

original

No. 19-5443

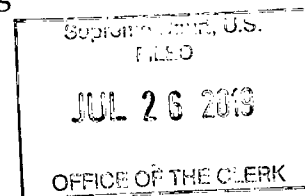
ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

PHAN, KENT VU, Petitioner

v.

JUDGE R BROOKE JACKSON, Respondent.



On Petition for a Writ of Certiorari to the
Tenth Circuit Court of the Colorado

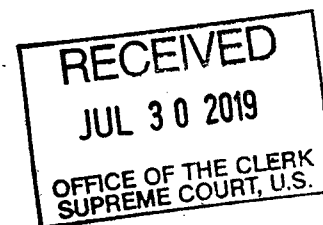
PETITION FOR WRIT OF CERTIORARI

Petitioner's name: PHAN, KENT VU

Address: 14896 E 2nd Avenues, Apt: H106

City, State, Zip Code: AURORA, COLORADO 80011

Phone number: (303) 875-5224



QUESTION(S) PRESENTED

None

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page.

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Petitioner: Phan, Kent Vu

Address: 14896 E 2nd Avenues, Apt: H106
Aurora, Colorado 80011.

Respondent: Judge R Brooke Jackson

United States District Court

901 19th Street

Denver, Colorado 80294-3584

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APPENDIX A: Order and Judgment by the Tenth Circuit Court of Appeals on
04/30/2019

APPENDIX B: Order to Dismissal by the U.S. District Court for the District of
Colorado on 11/30/2018

APPENDIX C: Application No 19A73 Motion to extension time to 08/28/19.

TABLE OF AUTHORITIES CITED

CASES None

PAGE NUMBER

STATUTES AND RULES

- Civil Rights
- The Seventh Amendment
- The Fourteenth Amendment
- American with Disabilities Act
- Equality Act 2010 protects for mental illness person.
- Protection and Advocacy for Individuals with Mental Illness Act of 1986, 42 U.S.C. 10801 et seq.
- 42 U.S.C. 1981, 1983, 1985, and 1986.

OTHER None

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment
below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the Tenth Circuit court of appeals appears at
Appendix...A...to the petition and is
report at Appendix A

has been designated for publication but is not yet reported; or,
is unpublished.

The opinion of the United States district court appears at Appendix B..to

The petition and is

report at...Appendix B

has been designated for publication but is not yet reported; or,
is unpublished.

JURISDICTION

For the cases from **federal courts**:

The date on which the Tenth Circuit Court of Appeals decided my case was: **04/30/2019**

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date:...*none*..., and copy of the order denying rehearing appears at Appendix....

An extension of time to file the petition for a writ of certiorari was granted to and

Including Motion to Extension time on Application 19A73 on July 17, 2019 (date) in

Appendix No: C....

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Civil Rights
- The Seventh Amendment
- The Fourteenth Amendment
- American with Disabilities Act
- Equality Act 2010 protects for mental illness person.
- Protection and Advocacy for Individuals with Mental Illness Act of 1986, 42 U.S.C. 10801 et seq.
- 42 U.S.C. 1981, 1983, 1985, and 1986.

STATEMENT OF THE CASE

Petitioner was disabled due to the accident on 04/21/2012. On the June 13, 2013, July 11, 2013, August 06/2013, and March 05, 2015 State farm Insurance sent to plaintiff the 4 letters on which State Farm Insurance informs that it is no longer paying for medical bills relate to accident of 04/21/2012. On the July 22, 2013 State Farm Insurance hired doctor Peter Weingarten do an Independent Medical Evaluation; petitioner is permanently disabled and ongoing treatment, but Dr. Peter Weingarten evaluated that petitioner had reached maximum medical improvement; and State Farm leant on this evaluation and stop treatment relating to accident on 04/21/2012 although petitioner become permanently disabled on the November 2012 and continuously treatment. Thereafter, State Farm Insurance continuing coerce petitioner in treatment plan as well as legal processing at court. Particularly the complaints for injured by car accident, the cases were 16-cv-02728 RBJ and 17-cv-03073 GPG, petitioner is on seriously injured and become permanently disabled, but State Farm Insurance exploited the impairment of petitioner on the purpose to overwhelm the lawsuit under patronage of Judge R Brooke Jackson. Judge R Brooke Jackson, himself, intentionally holds complaint in 201 days before delivery Summon and complaint to State Farm Insurance. Judge R Brooke Jackson intentionally created causation by delivery Summon and complaint after 90 days; create causation for State Farm Insurance alleged that petitioner was improperly serve to defendant and file a motion to dismiss. The case filed on

11/07/2016 and dismissed on 11/20/2017; a year without of process of law.

Petitioner believed that Judge R Brooke Jackson knows that Rule 4 stipulated that the Summon and complaint shall be delivery to defendant not later than 90 days after day filed. Judge R Brooke Jackson intentionally hold petitioner's complaint from 11/07/2016 to 05/26/2017 was 201 days; too late; therefore, State Farm Insurance alleged that plaintiff was improperly served the Summon and complaint and State Farm Insurance file a motion to dismiss. This was the connivance between Judge R Brooke Jackson and defendant State Farm Insurance.

After judge ruled that Plaintiff failed to serve for State Farm Insurance, United States District Judge R Brooke Jackson dismissed this case 16-cv-02728 CBS-RBJ without hearing and jury trial although petitioner has apparently evidences of injuries on which hearing and jury trial can be processing.

On the court day 11/19/2017 petitioner explained to Judge R Brooke Jackson that court intentionally hold my complaint in 201 days before delivery summon and complaint to defendant, plaintiff did not delivery Summon and complaint to defendant State Farm Insurance; therefore, plaintiff was not failed for serve to defendant (improperly serve). By anyway judge manipulates the case, and dismisses the case regardless on legality. Here are excerpted from Fed.R.Civ. P. Rule 4 on which U.S. District Court violated then impute to plaintiff.

- (3) *By a Marshal or Someone Specially Appointed.* At the plaintiff's request, the court may order that service be made by a United Statesmarshal or deputy marshal or by a person specially appointed by the court. The court must so order if the

plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. §1915 or as a seaman under 28 U.S.C. §1916.

- Rule 4(m) TIME LIMIT FOR SERVICE. If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A).

Judge Craig B. Shaffer and Judge R Brooke Jackson intentionally holds complaint from 11/07/2016 to 05/12/ 2017 (186 days) before order to U.S. Marshall; and State Farm Insurance received Summon and complaint on 05/26/2017; 201 days, pursuant to Rule 4 is within 90 days Summon and complaint must be serve to defendant. Judges intentionally hold over 90 days for the purpose State Farm Insurance has good reason for file a motion to dismiss. Plaintiff filed the case 16-cv-02728 RBJ-CBS at United States District Court under In Forma Pauperis; therefore, the Summons and Copy of Complaint shall be delivery by Court orders to the U.S. Marshall, not serve by plaintiff. Plaintiff had contacted to Court clerk and request issue a Summons in order that plaintiff able to serve for defendant; Court clerk replied that your complaint filed under In Forma Pauperis; therefore, Summons and copy of complaint must be sent to defendant by Court, not by you (plaintiff). The lately delivery of Summon and complaint was the deliberation between judges and defendant State Farm Insurance.

Judges R Brooke Jackson know that Rule 4 (m) is delivery complaint and Summon

within 90 days not a 201 days. Judge Craig B. Shaffer and Judge R Brooke Jackson implication when hold complaint in 201 days before delivery to State Farm Insurance, and this was good reason on that State Farm Insurance file a motion to dismiss.

Plaintiff did not appeal this Order dismissal to this Court because petitioner Found that the bias and racial discrimination is happening at this court. On the 11/19/2017 Judge R. Brooke Jackson judged that plaintiff failure to serve for defendant State Farm Insurance; Plaintiff stated to Judge R Brooke Jackson that Summon and copy of complaint had been delivery by the U.S. Marshall followed the court order to the U.S. Marshall, not served by plaintiff because this case plaintiff filed under In Forma Pauperis. Judges have known that plaintiff is disabled and receiving Security Supplemental Income; with income \$720.00 per month; plaintiff unaffordable for hire professional server. Therefore, Magistrate Judge Craig B. Shaffer order plaintiff must serve for defendant State Farm Insurance; that was impossibility; predictable here was judges known plaintiff unable to do that and this was good cause for Judge Craig B. Shaffer dismiss the complaint. This was deliberation of Magistrate Judge Craig B. Shaffer on the purpose to overwhelm plaintiff and dismiss the case, and create a path for Judge R Brooke Jackson dismiss the case as well. Please note that plaintiff disabled on both physical and mental, lacking legal comprehension, lacking defensibility before the law.

Petitioner calls for help at Colorado Legal Services, but frustrated. Therefore, dismiss the case and overwhelm on disabilities plaintiff's complaint is easily, judges well-organized and set a stage for dismiss the case.

REASONS FOR GRANTING THE PETITION

Petitioner is disabled on both physical and mental. Petitioner is lacking legal comprehension; petitioner is lacking defensibility before the law. May has connivance between Judge R Brooke Jackson and the State Farm Insurance when complaint of petitioner has been hold by court in 201 days before delivery to defendant State Farm Insurance; this was intend by Judge R Brooke Jackson then impute to petitioner, and this was a good cause for State Farm Insurance files a motion to dismiss.

Look over entirely the case under legitimately matter; petitioner found that Judge R Brooke Jackson had a bias and racial discrimination when dismissed the case in arbitrarily and without of jury trial when petitioner is still in injury. Because petitioner is Asian; the racial discrimination can occur; therefore, petitioner had demanded for jury trial when file a complaint, and only trial can bring a justice to petitioner. Pursuant to the 7th Amendment and 14th Amendment stipulated; petitioner's constitutional rights had been deprived by Judge R Brooke Jackson and State Farm Insurance Therefore, petitioner prays at United States Supreme Court should granting this petition.

CONCLUSION

Petitioner is living under impairment of disabilities, and lacking legal comprehension as well as lacking defensibility before the law. Petitioner is still in injury and ongoing treatment. The connivance between Judge R Brooke Jackson and defendant State Farm Insurance is explored when petitioner stated to Judge R Brooke Jackson that the improperly served to defendant was not by petitioner; petitioner did

not delivery; but by the court ordered to the U.S. Marshall delivery Summon and complaint in lately of 201 days; when petitioner stated that; Judge R Brooke Jackson said: you speak English but I don't understand. Then Judge R Brooke Jackson asks defendant State Farm Insurance counsel that: Dismiss huh? State Farm Insurance counsel reply: Yes, dismiss; Judge R Brooke Jackson announced: Case is dismissed. Petitioner very surprise for this judicial way. Case dismissed without hearing and trial; although that apparently evidences of injury can support for trial, but not. Judge R Brooke Jackson and State Farm Insurance's counsel were violated to the Seventh and Fourteenth Amendment and deprived civil rights of petitioner. By these reasonable; petitioner prays at the United States Supreme Court that the petition for writ of certiorari should be granted.

Dated: 07/26/2019

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Phan Vu", is written over a horizontal line.

Petitioner: Phan, Kent Vu