

TG-5978

No#

ORIGINAL

Supreme Court, U.S.
FILED

SEP 10 2019

OFFICE OF THE CLERK

In the
Supreme Court of the United States

Terence S. Chancellor

Petitioner

v

Select Portfolio Servicing Inc et tal

Respondents

On Petition For Writ of Certiorari
To The United States Court of Appeal For
The Seventh Circuit

Terence S Chancellor
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Pro Se Petitioner

A. Question Presented for Review

1. Whether Petitioner Terence S Chancellor's Constitutional **right to due process** protected by the 14 Amendment, violated during court proceedings by the 7th Circuit Court of Appeals in denying Petitioner's appeal claiming "No Merit" in the face of documented "Merit" for Petitioners appeal. Which were raised in Petitioner's appeal to the 7th Circuit with the 7th Circuit denying petitioner's appeal and a timely filed petition for rehearing en-banc with transcript records and the civil docket confirming Petitioners "Merit" regarding the appeal, also proving documented (**Perjury**) committed by Respondant's lead Attorney who was the only called witness on behalf of respondents, who took the stand and was sworn in "under oath" with the district Judge following with a blatant verbal display of (**Bias**) against Petitioner in support of Respondents, not caring about Petitioner standing just a few feet away during the 10/3/2017 *evidentiary hearing*.

Whatever this is "No Merit" it's not.

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 proceedings in the court whose judgement is the subject of this petition is as follows:

- 1 J P Morgan Chase Bank (Chase) (Respondents)
- 2 Select Portfolio Servicing (Respondents)
- 3 Terence S Chancellor (Petitioner)
- 4 (Bank of America is a non-party by settlement with Petitioner)

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Appendix A	May 13, 2019 The United States Court of Appeals for the 7th Circuit Denied Petitioner's petition for rehearing and rehearing en-banc
Appendix B	April 11, 2019 The United States Court of Appeal for the 7th Circuit Affirmed the District Judge Decision
Appendix C	September 27, 2018 the District Judge entered Rule 58 Judgement and the case was Terminated
Appendix D	July 19, 2017 The United States Court of Appeals For the 7th Circuit, Judge Posner (now retired) wrote the Decision vacating the District Judge Order as there was no evidentiary proceeding
Appendix E	May 24, 2016 the District Judge entered her Memorandum and Order to enforce settlement

Table of Authorities Cited

1. *Chambers V Nasco Inc* 501 32 48-49 7th Circuit 2010
2. *Cline V Common Internal Revenue* 34 F 3rd 480-484-85 7th Cir 1994
3. *Elustra V Mineo* 595 F 3d 699 709 7th Circuit 2010
4. *Grevisky V University Research* 417 F 3rd 752-59 7th Circuit 2015
5. *Liteky et al V United States* 556 in re *United States* 411 F 2nd 466-667 11th Circuit 1994
6. *Salmaran V Enterprise Systems Inc* F 3rd 787-793 7th Circuit 2009
7. *Secrease V Western & Southern Life Ins* 800 F 3d 397, 402 7th Cir 2015
8. *Taylor V O'Gtady* 888 F 2nd 1189 7th Circuit 1989
9. *United States V Alvarez* 132 S. Court 2537,2540, 183 7th Circuit 2012
10. *United States V Balistrier* 779 F 2nd 1191 7th Circuit 1985
11. *United States V Dernea Boone* 563 F 3d 7th Circuit 2009
12. *United States V Emerson* 128 F3d 740-749 7th Circuit 2002
13. *United States V Guadin* 515 US 506 7th Circuit 1995
14. *United States V Grinnel Corp* 384, 567, 583 7th Circuit 1966
15. *United States V Johnson* 612 E 3rd 889-839 7th Circuit 201
16. *United States V Scuto* 521 F 2ND 842 845 7th Cir 1972
17. *United States V Taylor* F 3rd 812 7th Circuit 2011

Statutes and Rules

USSG 3C1.1

18 USC 1621

18 USC 1623

28 USC 455(a)

42 USC 1331

Other Authority

14th Amendment to the United States Constitution

5th Amendment to the United States Constitution

Federal Rules of Civil Procedures

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 judgement below

OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished

The opinion of the United States court of appeals also appears at Appendix B to the petition and is unpublished

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

JURISDICTION

The date on which the United States Court of Appeal decided my case was April 11, 2019.

A timely filed petition for rehearing en-banc was filed on April 24 ,2019. The timely petition for rehearing was denied by the United States Court of Appeals for the 7th Circuit on the following date: May 13, 2019.

A copy of the order denying the rehearing appear on Appendix A.

An extension of time to file for a writ of certiorari was granted to and including September 10, 2019 on July 31, 2019

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

Constitutional and Statutory Provision Involved

Section1

Constitution of the United States of America 14 Amendment . All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State 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.

“Nor shall any State deny to any person within its jurisdiction the equal protection of the law” Equal Protection clause of the 14 amendment clause United States Constitution.

Statement of the Case

On 10/02/2014 Petitioner Terence S Chancellor filed a complaint against Respondents Chase (OH4-7120), and Respondents Select Portfolio Servicing, and Bank of America. BANA (**Bank of America is no longer a party to the litigation**).

On 11/26/2014 an Attorney Appearance for Respondent **Chase** (OH4-7120), and Select Portfolio Servicing by Johnathan Nusgart was entered.

ON 11/26/2014 an Attorney Appearance for Respondent **Chase** (OH4-7120), and Select Portfolio Servicing by Michael J Weik was entered.

On 11/26/2014 an Attorney Appearance for Respondent **Chase** (OH4-7120) and the Select Portfolio Servicing by Craig Smith.

On 12/11/2014 Petitioner filed an amended complaint against, JP Morgan Chase Bank N A and Select Portfolio Servicing. On 11/11/2015 Respondents Attorneys filed their answer to the Amended Complaint Entitled **“Select Portfolio Servicing and JP Morgan Chase Bank N.A. Answer to the Amended Complaint”**

However, the lead attorney for respondents would later say under oath a future 10/3/2017 evidentiary hearing that Chase Bank was never his client and he only filed an appearance on behalf of JP Morgan Bank and Select Portfolio Servicing.

Respondents filed a motion to dismiss all counts September 15, 2015 The Counts IV, X, XI Survived Respondents motion Doc #66. On November 20 2015 The district Judge pursuant to the parties assent, referred the matter to the Magistrate Judge Sidney I Schenkier for discovery, supervision and settlement. **Doc# 77, Doc #78**

The district court appointed counsel for Petitioner. However, the assigns attorney had no previous experience in settlement negotiations for which Petitioner informed the organization of which the judge assigned attorney through. **Doc # 77 & Doc #81**

The Settlement Conference

The settlement conference convened on 2/23/2016. Standing Orders by the Magistrate Judge required all parties to with full and complete settlement Authority must personally attend the conference **Doc# 83**

On 2/23/2016 a settlement was reached between parties of Bank of America, Select Portfolio servicing and JP Morgan Chase Bank Doc #86. These were the only parties discussed during the 2/23/2016 Settlement Conference. See Email.

On Wednesday March 9, 2016 Petitioner Terence Chancellor sent an email to Respondents Attorney Michael Weik stating:

" We are pretty close I have read the settlement agreement and am ready to sign off on the Bank of America release, however you are requesting that I release a non party "US Bank National Association on behalf of JPMAC 2006-CW1. There was no legal action or settlement made between US Bank National Association therefore I refuse to release them. Also SPS specifically agreed to evaluate me for HAMP and any other work out program. I want to see SPS specifically consider me for making homes affordable as part of my release."

Thereafter on 4/14/2016, Petitioner filed a motion to join US Bank National as a necessary party Doc # 90.

The Magistrate Judge Schenkier who was involved in mediating the settlement conference never agreed on record in support of Respondents claim that US Bank National was discussed in any degree at the settlement conference. As the settlement conference was held in the magistrate judge chambers. The lead attorney for Respondent, Michael Weik lied. Petitioner and BANA agreed to settle separately from JP Morgan Chase Bank N A and SPS servicing. **Doc# 88**

On 4/28/2016 Respondent filed a motion to enforce settlement which was granted by the district Judge on 5/24/2016 **Doc# 105**. The district judge per the record never even requested an answer to this day from the Magistrate Judge who observed all activities at the settlement conference.

Petitioner filed a notice of appeal with the 7th Circuit Court of Appeals on 6/13/2016 **Doc # 115**. The District Judge decision was VACATED by the 7th Circuit, with Judge Posner writing " Judgement Vacated and the case is remanded for a factual inquiry into the parties disagreements **Doc# 143**.

An evidentiary hearing convened on 10/3/2017 with the district judge presiding. However at the beginning of this evidentiary hearing the District Judge began to display some animosity against Petitioner opening up the hearing verbally letting it be known that she did not agree with Appellate Judge Posner decision and praising the fact that he had retired with the excerpts are as follows:

The Court : " But I Follow the rules of the Appellate court even though the person who wrote it (Posner) is no longer there _____
You didn't know that. ...Mr Chancellor did you know that.
Transcript pg 5 lines 11-19

Mr Chancellor: Yes

The Court: He's gone. Alright. 10/3/2017 hearing Transcript pg 5 lines 11-19

The District judge actions and statements above were inappropriate and gets worse with an open display of bias against Petitioner as the 10/3/2017 evidentiary hearing continues.

It was during this 10/3/2017 evidentiary hearing pg 115 - 116 which documents Respondents lead attorney Michael Weik, the only called witness who took the stand and committed perjury regarding who his clients were, and who attorney Michael Weik **filed an appearance on behalf of**. Which is followed by an extreme bias displayed by the district Judge against Petitioner Terence Chancellor in favor of Respondents.

Which claim is supported by transcripts of the 10/3/2017 evidentiary hearing hearing with excerpts below.

Pgs 115-116 of the of the 10/3/2017 evidentiary hearing is presented beginning from pg 115 line 6-25, and pg 116 line 1-25 below:

The Court: Stop right there. Stop right there. And so explain. Is your client for purposes of this lawsuit Chase Bank?

The Witness: No Your Honor.

The Court: Alright. Has your client for the purposes of this lawsuit ever been Chase Bank? Chase Bank.

The Witness: Mr Chancellor in his -----

The Court: You can't answer that yes or no?

The Witness: Well I, I, it's not been ours because we specifically---

The Court: That's what I am asking you

The Witness: No, your Honor . We ---

The Court: Is that you client

The Witness: Chase Bank is ---

The Court: For purposes of this case, this particular case of Mr Chancellor was Chase Bank your client?

The Witness: Chase Bank was not our client, but may I explain Mr Chancellor as I pointed out alleges-- identifies the owner investor in is amended complaint as Chase parentheses JPMAC just as we went through

The Court: Right. But again, I understand where your ----

The Witness When we filed an appearance

The Court: I just need you to say under oath is your client, not what Mr Chancellor keeps referencing to. Not the fact that he keeps putting these names together, Was you client for the purpose of his case, his loan, was it Chase Bank in terms that you know Chase Bank to be?

The Witness: No. It was JP Morgan Bank we filed an appearance on behalf of , and we filed an appearance on behalf of Select Portfolio Servicing. (***However, the Court Record supports Perjury as the witness testimony is false as an appearance filed by Respondents Attorneys was for Chase (OH4 7120) and Select Portfolio Servicing by Michael Weik & Jonathan Nusgart on 11/26 2014.***)

(Note: An Amended complaint was filed by Petitioner on 12/11/2014 which amended the names of the Respondents to JP Morgan Chase Bank N.A (There was no change to Select Portfolio Servicing. Respondents filed their answer in the names of “Select Portfolio Servicing Inc and JP Morgan Chase Bank N.A.)

The Court: And those are totally different entities from Chase Bank is that correct

The Witness: As far as I know that is absolutely correct, Judge.

Mr Nusgart: (Respondents 2nd Attorney) Your Honor, if I could just interject--

The Court: Counsel.

Mr Nusgart: ----briefly to perhaps clarify this. If I can just approach the witness and ask him one question about the letter to which Mr Chancellor is referring.

The Court: Well you can if ----I mean, you all are on the same side, so don't bring up something that conflict. (Note:**This was Bias instruction by the District Judge in favor of Respondents Attorneys as something that conflict would further supports perjury by the Witness (Michael Weik) under oath attorney**)

The Witness: (Michael Weik) Why don't you wait. (**This following the advice of the District Judge to respondents attorney "don't bring up something that conflicts" as record supports perjury by Respondents Attorney Michael Weik and a Bias by the District Judge**)

The 10/3/2017 Evidentiary hearing documents Bias by the District Judge and Perjury by the Respondents Attorney supported by pages 115 and 116 of the evidentiary hearing.

On 10/26/2017 the district judge order another hearing, for 11/14//2017 as stated, for Petitioner to provide his testimony before the magistrate Judge. Petitioner thought that he would be testifying before the magistrate judge however it turned out to be to provide additional testimony before the district judge. However this soon resulted in lengthy testimony again by Respondent' s Attorney Michael Weik who provided false testimony during the first evidentiary hearing with no retraction of his statement made at the 11/14//2017 hearing.

Petitioner made multiple efforts to have the District Judge to have the Magistrate Judge give his details of the evidentiary hearing however the district judge did not comply.

After everything had been basically concluded the District Judge appointed Petitioner a new settlement attorney, as Petitioners prior settlement attorney had no settlement experience. However there was still no success in over the phone settlement conversations between parties. The District Judge Appointed Attorney Richard Friedman who after becoming familiar with the case , requested of the District Judge on his own to file a "**Memorandum in Opposition**" of her plan to enforcement settlement.

However, the District Judge enforced the settlement anyway against petitioner, even with her own transcript record of the 10/3/2017 evidentiary hearing pg 115-116 hearing which displayed a documented bias by the court in favor of Respondents. And Perjury by Respondent's Attorney supported by the Court docket and Transcripts

The District Judge decision was appealed by Petitioner to the 7th Circuit. The 7th circuit claiming "no merit" denied the appeal on April 11, 2019. A timely filed petition for rehearing en Banc was filed but denied by 7th Circuit Court of Appeals on May 13, 2019.

Reason for Granting the Writ of Certiorari

The Courts generally have an intent in both punishing a party's dishonesty and deterring others and deterring others who might consider similar misconduct (See *Secrease v Western & Southern Life Insurance Co* 800 F. 3rd 397 402 7th Circuit 2015.) The acts of dishonesty are particularly appropriate candidates for dismissal as a sanction. **Perjury** strikes at the heart of the judicial system. *United States* 211 F 3d 1039, 1046 (7th Circuit 2000). It undermines the function and province of law and threatens the integrity of Judgement. *United States V Alvarez*. 132 S CT 2537, 2540, 183 L Ed 2nd 574 7th Cir 2012.

The Courts have also stated that Section USC 455(a) requires a judge to recuse himself in any preceding in which her impartiality might be questioned. *Taylor V O'Grady* 888 F 2nd 1189 7th Circuit 1989. Should a Judge not disqualify himself the judge is in violation of the **Due Process** Clause of the United States Constitution. *United States V Scuto* 521 F2d 842 845 7th Circuit 1972 which allows for a tribunal free from (**Bias**).

In 1994 the United States Supreme Court held that disqualification is required if an objective observer would entertain reasonable questions about the Judge's impartiality. (*Liteky V US* 114 S Ct 1147 1162 11 Cir 1994. Title USC 445 also contains a provision that Federal Judges be disqualified not only when he is biased against a party but whenever a reasonable disinterested person thinks he might be.

If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified USC 455 contains a provision that calls for Federal Judges to be disqualified not only when he is biased but also whenever a reasonable disinterested observer would think that she might be. A United States Judge is required to recusal in any proceeding which her impartiality is questioned. 28 USC 455a *United States V Reynolds* .

A Writ of Certiorari should be granted to Petitioner. As stated above, **Perjury** does and did strike at the heart of the Judicial system which was committed by the lead attorney for Respondents Michael Weik which is supported by the 10/3/2017 pgs 115-116 (all)evidentiary hearing Transcript as affirmed in the statement of the case.

The District Judges display of animosity against Petitioner, and the Appellate Judge Posner, who vacated her prior decision, was clearly **biasly** displayed on page 5 pg lines 14-21of the 10/3/2017. Which was followed up with the district Judge extremely display of **bias** in favor of Respondents with the District Judge biasly offering advice to Respondents attorneys which effects **perjury**. as stated in the statement of the case.

Again Excerpts from the 10/3/2017 evidentiary hearing Pg 116 Line 22, 23, 24

Mr Nusgart(Attorney for Respondent) ---briefly to perhaps clarify this
If I can just approach the witness and ask him a question
about the letter which Mr Chancellor is referring

The Court: Well, you can if ---I mean you all are on the same side, so
don't bring up something that conflicts .

The Witness: Why don't you wait

This is an open display of bias by the district Judge

However the 7th Circuit Court of Appeals incorrectly denied Petitioners appeal with a claim of "no-merit" in the face of documented "merit" to the appeal. As there was no new evidence provided with the Request for a Writ of Certiorari The merits of this case as are strong and documented.The 7th Circuit also denied Petitioner motion for consideration en-banc.

Petitioner Terence Chancellor asserts that the record does not support a "no merit". claim The record supports Petitioners "merits" in his case. The petition for a hearing en banc should have been allowed on this case which spanned 4 years.

The United States Court of Appeals For the 7th Circuit has erred in its decision against Petition Terence Chancellor with its claim of "No Merit" regarding his appeal. The record document perjury and bias by officers of the court Which has resulted in a Violation of Petitioner Terence Chancellor's Constitutional right to due process protected by the 14th amendment.

As supported by the documented evidence provided above,

CONCLUSION

The petition for writ of certiorari should be granted

A handwritten signature in black ink, appearing to read "T S Chancellor".

Humbly Submitted

Pro Se Petitioner
Terence S. Chancellor

Date: 9/10/2019

No _____