

19-5482 ORIGINAL
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
AUG 03 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

JOANN JEFFERSON (PRO SE) — PETITIONER
(Your Name)

vs.

ONEWEST BANK FSB (DEFUNCT) — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF THE STATE OF NEW JERSEY
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOANN JEFFERSON
(Your Name)

365 BERGEN AVENUE
(Address)

JERSEY CITY, NEW JERSEY, 07304
(City, State, Zip Code)

201-526-5468
(Phone Number)

QUESTION(S) PRESENTED

1. Can Pro Se Legatees, Heirs, Executors, Estate Representatives, Devisees, successors, in a foreclosure pendency, (a new defendant, in an ongoing litigation, that is nearing the end) be denied the procedural due process right to discovery and still have a Fair and Impartial Trial?
2. Did the State Courts violate the Equal Protection mandates of the State and Federal Constitutions by not disturbing the Trial Court's decision, resulting in irreparable harm and an erroneous deprivation of property?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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:

RELATED CASES

ONE WEST BANK, FSB v. JEFFERSON, NO. A-005197-16 197 A. 3d 667 - New Jersey Supreme Court 2018

ONE WEST BANK, FSB v. ERROL JEFFERSON, NO. A-5197-16T1, New Jersey Superior Court - Appellate Division 2018

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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OTHER	PAGE NUMBER
N/A	N/A

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 United States court of appeals appears at Appendix _____ to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at N/A; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at ONE WEST BANK, FSB v. Jefferson, 197 A. 3d 667, or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the NEW JERSEY APPELLATE DIVISION court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

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: N/A, and a 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 N/A (date) on N/A (date) in Application No. A.

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

For cases from **state courts**:

The date on which the highest state court decided my case was NOVEMBER 16, 2018. A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: [For Reconsideration] (M-656) MARCH 5TH, 2019, and a copy of the order denying rehearing appears at Appendix E.

An extension of time to file the petition for a writ of certiorari was granted to and including AUG. 5TH, 2019 (date) on JUNE 12TH, 2019(date) in Application No. 18 A 1290.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment XIV

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

This matter is one of great public importance, interest and significance as it embroils issues relevant to the procedural and substantive rights of thousands of Legatees, Heirs, Executors, Estate Representatives, Devisees, and Successors-in-interest as Pro Se, new defendants, in foreclosure pendencies, and their Procedural Due Process Right to the devices of Discovery and the Constitutionally protected right, to a fair and impartial hearing.

Joann Jefferson (**Pro Se**) brings this Petition for Writ of Certiorari from A New Jersey Supreme Court decision November 16th 2018, in the matter of a residential foreclosure.

Having eluded the Urban stereotypical derision, for more than half of a century... Petitioner, euphemistically succumbed to its tacit prescript, by an impugned service on May 31st 2016, and Constitutionally infirmed judgments; on October 28th 2016, (Default) July 18th 2017, (Final) July 24th 2017, (Compel Discovery) and June 22nd 2018, (Appeal).

Petitioner had no knowledge of the Foreclosure and the alleged indebtedness prior to the impugned service on May 31st 2016, and since, the nescience has persisted due to the malicious obfuscation of the evidence and the Honorable Courts' denial of discovery, Petitioner offers a truncated version, from documents submitted into the court records by the adversaries. The allegations are as follows:

Errol Jefferson and Ena Jefferson executed and delivered to East Coast Mtg Corp., a promissory note, in return for a \$175,000 loan, on June 28th 2007. To secure repayment

of the loan, mortgage was given to Mortgage Electronic Registration System (MERS), as nominee for East Coast Mtg. Corp., on the property located at 365 Bergen Avenue, Jersey City, New Jersey. The mortgage was recorded on July 12, 2007. Defendant Ena Jefferson passed away on August 23rd 2010 and four months later, Defendants defaulted under their mortgage obligation on January 1st 2011.

The purported defaulted promissory note was purchased by/mortgage assigned to Plaintiff, OneWest Bank FSB on May 24th 2012 and two months later, on July 24th 2012, Plaintiff filed a Foreclosure Complaint.

Defendant Errol Jefferson passed away January 2014 or March 15th 2015 according to which complaint is being perused.

Petitioner has vehemently denied the indebtedness and contends that the impecunious, moribund pair of seniors, both in their eighties at the time, of the alleged transaction, 6/28/2007, as their ID and other pertinent documents would have shown did not have the financial capability to qualify or the cognitive skills, intellectual capacity or legal ability to contract, as one; was blind, paralyzed/ bedridden, with Dementia/Alzheimer's and, since January of 2007 was a long term resident, in a nursing home, who could only have been transported by ambulance; the other was hard of hearing, suffered paralysis from a stroke, was wheelchair-bound, had Parkinson's Disease, also suffered with Dementia and lived in a depressed neighborhood, in a house that was over a hundred years old, and in various stages of disrepair.

It is implausible, improbable and impossible that the penurious, in extremis pair with such mental degeneration could have legally contracted with any legitimate financial entity, *Hauer v. Union State Bank* 192 Wis. 2d 576, 532 N.W.2d 456 (Ct. App. 1995), thus, the dire need for the Procedural Due Process Right to Discovery (Fed. R. Civ. P. 26-37) and the protection of the 5th and 14th Amendments, under the Constitution, for fairness and impartiality.

The Supreme Court hinted at the reality in *Carey vs Piphus*, 435 U.S. 247, 259 (1978)... that, Procedural due process rights are meant to protect persons from the mistaken or unjustified deprivation of life, liberty or property.

The Deprivation of property, is a traumatic and devastating loss and there must be some semblance of fairness, in the decision making. Pro Se Legatees, Heirs, Executors, Estate Representatives, Devisees, and Successors-in-interest are not just 'third parties' whose 'interest' must be secured, by any means necessary.

The NJ Supreme Court failed to observe the most fundamental due process right and this arbitrary, inequitable, biased and oppressive denial of such a Procedural right; tantamounts to an abuse of discretion, contravenes Petitioner's Constitutional Rights and undermines the neutrality of the proceedings.

The New Jersey Supreme Court's decision will constitute an abuse of discretion where the decision was made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis. *United States vs. Scurry*, 193

N.J. 492, 504, 940 A.2d 1164 (2008) (quoting Flagg vs. Essex Cnty. Prosecutor, 171 N.J. 561, 571, 796 A.2d 182 (2002))

The Appellate Court applies an abuse of discretion standard to decisions made by trial courts relating to matters of discovery. *C.A. ex rel. Esther Applegrad vs. (Dr.) Eric Bentolila, 219 N.J. 449, 459 (2014) (alteration in original) (quoting Pomerantz Paper Corp. vs. New Cnty. Corp., 207 N.J. 344, 371 (2011)).*

As a result, the NJ Supreme Court generally defers to the disposition of discovery matters, unless the court has abused its discretion or its determination is based on a mistaken understanding of the applicable law." *Rivers vs. LSC P'ship, 378 N.J. Super. 68, 80 (App. Div.)(emphasis added), certif. denied, 185 N.J. 296 (2005)).*

The New Jersey Supreme Court did not engage in the requisite analysis of the facts and issues, (*People vs. Thimmes (2006) 138 Cal.App.4th 1207, 1212-1213.*) nor asserted the appearance or reality of fairness, as impartial arbiters.

Petitioner maintains that discovery is indispensable to a fair trial. The lack thereof is Justice denied and a violation of Petitioner's Constitutionally protected right, under the 5th and 14th Amendments, to a FAIR and IMPARTIAL TRIAL by a dispassionate adjudicator.

REASONS FOR GRANTING THE PETITION

Research has found no like case in any jurisdiction, however the intellectual novelty of the issues in this foreclosure has the potential to impact Mortgage Foreclosure pendencies, not only in New Jersey, but across the country, as the exceptional questions must be addressed to obviate ruinous loss and immeasurable suffering of thousands, due to the erroneous deprivation of property and egregious miscarriage of justice.

Civil jurisprudence demands vigilance in affording the most basic, procedural due process element, the right to engage in discovery, as in the request for production of documents, request for admissions, interrogatories, and depositions, denial of which is a departure from the accepted and usual course of Judicial Procedure, and constitutes a due process violation, which offends the rule of law.

Petitioner, as Legatee and a new Defendant was at a grossly arrant disadvantage due to incontrovertible evidentiary deficiencies, resulting in an inadequate defense, grievous loss and irreparable harm, which should be the justification for the Procedural Due Process Right to Discovery, for Legatees, Heirs, Executors, Estate Representatives, Devisees, and Successors-in-interest... or any 'new' Defendant, or new joinder, in a foreclosure pendency, to effect the fairness and impartiality guaranteed to all litigants, under the 5th and 14th Amendments, of the United States Constitution.

This issue of the denial and violation of a Federal Rule of Civil Procedure has broader implications, to which the pervading dicta of Judicial Waste, require more than just clarity or superintendence. The Honorable Supreme Court must transmute dicta into

decision, by applying some legal standard, when dealing with Legatees, Heirs, Executors, Estate Representatives, Devisees, and Successors-in-interest, so as not to unfairly prejudice such litigants and transgress their Constitutionally protected right to due process of law, during these complicated adversarial disputes.

In sum and ad nauseum, the question of whether the aforementioned litigants can be denied the most fundamental procedural right and still have a constitutionally fair and impartial trial is a significant question of federal law and presents sufficient judicial imperative, enormous public import and legal locution to warrant granting of this Petition for a Writ of Certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature consisting of the letters "J. J." in cursive script, positioned above a horizontal line.

Date: 07/27/2019