

No. \_\_\_\_\_

19-7924

IN THE

SUPREME COURT OF THE UNITED STATES

SHANEL STACZ,

PETITIONER,

vs.

ESA MANAGEMENT LLC,

ORIGINAL

FILED  
JAN 27 2020

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF CALIFORNIA

PETITION FOR WRIT OF CERTIORARI

SHANEL STACZ  
1400 E Tahquitz Cyn Wy  
Palm Springs, CA 92262  
(310) 994-6953

## QUESTIONS PRESENTED

The appellate procedure for Limited Civil cases in California, specifically writ of mandates have taken on numerous procedures in order to have review. Years ago a denial of a writ of mandate was an appealable order. Now appellate review is only through applications and petitions for transfers that limit the Court of Appeal and Supreme Court of California if the transfer is denied per Cal. Rules of Court, rules 8.1018 and 8.500, including when transfer is denied by the courts miscalculation of whether it was timely filed and both Courts are immediately divested of jurisdiction and any remedy to ensure due process.

Two questions are presented:

1. Whether the Supreme Court of California erred by not granting and transferring the Appellant's Writ of Mandate of original jurisdiction back to the Court of Appeal to correct their miscalculation of the timeliness of the Appellant's Petition of Transfer?
2. Whether the denial of the Appellant's Writ of Mandate is a violation of Due Process in violation of the Fifth, Eighth and Fourteenth Amendments?

## **LIST OF PARTIES**

All parties do not appear on 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:

RONALD HAGAN

## **RELATED CASES**

There are no related cases

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Filed on January 15, 2020.

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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The opinion of the Supreme Court of California appears at Appendix A of the petition and is unpublished.

**JURISDICTION**

The date on which the highest state court decided my case was January 15, 2020. A copy of that decision appears at Appendix A. The jurisdiction of this Court is invoked under 28 U.S. C. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **Fifth Amendment**

No person shall be held to answer for a capitol, 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

### **Eighth Amendment**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### **Fourteenth Amendment**

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**

The Petitioner is a Defendant in an ongoing Limited Civil Jurisdiction case in California and filed a timely Writ of Mandate with the Superior Court County of Riverside Appellate Division because the lower court Commissioner violated her civil rights and the Commissioner's jurisdiction was also at issue via a denial of a Motion to Quash. Subsequently the writ was denied and the Petitioner filed the requisite Application for Certification for Transfer and after its denial, a Petition for Transfer with the California Court of Appeal. However, the Court of Appeal miscalculated the tolling for the timely filing of the Petition to Transfer and erroneously denied it as untimely. The Petitioner then sought to file a Petition for Rehearing with the Court of Appeal only to find out after preparing her document that it could not be filed per C.R.C., rule 8.1018(a), she then prepared a Petition for Review to the Supreme Court of California only to find out that per C.R.C. rule 8.500 that she was also barred from filing said document as both courts lost jurisdiction. Then a timely Writ of Mandate of an original proceeding was filed, a one in a million longshot of being heard because of the huge amount of litigants seeking redress with the Supreme Court of California by invitation only, and was summarily denied on January 15, 2020.

## **REASONS FOR GRANTING THE PETITION**

The question of whether the California Supreme Court should have transferred this matter back to the lower court now requires a resolution by this Court because denial of access to the courts, a due process violation, has now subjected California litigants to further unanticipated excessive fees and unusual punishment in violation of the Eighth Amendment and requires this Court to preserve the public's trust in the rule of law and the courts.

The Court's decision will have a profound impact on the rights of a huge group of citizens residing in California that have their due process rights denied by law until the legislature rectifies this flaw in the Limited Jurisdiction Appellate Procedure. Further, filing fees at the Appellate level are the highest in California as well, \$710, why should litigants be forced to seek higher Appellate review when a simple, free, motion for reconsideration/rehearing would have rectified the miscalculation? Especially in light of the fact that all other jurisdictions in California allow this remedy, i.e Unlimited Jurisdiction and thereby carves out an instant Due Process and Equal Protection violation without remedy, due to the Supreme Court of California's likely refusal to even grant and transfer a simple matter back to the Court of Appeal and now burdening this Court with such a trivial issue that vitiates American Jurisprudence and Due Process, Equal Protection and excessive punishment in violation of the Eighth Amendment.

**I. REVIEW IS WARRANTED TO DETERMINE IF THE CALIFORNIA SUPREME COURT IS DENYING DUE PROCESS AND VIOLATING THE FIFTH, EIGHTH AND FOURTEENTH AMENDMENTS**

**Due Process Compels Review**

The Fifth and Fourteenth Amendments guarantee Due Process to all litigants in California. Per California's Rules of Court, rule 8.1018 and 8.500, California has eliminated *only* a limited jurisdiction litigant's ability to seek rehearing on a decided issue of the Court of Appeal and the Supreme Court of California of a simple tolling mistake, since unlimited jurisdiction cases, those of more than \$25,000 in controversy are not governed by the same draconian rules. Especially since the state of California has the largest population and the Supreme Court of California hears less than one percent of Petitions for Writ of Mandate of original jurisdiction and thereby Limited Jurisdiction litigants are discriminated against via California statutes and potential abuse of power of the court such as the Court of Appeal in this instant matter that curiously miscalculated the timely filing by two Appellant's in the same case 14 days apart and causing an unusual punishment per the Eighth Amendment.

**B. The Lower Court's Order Deprived The Appellant Of Due Process And Equal Protection And Requires Review**

Cal. Rules of Court, rule 8.1006 (a), requires that a filing and denial of an Application For Certification For Transfer be made to the Superior Court Appellate Division, before the Court of Appeal can file and or hear a Petition for Transfer. In this instant matter a filing of an Application For Certification For Transfer was timely filed pursuant to Cal. Rules of Court, rule 8.1005(b)(1)(A), within 15 days of the denial and service of the Petition for Writ of Mandate on October 31, 2019 and was denied on November 19, 2019 and attached to the Appellant's Petition For Transfer to the Court of Appeal.

Thereby the tolling of the Appellant's time to file a timely Petition For Transfer began on November 19, 2019, not the denial of the Petition For Writ of Mandate that was denied on October 31, 2019, as the Court of Appeal's Order stated it used for tolling and denial.

The correct tolling per Cal. Rules of Court, rule 8.1006(b)(1), is 15 days from November 19, 2019 and would have made the last day for filing a timely Petition for Transfer on December 4, 2019, since the Appellant filed her Petition for Transfer on December 2, 2019, he was timely and denied Due Process and Equal Protection per the Fifth and Fourteenth Amendments.

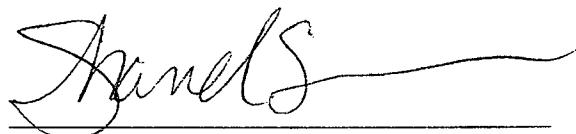
**II. ALTERNATIVELY REVIEW SHOULD BE GRANTED AND THE CASE TRANSFERRED BACK TO THE SUPREME COURT OF CALIFORNIA WITH DIRECTIONS TO GRANT REHEARING PURSUANT TO GOVERNMENT CODE SECTION 68081**

Since the Court of Appeal erroneously without cause ordered Stacz' Petition for Transfer denied for untimeliness, she petitioned the Supreme Court of California to transfer the case back to the Court of Appeal they did not do so. The Supreme Court of California's lack of understanding of the record before it and it's unpublished Order should be of a complete review to ensure that all of the facts were applied to the applicable laws to ensure Due Process as "A rehearing may be granted on the grounds that the court's opinion . . . failed to address a material issue." (Eisenberg, Horvitz and Weiner, Civil Appeal and Writs ¶ 12:16 (The Rutter Group 2008), citing *In re Jessup's Estate* (1889) 81 Cal. 408, 471.), Government Code Section 68081. Review should be granted because the Order was decided and based upon a mis understanding of the record and a misapplication of law and is a question of jurisdiction that can be reviewed at anytime.

## CONCLUSION

The petition for a writ of certiorari should be granted. Or in the alternative transfer the case back to the appropriate court to reinstate the Petition for Transfer as timely filed since jurisdiction can be argued at anytime..

Respectfully submitted,



Shanel Stacz

Date: 1-27-20