

No.

19-6400

ORIGINAL

Supreme Court, U.S.  
FILED

SEP 10 2019

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IN THE SUPREME COURT  
OF THE UNITED STATES

ROBERT WILLIAM WAZNEY, Indigent Pro-se (forced),  
-Petitioner,

vs.

J.P. Morgan Chase Bank, N.A.,  
- Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO  
BARRED MERITS BY STATE JUDICIAL PROCESS

PETITION FOR WRIT OF CERTIORARI

September 09, 2019.

ROBERT WILLIAM WAZNEY  
990 Wisacky Hwy.  
Bishopville, SC 29010  
Indigent, Pro-se (forced)  
803-428-2800

i.

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## QUESTIONS PRESENTED

PREFACE: ROBERT WILLIAM WAZNEY, Captive Indigent Petitioner, (Petitioner), regarding Petitioner's multi-family home, the Respondent refused mortgage payments from Petitioner's wife, Defaulted his property mortgage, then came after Petitioner for the money (see U.S.Sup.Ct. 18-6693; also, Appendix F) and forcing Petitioner to Bankrupt (Appendix E). May 17, 2017 trial was had where Petitioner presented payment evidence but the lower court ruled (5/24/17) in favor of the Respondent claiming Petitioner's evidence was never presented. Petitioner appealed, but State corrective process required court fees--which Petitioner could not afford to pay notwithstanding his requests for waiver--and dismissed the Petitioner's appeals. Petitioner removed the action and is awaiting U.S.Sup.Ct. Certiorari. Concurrently the case was remanded even though Certiorari was requested, Petitioner filed with lower Court NOTICE OF BANKRUPTCY and COMPLAINT. Lower Court's final hearing was then scheduled (Appendix G) and which trial was had in Petitioner's absence notwithstanding his claims and requests to attend (Appendix H). Infra.

- Q1: Was Consumer Financial Protection denied from ROBERT WILLIAM WAZNEY by swindle of JPMorgan Chase Bank through abuse of distress, in violation of U.S. Constitution Amendment XIV?
- Q2: Was ROBERT WILLIAM WAZNEY's I and XIV U.S. Constitution Amendment guarantees abridged where Court ignored his evidence?
- Q3: Was ROBERT WILLIAM WAZNEY's I, VII, and XIV U.S. Constitution Amendment guarantees abridged when Court had his trial in his absence?
- Q4: Was ROBERT WILLIAM WAZNEY denied U.S. Constitution XIV Amendment Due Process right by no right to justice because it could not be obtained freely, and without purchase?

## LIST OF PARTIES

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

## TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICITON	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
DISCLOSURE	4
PROCEDURAL HISTORY	5
STATEMENT OF THE CASE	6
REASONS FOR GRANTING THE PETITION	10
CONCLUSION	11
INDEX TO APPENDICES	12
APPENDIX A.....	13
APPENDIX B.....	14
APPENDIX C.....	16
APPENDIX D.....	17
APPENDIX E.....	18
APPENDIX F.....	20
APPENDIX G.....	23
APPENDIX H.....	26
APPENDIX I.....	27
APPENDIX J.....	34
APPENDIX K.....	37
APPENDIX L.....	39
APPENDIX M.....	43
APPENDIX N.....	44
APPENDIX O.....	47
APPENDIX P.....	53
APPENDIX Q.....	54
APPENDIX X.....	55

# TABLE OF AUTHORITIES CITED

<u>CASES</u>	<u>PAGE NO.</u>
<u>Levis v. Casey</u> , 518 U.S. @ 347	4
<u>Fidelity &amp; Deposit Company of Maryland v. United States</u> , 23 S.Ct. 120, 187 U.S. 315, 320	7
<u>Anderson v. Liberty Lobby, Inc.</u> , 106 S.Ct 2505, 477 U.S. 242	7
<u>— v. —</u> , WL 199475	7

<u>CONSTITUTIONS</u>	
United States Constitution Amendment I	3,8,9,10
United States Constitution Amendment VII	3,8,10
United States Constitution Amendment XIV	3,8,9,10

<u>MITZVOT</u>	
Exodus 20:14	10
Exodus 21:18	10
Exodus 21:22	10
Exodus 22:8	10
Exodus 23:1	10
Leviticus 5:23	10
Leviticus 19:11	10
Leviticus 19:15	10

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

[X] For cases from state courts:

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

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

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_ to the petition and is

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

[X] MERITS IGNORED

JURISDICTION

[X] For cases from state courts:

The date on which the highest state court decided my case was FEBRUARY 27, 2019. A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: JUNE 11, 2019 and a copy of the order denying rehearing appears at Appendix D.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

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

## CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution Amendment I [1791]: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

United States Constitution Amendment VII [1791]: In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

United States Constitution Amendment XIV [1868]: 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.



DISCLOSURE

TO WHOM IT MAY CONCERN:

I seek review of a 6/11/19 State Court opinion on certiorari by the United States Supreme Court. Pursuant Rule 13 of the Supreme Court of the United States Petitioning review on Certiorari is timely within 90 days after entry of the judgment, making my papers due 9/9/19. Within the last one-hundred-eighty days, the Prison where I am being unlawfully held does not give me adequate, effective, and meaningful access to courts regarding the number of hours of library use to which each inmate is entitled pursuant current and applicable case law. Lewis v. Casey, 518 U.S. @ 347. With such ongoing denial of right by Prison actively interfering with my attempts to prepare legal documents, I have requested enlargement of time August 6 / August 27, 2019 but as of the date of this paper I have not received reply from the corrected application made August 27, 2019, obligating me to file my papers incomplete and without all my grievances with the United States Supreme Court; enclosed herewith are my best-efforts to obtain justice under the above circumstances.

In support of my claims I declare under penalty of perjury the foregoing is true and correct.

September 09 , 2019.

/s/

  
ROBERT WILLIAM WAZNEY

990 Wisacky Hwy.

Bishopville, SC 29010

Petitioner

Pro-se (forced)

# PROCEDURAL HISTORY

4/13/16	X	Evidence; NOTICE OF MOTION AND MOTION TO PREVENT WASTING OF ASSETS
4/9/18	E	NOTICE OF BANKRUPTCY to all parties
4/11/18	F	COMPLAINT to all parties
5/24/18	G	NOTICE OF HEARING from Chase
6/9/18	H	Petitioner's Notice of Intent to attend hearing and bring issues, to all parties
6/12/18		Motion EMERGENCY MOTION FOR STAY to all parties including Common Pleas and 4CCOA, (includes notice of Bankruptcy)
6/14/18	I	Hearing and Orders (trial and judgment)
7/12/18	J	Petitioner's Motion 59(e), ALER OR AMEND
7/24/18	B	Lower Court ORDER denying 59(e)
8/16/18	K	NOTICE OF APPEAL and IFP request
8/27/18		Petitioner's Motion OBECTION TO COSTS to all parties
10/4/18		SC COA ORDER denying IFP
10/16/18		Petitioner's REPLY TO ORDER OF OCTOBER 4, 2018
10/24/18		Clerk Paper / Order dismissing Petitioner's 10/16/18 Reply paper
11/29/18		ORDER SC COA appeal dismissed
12/7/18	L	Petitioner's MOTION TO REINSTATE to SC COA
12/12/18	M	SC COA, deficiency—filing fee required
12/20/18	N	Petitioner's LEAVE TO PROCEED IFP to SC COA
2/6/19	A	SC COA Petition for Rehearing denied
2/23/19		SC.Sup.Ct., Petitioner's ENLARGEMENT OF TIME and request for IFP, counsel
2/27/19	C	SC.Sup.Ct. ORDER counsel denied, IFP denied, Time extended
3/25/19	O	Petitioner's MOTION TO RECONSIDER AND ENLARGEMENT
4/2/19	P	S.C.Sup.Ct. responce to 3/25/19 paper
4/3/19	Q	S.C.Sup.Ct. ORDER dismissing due to no filing fee
4/12/19		S.C.Sup.Ct. PETITION FOR REHEARING
6/11/19	D	S.C.Sup.Ct. ORDER Petition For Rehearing denied

## STATEMENT OF THE CASE

### DECLARATION

COMES NOW, ROBERT WILLIAM WAZNEY, Petitioner, in the above numbered and entitled cause, and files this, his PETITION FOR WRIT OF CERTIORARI in the above-numbered and -styled cause of action, and would respectfully show the court the following:

I believe JP Morgan Chase Bank, N.A. (Chase) has used my disabilities to swindle my property from me. After misconviction, I wrote to Chase a letter asking about my mortgage status and for Chase to write me back. That is when things began to happen. For many years the mortgage had been and was still being paid monthly electronically through National Bank of South Carolina (NBSC). That account at NBSC is where all the rent moneys went to for payment of mortgage for Chase (and others). My evidence shows My wife received a letter from Chase about the account correspondence and statements and where she made payment to Chase but Chase rejected her payment even after she tried to pay them over the telephone. Why did Chase not get its electronic payments from NBSC? Did Chase compel NBSC to no longer send payment? Why did Chase decide to not accept payments from my wife? Why would Chase not discuss account details with my wife? Why did Chase say my wifes "last payment will be returned to her"? I brought these issues before a Court but they were ignored. What court records I have are incorrect because they read I brought no evidence, that is untrue. I appealed but notwithstanding frozen assets and request for waiver of court fees I was denied in forma pauperis effectively denying my appeal. The final hearing and trial was had in my absence. I believe Chase learned I was in prison and took steps to swindle my property from me, and the system of courts was used to ensure it was so.

I, ROBERT WILLIAM WAZNEY, am a United States Citizen, SSAN 247-71-9677, I brought evidence of payment attempt of my mortgage (Appendix X @ p.2 middle of page) two different times and two different ways to Court and all parties in this case indicating where my payment was made on my property, but the records do not show it because there are "no transcripts" and "no motions filed". I filed Bankruptcy on my property September 2017 and notified the Court and opposing counsel three different times and three different ways before trial, but the Judge (Court) "is not aware of any Bankruptcy" (Appendix B). I informed the Court I had issues of material fact to bring before the Court, but I was left in prison when Court had trial in my absence notwithstanding my claims and requests to attend, violating my United States Constitution Amendment I, VII, XIV rights. I demand to be compensated for my injuries.

In it's decision of Fidelity & Deposit Company of Maryland v. United States, 23 S.Ct. 120, 187 U.S. 315, 320, the Supreme Court stated that if a rule of procedure deprived a litigant of its right to a trial by jury, it would pronounce the rule void. However, the court found that the particular rule involved in that case, which required the filing of an affidavit of defense in certain contract actions, did not encroach on the constitutional right to a jury trial. Rather the court stated:

[The Rule] prescribes the means of making an issue. the issue made as prescribed, the right of trial by jury accrues.

It is now established that the right to a jury trial exists only when there is some genuine issue of material fact to be determined. Thus, it has been held that the entry of summary judgment, when there is no issue of material fact, does not violate Seventh Amendment. In the summary judgment context, in Anderson v. Liberty Lobby, Inc., 106 S.Ct. 2505, 477 U.S. 242, the Supreme Court held that disputes "over facts that might affect the outcome of the suit ... such that a reasonable jury could return a verdict for the nonmoving party" are inappropriate for summary judgment. Moreover, the court confirmed that "[If] reasonable minds could differ as to the import of the evidence, ... a verdict should not be directed." Id. @ 2511 (Also WL199475 (2008)). Thus the court recognized the tension between certain elements of civil procedure and the jury trial guarantee.

United States Constitution Amendment I [1791] reads: Congress shall make no law ... abridging the freedom of speech .. or the right of the people ... to petition the government for a redress of grievances.

United States Constitution Amendment VII [1791] reads: In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

United States Constitution Amendment XIV [1868] reads: 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.

I informed the Court I had issues of material fact to bring before the Court (Appendix E,F,H), Trial was scheduled and it's NOTICE OF HEARING (Appendix G) clearly reads on its face that it is scheduled "for the purpose of taking testimony, findings of facts and conclusions of law and to enter final judgment therein without further order of the court", and "if any party has any information or record of a Defendant currently being under Bankruptcy protections it is requested that you notify counsel for Plaintiff immediately". Notwithstanding my notices (Appendix E), claims (Appendix F) and notice of Intent to attend to bring issues (Appendix H) which I served on Court and all parties, Court had trial in my absence (Appendix B @ ¶5, Appendix I).

The law reads I have a jury trial guarantee, and that legal right was abridged when I was not given the opportunity to attend trial, violating my United States Constitution Amendment I, VII, and XIV rights.

I appealed the issues but my efforts were barred by the requirement of court fees (Appendix A, M, P, Q ) notwithstanding my claims of indigency and requests for waiver (Appendix L, N, O ). I have a right to justice, justice is to be obtained freely, without purchase; that is Due Process of law, U.S. Constitution Amendment XIV.

I brought up the U.S. Constitutional issues "I was not permitted opportunity to attend the proceeding held June 14, 2018 in Common Pleas Court so I may bring my complaints and my defenses and objections to above Plaintiffs standing and service of applicable banking or consumer laws and any other litigation: in violation of my 1st and 14th Amendment United States constitutional Rights ..." by filing with Judge King and Common Pleas Court 59(e) Motion ALTER OR AMEND (Appendix J page 1 @ (1)) And, I brought up "where final proceedings were had out of the presence of Robert W. Wazney notwithstanding his requests and needs to be present to bring defenses and objections to JPMorgan Chase Bank National Association standing and service of applicable banking and or consumer laws and to bring evidence of breach of contract by JPMorgan Chase Bank nation Association" with my NOTICE OF APPEAL (Appendix K), also see Appendix N, p.2 @ 4,6,8; and Appendix L, p.2 @ 2,3.

## REASONS FOR GRANTING THE WRIT

My testimonial evidence [1] was refused [2], then my appeals were barred because of my inability to pay court fees notwithstanding my requests for waiver [3]; permitting [4] my property to be swindled [5] from me where my testimony should have been considered [6] and my property returned [7].

The Lower Courts erred by refusing my testimony, not preserving my right to trial by jury, and effecting foreclosure of its appeal by using substantial fees as a barrier to access to court. Court actions and decisions conflicts with fundamental law and violates my fundamental rights and guarantees for the United States Constitution Amendments I, VII, and XIV which is important to me and to all persons within the jurisdiction of The United States of America.

The lower Court decision conflicts with every decision, from every Court, ever opined in this Country's history because all their decisions are based upon the consideration of evidence.


This case isn't about 'erroneous factual findings or the misapplication of a properly stated rule or law', this is about what this Nation was founded upon and how it keeps standing, RIGHTEOUSNESS [8].

- 
- [1] Not to swear falsely in denial of a monetary claim (Leviticus 19:11)
  - [2] Judges must not accept testimony unless both parties are present (Exodus 23:1); the Courts must carry out the laws of the ... denier (Exodus 22:8)
  - [3] Not to oppress the weak (Exodus 21:22)
  - [4] A Judge must not pervert justice (Leviticus 19:15)
  - [5] Not to covet and scheme to acquire another's possessions (Exodus 20:14)
  - [6] The court must implement laws against the one who assaults another or damages another's property (Exodus 21:18)
  - [7] Return the robbed object or its value (Leviticus 5:23)
  - [8] Judge Righteously (Leviticus 19:15)

CONCLUSION

Premises considered, the petition for a writ of certiorari should be granted.

Respectfully submitted,



September 9, 2019 Robert M. Weisberg