

19-6219

IN THE
SUPREME COURT OF THE UNITED STATES

C. B.

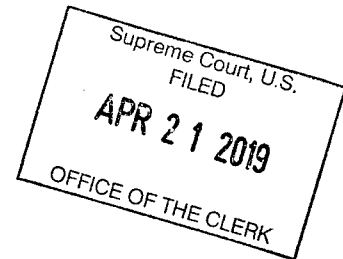
Appellant/Petitioner,

vs.

THOMAS FISCHGRUND,

Appellee/Respondent.

ORIGINAL



ON PETITION FOR A WRIT OF CERTIORARI TO
THE SECOND DISTRICT COURT OF APPEAL

PETITION FOR WRIT OF CERTIORARI

Initial Brief

Filed on behalf of Cassandra Bell

Pro Se Petitioner

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QUESTIONS PRESENTED

- 1. Is it legally sound, to hold de facto segregated evidentiary hearings, although the de jure Jim Crow laws, which enabled and legalized segregation within the court of law was abolished and outlawed along with discrimination in any public accomodation in 1965; by the Civil Rights Act of 1964?**
- 2. Should a party to a case, be allowed to have two separate segregated evidentiary hearings, when the doctrine of res judicata prevents a litigant from getting another day in court after the first suit is concluded, by giving a different reason than he gave in the first for recovery of damages for the same invasion of his right?**
- 3. Is it fundamentally fair to reenact the 1865-1866 Black codes which were laws passed after the American Civil War, to deny African (Black) Americans freedom, which included the right to equal treatment under the law in the Twentieth Century?**
- 4. Is White Supremacy allowed within the courts of law, as long as it takes place under a legal regime that is superficially race- neutral?**
- 5. Whether an appeals court is bound by its prior decision, if the facts in the case remain the same?**
- 6. Whether the appeals court should ignore the collateral attack from the trial court, when it attempted to impeach the validity and binding force of the appeals court, by refusing to adhere to the remand to give C. B. an evidentiary hearing on her motion?**
- 7. Whether a contract is binding when party was provided opioid and benzodiazepine narcotics including Narcan, for three days concurrently, against their will, then again less than an hour before allegedly signing?**

THIS IS HUMAN TRAFFICKING AND HUMAN RIGHTS VIOLATION I AM INQUIRING ABOUT THAT MUST BE HEARD BY A HIGHER COURT

PARTIES TO THE PROCEEDINGS

Petitioner Cassandra Bell, Pro Se Mother of Baby Boy Bell is the Appellant in the Second District Court of Appeal.

Esq Thomas N. Fischgrund is the Respondent, in the Second District Court of Appeal.

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

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DECISION BELOW

The decision of the Florida Second District Court of Appeal is reprinted in the

- Appendix labeled B, and is reported.

JURISDICTION

A Response was made within 90 days of the date of the January 23, 2019
District Court of Appeals Rehearing denial.

This court has jurisdiction under 28 U.S.C. § 1257(a).

THIS IS A HUMAN TRAFFICKING AN HUMAN RIGHTS
VIOLATION I AM INQUIRING ABOUT THAT MUST BE
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STATEMENT OF THE CASE

I. Introduction On March 7, 2018 the trial court held a final hearing that terminated Cassandra's parental rights to Baby Boy Bell, the child in the subject matter. See **Appendix C**. Following this final hearing, on January 2, 2019 The Second District Court of Appeals affirmed the trial court's order to terminate Cassandra's parental rights. See **Appendix B**. Next, The Second District Court of Appeals further affirmed the trial court's order when they denied Cassandra's rehearing on January 23, 2019. See **Appendix A**. Each order was not only a miscarriage of justice as Cassandra was denied her perpetual right to be equally heard in a court of law, but also an error of law, because the denial constituted to the suppression of evidence. Which is the obstruction of justice. Cassandra Bell, Petitioner and Biological Mother of Baby Boy Bell, has been treated as a second-class citizen, as she has been unable to care for, see, hold, and parent her child since his January 20, 2015 birth, although she has had parental rights over said child until March 7, 2018. Her right to parent, was illegally transferred to a married couple of a Caucasian descent. Cassandra was not listed as her child's mother upon his birth on his medical intake record at the hospital. This was done while Cassandra's life had to be saved with Narcan, as her heartbeats were 8 beats or less per minute. Due to hospital concurrently giving Cassandra opioid and benzodiazepine narcotics for three days against her will. This caused Cassandra to overdose, in which Narcan had to be administered, during labor and delivery, although Cassandra had no history of drug use or abuse. This is a Human rights violation. The married couple of Caucasian descent, without legal authority, right, or blood ties was listed on Cassandra's child medical intake record, as his mother, father, persons to contact, next of kin, and guarantors, and immediately after his birth, they were given possession of the child. See **Appendix D** Falsifying the medical documents of Cassandra's child constitutes to Child Laundering, a form of Human trafficking. Though the married couple walked out of the hospital with the child two days after his birth, without legal right to do so, Cassandra's insurance was charged, for said child; and unpaid medical bills from doctor's visits the married couple took the child. were charged to Cassandra's credit. See **Appendix D, E-G**. These actions constitutes to medicaid and insurance fraud. Cassandra filed a claim to contest the alleged consent to terminate parental rights, and adoption however, the adversary system she presented her case to was broken. Due to the system being impugned with errors. Cassandra has had to suffer due to the error in law of judicial officials. Because of such, and due to both the trial court and the appeal court knowing of such violations, the denial from each court was a miscarriage of justice and erroneous in nature.

The trial court denied Cassandra's claim first on May 13, 2015, when an evidentiary hearing on Cassandra's claim was held. Only opposing party Thomas N. Fischgrund, of Caucasian descent, was allowed to present his case; and be heard on the record in a court of law. Presented with the violations in the law the opposing party committed to achieve his adoption agenda, the trial court judge used enforcement discretion, as she used her power to choose what she would punish, and how she would punish the offences of opposing party Thomas N. Fischgrund, who from now on will be addressed as Mr. Fischgrund. The trial judge biasly used enforcement discretion, because of the friendship said judge had with opposing party Mr. Fischgrund. The trial court judge stated in open litigation that "she took this case because she did not want Cassandra's letter objecting to the consent to adoption sitting on any other judge's desk, making it look as though her friend Mr. Fischgrund, was doing something bad to this lady," as she referred to Cassandra. **See Appendix H.** The trial court judge stated out of her own mouth the second reason she took the case "was for Mr. Fischgrund, to protect his reputation." Further, the only reason the trial court judge allowed Cassandra to get Counsel was because she stated that "DCA is kicking cases back, where the parties don't have attorneys, and those adoptions, are not happening." The trial judge is stating that the only reason she did not restrict Cassandra from executing her perpetual Sixth(6th) Amendment right is to ensure, opposing party Mr. Fischgrund's adoption agenda, and stated also, if Cassandra doesn't receive anything else she will at least have counsel. **See Appendix I.** This shows the trial judge started off bias, before any evidence was taken.

Cassandra's claim and facts of her alleged consent to terminate parental rights being fraud is a justiciable issue, but instead of the trial judge displaying judicial restraint, she excluded certain evidence to render a certain judgment for a favored party. Judges who practice judicial restraint hands down rulings that adhere to the "original intent" of the constitution. The Jim Crow Laws enforced segregation in a court of law. The Jim Crow de jure laws allowed "Equal but separate" treatment within public accommodations, before 1965. However, the trial judge failed to display equal treatment within the courts. She treated Cassandra as African American's were treated before the Jim Crow Laws were enforced. She held two segregated evidentiary hearings, and in both restricted Cassandra from being heard, and dismissed and or abandoned Cassandra's claim. In which, opposing party Mr. Fischgrund and his evidence was the only thing allowed to be heard on the record. The trial judge provided opposing party Mr. Fischgrund a judgment on the merits based off of the evidence she allowed to be provided, at the first evidentiary hearing.

The Florida Supreme Court has articulated the res judicata doctrine which states "a judgment on the merits rendered in a former suit between the same parties or their

privies, upon the same cause of action, by a court of competent jurisdiction, is conclusive not only as to every matter which was offered and received to sustain or defeat **the claim, but as to every other matter which might with propriety have been litigated and determined in that action.**" The doctrine of res judicata prevents a litigant from getting yet another day in court after the first lawsuit is concluded by giving a different reason than he gave in the first for recovery of damages for the same invasion of his right. A final judgment on the merits bars further claims, by the same parties based on the same cause of action, and also prevents a defendant from raising any new defense to defeat the enforcement of an earlier judgment.

- **Though the trial judge did not adjudicate Cassandra in her claim with propriety, opposing party Mr. Fischgrund and his claim was adjudicated with propriety.**
- **Thus, Mr. Fischgrund should have not been allowed to have an additional segregated evidentiary hearing, on the same claim, upon the same cause of action.**
- **C.B. Petitioner, V. Thomas Fischgrund, Respondent. No. 2D15-3073** the Second District Court of Appeal stated in relevant part **"the court did not conduct an adequate evidentiary hearing..."**
- **"On May 13, 2015, the trial court held an evidentiary on Fischgrund's motion for reconsideration..." "Regional counsel's motion to withdraw consent was not noticed or addressed on the merits at this evidentiary hearing.."**
- **"Here, the court departed from the essential requirements of the law.... When it dismissed C.B's motion to withdraw consent that was timely filed..."**
- **The trial court granted Mr. Fischgrund's motion, and being as such, any further action from this defendant, legally should be barred.**

The Second District Court of Appeal, verified that Cassandra's claim was not adjudicated with propriety, judged on the merits, and was not judged, noticed, or acknowledged. Mr. Fischgrund's claim was the only claim recognized and adjudicated with propriety, and judged on the merits of his claim. Due to the doctrine of res judicata, the judgment, the trial court gave opposing party Mr. Fischgrund on the merits during his segregated evidentiary hearing on May 13, 2015, is conclusive. The judgment on Mr. Fischgrund's claim **was made clear and convincingly, and the Second District Court of Appeals did not find an error in the way the trial court adjudicated over Mr. Fischgrund as they did Cassandra.** The doctrine explains that no conclusive order can be overthrown, or contradicted. With that being stated, the March 7, 2018 final hearing solely based on Mr. Fischgrund's revised motion in the trial court, the January 2, 2019, and the January 23, 2019 denials from the Second District Court of Appeals are errors of law, and should not have taken place per the doctrine of res judicata. A judgment on the merits rendered in a

former suit between the same parties or their privies, upon the same cause of action, by a court of competent jurisdiction, is conclusive not only as to every matter which was offered and received to sustain or defeat the claim, but as to every other matter which might with propriety have been litigated and determined in that action. Allowing opposing party Mr. Fischgrund to be heard again, on the same claim, is judicial misconduct.

The trial court, referenced the child in the subject matter and being a transaction and sale, when said judge made the statement that

- Cassandra could not have buyers remorse, and displayed individual acts that gave favor to the Caucasian party, and the Caucasian married couple who illegally obtain Baby Boy Bell.

The trial judge limited the Civil and Constitutional rights Cassandra had access to when she adjudicated Cassandra's claim, to protect the opposing party of Caucasian descent, who had illegally placed Cassandra's child with a married couple who also came from Caucasian descent. Quasi- slavery tactics to adjudicate Cassandra's claim, were used as laws, that allowed opposing party Mr. Fischgrund to dominate in the courtroom by any means he seen fit or necessary. Which is what the Black Codes of 1865-1866 was set in place to do. The trial judge promoted white supremacy with in her courtroom, as she used the law to abuse Cassandra, and used the law to raise opposing party Mr. Fischgrund to a higher standard. The trial judge chose to enforce a system that modeled Black codes, which were the replacement of the slave codes, although on July 28, 1868 the 14th Amendment of the United States Constitution, which guarantees all citizens of the U.S. has the same equal protection under the law, and have a trial that is fundamentally fair, was ratified. And the Thirteenth Amendment which abolished slavery in any form came after the Civil Rights Act of 1866.

Cassandra was not allowed to

- Testify against Mr. Fischgrund, or the married couple in court, although they could testify against Cassandra.
- Be heard in front of an impartial competent judge, although Mr. Fischgrund and the married couple though not parties to the case were able to be heard.
- Receive the same Constitutional and Civil Rights as Mr. Fischgrund, and the married couple in the trial court or the appeals court.

Black codes- were laws passed in 1865 and 1866 after the American civil war, in order to deny African American's freedom. this includes the right to equal treatment under the law. This in turn, reduces the influence Blacks have in society, their willingness to stand

up for their constitutional rights. Which in turn, promotes the distrust Minorities have in the "legal justice system" and establishes a need for people of color to seek justice by any means (when the system has failed them).

The actions of the trial judge has promoted white supremacy within the courtroom, and the Second District Court of Appeal, and the Florida Supreme Court has affirmed and protected this White Supremacy. Because the trial judge is Black American, just as **Cassandra is. The White Supremacy, has been ignored and allowed, because it has taken place under a legal regime that is superficially race-neutral. The "White Privilege" Paternalism in the courtroom, which displayed behavior is against the will and regardless of Cassandra's will expressed an attitude of superiority within Mr. Fischgrund, and the married couple of Caucasian descent, and black inferiority. The actions of the trial and appeals court is raw tyranny under the guise of maintaining law and order.**

The United States Supreme Court has determined in **WALKER ET AL. v. CITY OF BIRMINGHAM** on June 12, 1967 through Chief Justice Douglas, Justice Brennan, and Justice Fortas that

- "In our struggle for freedom we have anchored our faith and hope in the rightness of the Constitution and the moral laws of the universe.
- "Again and again the Federal judiciary has made it clear that the privileges guaranteed under the First and Fourteenth Amendments are too sacred to be trampled upon by the machinery of state government and police power. In the past we have abided by Federal injunctions out of respect for the forthright and consistent leadership that the Federal judiciary has given in establishing the principle of integration as the law of the land.
- "However we are now confronted with recalcitrant forces in the Deep South that will use the courts to perpetuate the unjust and illegal system of racial separation.
- "Southern law enforcement agencies have demonstrated now and again that they will utilize the force of law to misuse the judicial process.
- "This is raw tyranny under the guise of maintaining law and order. We cannot in all good conscience obey such an injunction which is unjust, undemocratic and unconstitutional misuse of the legal process.
- We do this not out of any disrespect for the law but out of the highest respect for the law. This is not an attempt to evade or defy the law or engage in chaotic anarchy. Just as in all good conscience we cannot obey unjust laws, neither can we respect the unjust use of the courts.
- The "constitutional freedom" of which the Court speaks can be won only if judges honor the Constitution.

Chief Justice Douglas, Justice Brennan and Justice Fortas joined dissenting to say

- Under cover of exhortation that the Negro exercise “respect for judicial process,” the Court empties the Supremacy Clause of its primacy by elevating a state rule of judicial administration above the right of free expression guaranteed by the Federal Constitution. And the Court does so by letting loose a devastatingly destructive weapon for suppression of cherished freedoms heretofore believe indispensable to maintenance of our free society. I cannot believe that this distortion in the hierarchy of values upon which our society has been and must be ordered can have significance beyond its function as a vehicle to affirm these contempt convictions.

The United States Supreme Court has long held that affirming contempt convictions, that use destructive weapons for suppression of cherished freedoms, to include equal treatment under the law, is not only a miscarriage of justice, but also judicial misconduct, erroneous in nature, and raw tyranny disguised as maintaining law and order. Also by the Second District Court of Appeals affirming the trial court's orders, they are not only disturbing law and order, but have committed an error of law. When the Appellate court reaches the merits of some aspect of the case but remanded the cause to the trial court for further consideration; in these circumstances, questions settled by the appellate court become the law of the case both on remand and in any subsequent appeal. Determination concerning the propriety of the trial court's order is necessarily inconsistent with every possible correct basis for the earlier rulings of the appellate court. The Second District of Appeal operated out of an error of fact and error of law while they affirmed the trial judge's order, because it contradicted their prior order and remand on December 30, 2015. The 2015 remand and order became law of the case and both the trial court and the Appeals court became in contempt of this order and remand.

The trial court was remanded to have an evidentiary hearing for Cassandra's motion to withdraw, consent back on December 30, 2015. Instead, the trial court held another evidentiary hearing where she only heard motions from opposing party Mr. Fischgrund, and the attorney for the married couple. Then later, held a final hearing where the trial judge abandoned all of Cassandra's motions and claims. These actions are a clear contempt and rebellion against the Second District Court of Appeals December 30, 2015 remand, an error of law, erroneous, and is a manifest injustice. The Second District Court of Appeals affirmment is a manifest injustice as well.

The December 30, 2015 remand held that the trial court was to hold an evidentiary on Cassandra's motion to withdraw consent, however the trial judge blatantly ignored the

higher court's remand and provided opposing party Mr. Fischgrund a platform to change and perfect his defeated claim in hopes for a different outcome, although it has already been judged on the merits. In which the trial court placed an order. Mr. Fischgrund argument was that Cassandra committed fraud on the court and the Court should reconsider allowing Cassandra to place a claim, the trial court gave him a segregated evidentiary hearing, ruled in his favor and refused to allow Cassandra's motion to withdraw to be heard. Next, he lost in appeals court, and the trial judge was remanded to give Cassandra her day in court as she gave Mr. Fischgrund. Mr. Fischgrund changed his entire claim, in the same cause of action, to something he felt would help change the order of the appeals court, and he had no legal right to do so. By the trial court allowing these actions to take place not only shows she was conducting a kangaroo court, but also shows a collateral attack on the Second District Court of Appeals. Because the trial court has attempted to impeach and challenge the integrity of the judgment, decree, and order in an action and proceeding of the Second District Court of Appeals on December 30, 2015. Other than that, the judgment, decree, and order was rendered, by appeal from review of the judgment, decree, and order of the trial court. Which an appeal instituted for the express purpose of annulling, correcting, or modifying the judgment, decree, or order, or enjoining its execution. **Morrill v Morrill, 20 Or 96, 25 P 362**; An attack is collateral if made upon a judgment in an action that has an independent purpose other than impeaching a judgment, even though impeaching the particular judgment may be essential to the success of the action. **Hoverstad v First Nat. Bank & Trust Co. 76 SD 119, 74 NW2d 48, 56 ALR2d 938**. The trial judge's reason was to protect the reputation of opposing party, Mr. Fischgrund, her friend and favored litigant. The Second District Court of Appeal, by affirming the trial court's order was complicit and added to the collateral proceedings

By the Second District Court of Appeals affirming the trial court's order they have become complicit and have equally provided a segregated but not equal court for Cassandra to operate in. Also, they have suppressed the evidence of the Human Trafficking ring, the trial judge has bent laws to cover for Mr. Fischgrund. This is the obstruction of justice. Because the Second District Court of Appeals has unlawfully affirmed the trial court's order, they have turned a blind eye to the fraud Mr. Fischgrund executed to ensure his adoption plan and the people and agencies who contributed to Human trafficking. The Second District Court of Appeals has become complicit with

- Ignoring the illegal practices found by the Notary Commissioner of the Governor's office. **See Appendix J**
- Ignoring the falsified medical documents submitted to the court by Thomas Fischgrund. Documents that a nurse at Saint Petersburg General hospital falsified,

in order for Mr. Fischgrund to allege Cassandra signed consent. These documents provide a false last dose of medication, and a false discharge time **See Appendices K-M**

- Ignoring the ICPC worker that was aware of the statement of the Governor, but ignored it to protect Mr. Fischgrund. **See Appendix N**
- Ignoring the Inspector General of The Department of Families stating “No adoption with Cassandra’s child happened through ICPC or the Department. Which constitutes to Human Trafficking and shows the The Department working to aide and cover up for Mr. Fischgrund. This contributes to a Human trafficking ring as the Department illegally trafficked Cassandra’s child from state to state, then consealed it for Mr. Fischgrund’s benefit. **See Appendix O**

The Second District Court of Appeal affirmed this, which means that the trial court’s unlawful final judgement will be made permanent if not overturn. And Case Law will be made, making Human Trafficking legal so long as the crime is done in a racially segregated case, with a race netural judge. Finality, in law, is the concept that certain disputes must achieve a resolution from which no further appeal may be taken, and from which no collateral proceedings may be permitted to disturb that resolution. Thus, review and reversal are appropriate only when claimants can establish two things: that certain types of errors occurred and that those errors actually prejudiced the outcome of the proceedings. Cassandra, has made the court aware of the errors in law, fact, and how they contributed to a manifest injustice, which prejudiced the outcome of the proceedings. Ignoring the collateral attack of the trial court places our justice system in danger of going back decades where White Supremacy, and unequal rights were made de jure. That way of thinking and operating will not work today, and will result in great loss. Relief warranted and need.

Further, the alleged consent to terminate parental rights for adoption contract is void, because not only was it in violation of the law, as determined by the Governor’s office, but also because it violates Cassandra’s Human Rights, because she was drugged concurrently for three days without her knowledge and against her will by hospital staff, in order for this alleged consent to happen. There was never a meeting of minds to the adoption contract, Cassandra has never met Mr. Fischgrund outside of this ligating procedure to establish a meeting of minds.

E. Reason to Grant the Petition

To not grant the petition would mean that segregated and unequal court proceedings, where privilege and superiority is given only to those with a Caucasian descent sets a precedence. Also to not grant the petition would mean that Black mothers are in danger

to unlawfully losing their right to parent to people with Caucasian descent, and an erroneous justice system that used color as a tool.

Cassandra raised the constitutional violations the Circuit Court was in violation of. Then within a week of Cassandra submitting her rehearing, the Second District Court of Appeals denied Cassandra's rehearing on January 23, 2019. The Second District Court of Appeal failed also, to make a declaration of right. Which settles the right and removes the confusion of the party. After party Cassandra, brought forth her evidence and raised issues of the constitutional violations she felt the Circuit Court departed from. Being a constitutional Article III Court, the Second District Court of Appeals should have considered the constitutional violations Cassandra presented in her claim. Cassandra provided proof that she had not had her day in court on the claims she filed within the Trial Court, which is a Due Process violation. Failing to address Cassandra's concerns, the Second District Court of Appeal denied Cassandra's rehearing without the merit of Cassandra's evidence being considered and acknowledged on the record. Which continues the four year pattern of suppressing the evidence of fraud. Which is the foundation of the alleged consent to terminate parental rights being rubber stamped, ignored, and denied. The Second District Court of Appeals, and the trial court suffered Cassandra a great prejudice and injustice, so severe that relief must be granted. Whereas Cassandra files this Writ of Certiorari, requesting that this court dismisses the lower tribunal courts order. Based on the quasi-slavery tactics used, the segregation, and racial discriminations used to obtain the orders in the lower tribunal courts. Cassandra is requesting relief, and asks this court to allow her to finally be equally heard before a competent, impartial judge.

Cassandra is requesting that this matter be expedited.

Conclusion

Petitioner Cassandra Bell. Petition submitted September 11, 2019.