
No. 19-5147

**IN THE
SUPREME COURT OF THE UNITED STATES**

FLORDELIZA A. HAWKINS,

Petitioner,

v.

SUNTRUST BANK, SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES,
ANDERSON COUNTY SHERIFF'S OFFICE,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

**BRIEF IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI**

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STATEMENT OF THE CASE

This appeal arises out of a 2012 foreclosure and subsequent sale of the Petitioner's home located in Anderson County, South Carolina. Following the sale of the home at public auction, SunTrust Bank obtained a Writ of Assistance from the Court of Common Pleas in Anderson County directing that the Respondent Aiken County Sheriff's Office ("ACSO") assist with the removal of the Petitioner and her husband, James Hawkins, from the subject property. On January 15, 2013, the Plaintiff and her husband were evicted from the property. At that time, the ACSO determined that the husband, who was 74 years old and in poor health, needed to be placed in Emergency Protective Custody in accordance with S.C. Code Ann. § 43-35-55. Mr. Hawkins was then transported via EMS to the local hospital and the Respondent South Carolina Department of Social Services ("SCDSS") was notified. SCDSS personnel, through the Adult Protection Services Program, filed a petition for protective custody with the Anderson County Family Court on January 16, 2013, and an Order of Emergency Protective Custody was issued by the Family Court following a probable cause hearing held on January 17, 2013. A Merits Hearing was scheduled for February 21, 2013, but Mr. Hawkins died prior to that date.

The Respondents ACSO and SCDSS filed a motion to dismiss on several grounds, including ACSO and SCDSS, as state entities, are not "persons" amenable to suit under 42 U.S.C. § 1983, ACSO and SCDSS are entitled to Eleventh Amendment immunity, and the Petitioner's claims are barred by the Rooker-Feldman doctrine. The district court granted the Respondents' motion to dismiss on those grounds, thereby adopting the Report and Recommendation as issued by a magistrate judge.

The Petitioner appealed to the Fourth Circuit Court of Appeals, which affirmed the judgment of the district court. Specifically, the Fourth Circuit ruled that "Hawkins has waived

appellate review by failing to file specific objections after receiving proper notice.” *Hawkins v. SunTrust Bank*, 764 Fed. Appx. 289, 290 (4th Cir. 2019).

REASONS FOR DENYING THE PETITION

In her Petition for Writ of Certiorari, the Petitioner fails to set forth any basis for review by this Court. The Petitioner merely states in a conclusory manner that her claims against the Respondents were improperly dismissed and that she should be granted the damages that she seeks.

In particular, the Petitioner fails to address the actual bases for the dismissal in the district court. The record reflects that the Respondents ACSO and SCDSS, as state entities, are not “persons” under 42 U.S.C. § 1983 and are similarly entitled to Eleventh Amendment immunity. *Will v. Michigan State Police*, 491 U.S. 58 (1989). Moreover, the district court correctly ruled that the Petitioner’s claims are barred by the Rooker-Feldman doctrine. The district court recognized that the Petitioner was contesting the foreclosure order and Family Court order issued in state court, which she was precluded from doing under the Rooker-Feldman doctrine. The application of the Rooker-Feldman doctrine was explained by this Court in the case of *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), as follows: “[t]he Rooker–Feldman doctrine, we hold today, is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.” 544 U.S. at 284. Thus, the doctrine applies if a state court loser is challenging a state court decision by alleging that the state court decision caused him injury.¹

¹

The Petitioner was previously unsuccessful in challenging the final judgment in the

Likewise, the Petitioner fails to even address the affirmance by the Fourth Circuit Court of Appeals. She fails to argue or show that the Fourth Circuit was in error in concluding that her objections to the report and recommendation filed in the district court lacked sufficient specificity, and as a result, her right to appellate review was waived.

In short, there is no basis for the issuance of a writ of certiorari.

foreclosure action filed in South Carolina by the filing of a “wrongful foreclosure” action in California state court. *See, Hawkins v. SunTrust Bank*, 246 Cal.App.4th 1387, 206 Cal.Rptr.3d 681 (2016). This Court denied a writ of certiorari in that case. *See, Hawkins v. SunTrust Bank*, 137 S.Ct. 651 (2017).

CONCLUSION

For the foregoing reasons, the Respondents South Carolina Department of Social Services and the Anderson County Sheriff's Office submit that the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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