

ORIGINAL

No. 19-5885

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE
Supreme Court Of The United States

Olufemi S. Collins
Petitioner

v.

MARK GONZALES dba ASAP TOWING. et al
Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO
TO THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT DIVISION FIVE

PETITION FOR WRIT OF CERTIORARI

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

QUESTIONS PRESENTED

Whether in the 2nd Appellate District, Division 5, the Appellant's "Motion to Recall Remittitur and Reinstate Appeal" should be denied and disposed of in contrary to the procedural dictate of California Rule of Court ("CRC") 8.54.

LIST OF PARTIES

All parties do not appear in the caption of the case on cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Menlo, Sam Trustee dba Miracle Mile Properties LP;

Century Quality Management Inc.;

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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

The opinions of the highest state court to petition for review of the Appellate denial on the “Motion to Recall Remittitur and Reinstate Appeal” (Supreme Court case # S255696) appears at Appendix C (II) to the petition and is unpublished.

The opinion of the court of Appeal, contrary to CRC 8.54, appears at Appendix A (II) to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided on Petition for Review, (Supreme Court case # S255696) was July 12, 2019.

A copy of the decision appears at Appendix C (II)..

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U. S. C. § 1257(a);

CRC 8.54 regarding Motions in the Court of Appeal.

STATEMENT OF THE CASE

Olufemi S. Collins (“Petitioner”/“Plaintiff”) initiated the Complain KC068894 in the Pomona Superior Court (“Trial Court”) after the Petitioner’s Automobile and invaluable possessions locked inside it were unexpectedly removed from the Parking space assigned to him inside of the Senior Apartment Complex; Plaintiff’s properties were then put for lien sale. Mark Gonzalez dba ASAP Towing “Gonzalez”), Menlo, Sam Trustee dba Miracle Mile Property LP (“Menlo”) (The property Owner) and Century Quality Management Inc. (“Century”) (the leasing Agent) were named as (“Defendants/Respondents”) as Contract Collaborating Conspirators in this matter.

Gonzalez and Menlo defaulted in responsive pleading to the Complaint. The Clerk of the Court filed their Defaults and forwarded Applications for Default Judgment against the two defaulting Defendants to the Trial Court for hearing and decision. The third Defendant, Century, filed a demurrer requesting dismissal of Gonzalez, Menlo and the Complaint in entirety. The Trial Court granted Century’s Demurrer without leave to amend. The Trial Court’s Order is attached hereto as Appendix B. Plaintiff then filed Notice of Appeal. The Court of Appeal affirmed the Trial Court’s decision on Century’s Demurer, denied review of the Default judgments and awarded costs to all Respondents. The unpublish Opinion is attached hereto as Appendix A (I). Petitioner filed Petition for review in the California Supreme Court and Supreme Court denied review. The California Supreme Court’s decision is attached as Appendix C (I). The Court of Appeal immediately followed with a Remittitur which is attached hereto as Appendix A (II).

Respondent Gonzalez then filed Memorandum of Cost in the Trial Court against the Plaintiff. The Plaintiff filed a “Motion for Recall of Remittitur and Reinstate Appeal” which is subject to Appellate decision pursuant to *California Rule of Court (“CRC”) 8.54. People v. Murphy*, 71 Cal. App. 176 [235 P. 51]; *People v. Valenzuela* (1985) 175 Cal.App.3d 381, 388; *People v. Egan*, 81 Cal. App. 2d 769 [185 P.2d 82]; *Ellenberger v. City of Oakland*, 76 Cal. App. 2d 828 [174 P 2d 461]; *Isenberg v. Sherman*, 214 Cal. 722 [7 P.2d 1006]; *People v. Flood* (1998) 18 Cal.4th 470.);

The Court of Appeal prejudicially denied review to dispose the Petitioner's Motion in less than ten days prior to all party's interactive responses to the Petitioner's Motion. The Court of Appeal procedure is non conformant to *CRC 8.54* which mandates ten days for responses prior to disposition decision on Motions. The Appellate denial Order is attached hereto as Appendix A(III).

Petitioner filed Supreme Court Petition (S255696) for the review of the contrarian procedure in the denial and disposition of Motion before the Court of Appeal. California Supreme Court denied review. The Decision of the California Supreme Court is attached hereto as Appendix C (II).

Petitioner filed this Writ of Certiorari seeking consideration for justice.

REASONS FOR GRANTING THE PETITION

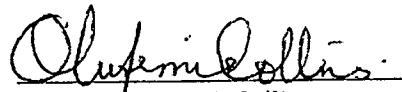
This Petition should be granted to uphold the constitutional rights to justice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: September 7, 2019


Olufemi S. Collins