proper authority and creating Void Rulings which unfairly burdens a litigant is not a violation of one's Civil Rights to a Fair and Equitable trial. This is completely void of logic and counter to accepted legal doctrine and tradition.

◆

MR. PEYTON

John B. Peyton Jr. was removed as a Judge by the Texas State Commission on Judicial Conduct in early 2018. This removal was allegedly related to an affair he carried on with a Probate Attorney during a trial while she represented one party in a Case that Peyton presided over and he had made rulings in favor of her client during the trial proceedings.

Affairs and intimate relationships are common and normally accepted in the legal community and have been so for many years. Affairs are normally not a cause for severe action such as removal of a long term Jurist. While the D magazine article [R.E. 24 to R.E. 36] on Peyton well documents the affair, Peyton's gross betrayal of his wife and family, Peyton's incredible absence of good judgement, and his absence of understanding of personal responsibility, it does not actually prove that Peyton was influenced by this relationship. That would be pure speculation.

The Judicial Commission however, already had a significant file of prior misconduct, including well documented information on this Case. The published affair was simply used to remove him without any need to disclose more serious and actual documented misconduct.

In evaluating this Petition, I trust this Court will consider Peyton's documented absence of integrity and unprofessional conduct, and the fact that the State of Texas has deemed him unfit to be a Jurist.

Per Texas Government Code 54A.204: *QUALIFICATIONS: To qualify for appointment as an associate judge under this subchapter, a person must: [4] not have resigned from office after having received notice that formal proceedings by the State Commission on Judicial Conduct had been instituted as provided in Section 33.022 and before final disposition of the proceedings.*



UNCONTESTED FACTS OF THE CASE

1] The Amended Trust by Pyke is factually Void as Robert Kam failed to have Testamentary Capacity to recognize that I was omitted from the illegal revision by Pyke, to an active irrevocable Trust.

2] I am an uncontested, valid heir under any Trust scenario for a fixed amount and there is no court testimony or defense pleading that I am not a valid heir for \$10K and that my contest was frivolous in any manner.

3] Documentation and presentation have consistently shown that unelected, unappointed Associate Judge John B. Peyton Jr. did not have authorization to be in the Courtroom on July 2013 and October 2013 for my hearings as required by Texas Law.

4] Judge Miller has never signed off on any of Peyton's now expired proposed orders in my Case, as required by Texas Law.

5] The Authority of a Court is the Court itself and not an individual.

6] Without Authorization and/a sign off by the Judge of Record for the Court, all of Peyton's rulings are "VOID ORDERS."

7] Peyton has not produced valid state final Court Orders suitable for an Appeal.

8] As Peyton's Rulings are now expired "VOID ORDERS", per State Law.

9] The Rooker Feldman Doctrine can only apply to valid State Court orders.

10] A unelected, unappointed Jurist holding a trial without authorization and a sign off by the Judge of Record for the Court, all required by State Law, is a violation of my Civil Rights.

11] Peyton's denial of my right to depose an announced Medical Expert by the Defense in a Case involving Capacity is a violation of my Civil Right to a Fair and Equitable Trial.

◆

CONCLUSION

The Magistrate in the District Court failed to understand this Case or she did understand this Case and was pre-disposed to cover for Judicial misconduct. In her Conclusion she claims that "*The relief Kam sought in the federal district court included a 1] retrial of the first will contest suit to remove the "malicious judgement" entered against her [2] her \$10,000 inheritance . . .*" This statement is completely false and represents a severe error or intentional misrepresentation of my Cases by the Magistrate.

I have never asked for a retrial but a FAIR TRIAL. As Peyton did not have Jurisdiction and Miller never signed off on any Peyton Ruling, I have

technically never had a trial to date with any legitimacy. The actual plea from Page ID 50 is noted below

“I pray that Dallas County and the State of Texas grant me a Fair Trial, with a jury, so that I may have the opportunity to have a Malicious Judgement removed, and that I receive my assigned inheritance.”

I did not and have never asked the federal district court to remove any judgement [with no Jurisdiction, there is no Judgment to remove]. I did not and have never asked any federal court to give me my inheritance. I asked for a Fair trial to have the **OPPORTUNITY** to have the malicious Judgement removed and the **OPPORTUNITY** to receive my assigned inheritance.

This is a critical distinction.

The District Court Judge of Record clearly failed to review the Magistrate’s work and the Appeal Court simply copied the Magistrate’s Opinion, incorrectly assuming that the District Court Judge had supervised the Magistrate. They summarily dismissed all other pleadings without any review or commentary in what appears to be a bout of “Wizard of Oz” syndrome.

As a direct result of this inadequate review and/or lack of understanding of the Case, the Federal Court system has now created Case Law absence of all logic that claims the Rooker-Feldman Doctrine can now apply to Void State Court Rulings.

The Supreme Court must reverse the Appeal Court decision to re-establish Logic into the legal system with respect to the Rooker Feldman Doctrine.

I also pray that the Supreme Court shall permit me to seek relief from Dallas County and the State of Texas for the denial of my access to a Fair and equitable trial in accordance with State Law.

Respectfully submitted,

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