

No. _____

=====

Supreme Court of the United States

SHIRLEY ANNETTE HIRSHAUER,

Pro Se Petitioner,

v.

BROOKE SCHUMM III, AQ HOLDINGS, LLC,
THOMAS ROSS

Respondents

PETITION FOR WRIT OF CERTIORARI

QUESTIONS PRESENTED

1. Was Shirley Hirshauer's, and her sons, Constitutional Right to Due Process violated?
2. Is a judge immune from being sued when he acts in the absence of all jurisdiction?
3. Is the Maryland Fraudulent Conveyance Rule 15-209 Unconstitutional?
4. Was it unlawful for Judge Sweeney to dismiss Hirshauer's counterclaim when she had merit and the defendant's to the counterclaim offered to defense?
5. Does the Plain Error Rule, Harmful Error Rule and Reversible Error Rule pertain to this case?
6. Were Judge Ross and Judge Sweeney biased triers?

PARTIES TO THE PROCEEDING

The parties to the proceeding in the Court of Appeals of Maryland were Petitioner/Appellant Shirley Hirshauer, James Gerben, Jr, Randy Gerben, and Jason Gerben, attorney Kevin Joyce, and Respondents/Appellee's were Queen Anne's County Circuit Court Judge Thomas Ross, AQ Holdings, LLC, attorney Brooke Schumm III, attorney Cathleen Meredith, attorney David Wildberger, Wanda Clemons, personally and as personal representative of Geraldine Gray, Elizabeth O'Shea, Patricia Plews, Alice Hall, Christine Lauman, Terry Brumwell, Michael Gray and Wayne Gray, AQ Holdings, LLC, Attorney General of Maryland.

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Queen Anne's County Circuit Court - Case 17-C-06-11769; Recorded Judgments 17-C-06-11800; 17-C-06-11808 and 17-C-06-11809; The Court of Special Appeals of Maryland, Case Nos 2684 Sept Term 2011 and 2687 Sept Term 2011 - Which are void as there was no final judgment for jurisdiction, from Case No 17-C-06-11769, and when there opinion came out 2 of the parties were under a bankruptcy stay; The COA of Maryland, Case No COA-PET-0501-2018, Federal Bankruptcy Court for the Middle District of Florida Case Nos 3:07-bk-02587-JAF, Adv Pro 3:08-ap-00036-JAF, Adv Pro 3:08-ap-00178-JAF; and the U.S. District Court for the Middle District of Florida on appeal, Case No 3:10-cv-198-TJC.

STATEMENT OF JURISDICTION

The Court of Appeals entered judgment on June 21, 2019, **Apx 83**. The court denied to make a ruling on Hirshauer's Constitutional Rights. This Court has jurisdiction under 28 U.S.C. subsection 1254(1).

1 Constitutional Provisions Involved

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PETITION FOR WRIT OF CERTIORARI

Shirley Hirshauer petitions for a writ of certiorari to review the judgments of the Queen Anne's County Circuit Court, the Kent County Circuit Court, the Federal Bankruptcy Court and the U.S. District Court for the Middle District of Florida, all relating to the same issue of Hirshauer's Constitutional Right to Due Process being violated.

INTRODUCTION

This case is of great importance due to the fact that it presents violations of the U.S. Constitutional Rights of the Queen Anne's County Circuit Court defendants, Shirley Hirshauer, James Gerben, Jr., Randy Gerben and Jason Gerben (defendants), there are conflicting orders/judgments between the

courts of Maryland and the Federal Bankruptcy Court and the U.S. District Court for the Middle District of Florida, on appeal and the Maryland Commercial Law Section 15-209 is either an unconstitutional law or was unconstitutionally applied by the Queen Anne's County Circuit Court Judge Ross.

Justice Gorsuch recently said the Constitution and the law are predictable, even Justice Gorsuch could not have predicted what Judge Ross, the court clerk and attorney Brooke Schumm III, et al did to Hirshauer and her sons James Gerben, Jr., Randy Gerben and Jason Gerben (Gerben's/sons) in August 2006.

The ex parte actions of August 2006 in the Queen Anne's County Circuit Court do

not meet constitutional muster, and are therefore void.

There is no final judgment on the fraud issue in the Queen Anne's County Circuit Court and can never be due to Hirshauer's bankruptcy discharge it would be a violation of Bankruptcy **Discharge Rule 524** to continue a case after discharge, plus the issue of fraud was adjudicated, to a final judgment, in Hirshauer's involuntary bankruptcy, Adv Pro No 08-00178 and appealed by the Clemons Party, Appeal No. 3:10-CV-198-TJC.

Which means there are no valid writs of execution in Shirley Hirshauer's name, and there can never be a valid levy on the Gerben's property or a valid sheriff's sale of Gerben property for Hirshauer's debt, a debt

that was discharged in Hirshauer's involuntary bankruptcy. **(Apx 60-61)**

Inscribed in the supreme court building are the words "Equal Justice Under the Law", this is all Hirshauer and the Gerben's are seeking from this Honorable Court.

Shirley Hirshauer prays this Honorable Court decides to hear this case and right the wrongs done against her, her sons and the U.S. Constitution.

STATEMENT OF THE CASE

On November 5, **2004** Shirley Hirshauer transferred a property, located at 1211 Busic Church Road, Marydel, Maryland (farm), to her 3 sons, James Gerben, Jr, Randy Gerben and Jason Gerben (Gerben's/sons).

On or about July 17, 2006 Hirshauer **only**, not her sons, lost a lawsuit, in Anne Arundel County, Maryland, to Wanda Clemons, both personally and as personal representative of the estate of Geraldine Gray, Elizabeth O'Shea, Alice Hall, Terry Brumwell, Patricia Plews, Christine Laumann, Michael Gray and Wayne Gray (Clemons Party).

On or about July 19, 2006 the Clemons Party's attorney's filed a lawsuit in Queen Anne's County Circuit Court Case No 17-C-06-11769, accusing Hirshauer of fraudulently transferring the farm to her sons.

The named defendants in this lawsuit were Shirley Hirshauer, James Gerben, Jr., Randy Gerben and Jason Gerben.

The Clemons Parties attorney's elected not to serve any defendant with the summons that were issued in Case No 17-C-06-11769 (fraud case).

Then in August 2006 Mr. Schumm, Clemons Parties attorney, filed in the 3 recorded judgment cases asking the court to find Hirshauer guilty of fraudulently transferring the farm to her sons and let them levy and sell, without due process.

Clemons Party claimed that Maryland Rule 15-209(a) allowed them to ignore the constitution and take the Gerben's farm for Hirshauer's debt.

Maryland Commercial Law.

Section 15-209

(a) **If** a conveyance or

obligation is fraudulent as to a creditor whose claim has matured, the creditor, as against any person except a purchaser for fair consideration without knowledge of the fraud at the time of the purchase or one who has derived title immediately or immediately from such a purchaser, may:

- (1) Have the conveyance set aside or obligation annulled to the extent necessary to satisfy the claim; or
- (2) Levy on or garnish the property conveyed as if the conveyance were not made.

Since 15-209(a) states if it would make you believe that there must be due process to a final judgment on the fraud in favor of the plaintiff, if not it is an unconstitutional law and should be ignored.

Attorney Schumm, et al and Judge Ross decided to use this law to say, ex parte, Hirshauer is a fraud, insolvent, etc so Clemons may take the Gerben's farm.

The Gerben's and Hirshauer were shocked that a court could do this in secret with an attorney.

For a transfer to be a fraud there must be several points of guilt such as the transferor was insolvent, and many others.

Judge Ross would have no way of knowing if Hirshauer was insolvent without a discovery and a trial.

A trial on this exact issue was had in the Federal Bankruptcy Court, Adv 08-00178, with

the exact same parties and the Honorable Judge Funk order there was no fraudulent transfer of the farm the Gerben's are the owners and their deed cannot be avoided.

(Apx 43-57)

The Clemons Party appealed this decision, with Mr. Schumm as their attorney, who has been working on contingency for years at this point, the Honorable Judge Corrigan upheld the Honorable Judge Funk's order of no fraud and the Gerben's are the owners of the farm.

To which Mr. Schumm et al decided they didn't like that final judgment so they would all just ignore it.

Hirshauer and the Gerben's attorney, Mr. Darrow, filed a motion to release real

property on September 13, 2006 asking the Queen Anne's County Circuit Court to squash the writs of execution and properly/constitutionally/legally try the fraud case.

As the Clemons Party and their attorney's were well aware Hirshauer had moved to Florida in June 2005, and she no longer owned any property in Maryland and had no minimum contacts with the state of Maryland, therefore the Queen Anne's County Circuit Court could not acquire jurisdiction over Hirshauer without her consent, which she would not have given. The US District Court of Baltimore, Maryland would have been the proper court to file the

fraudulent conveyance complaint under diversity jurisdiction since Hirshauer and her son James Gerben, and 3 of the plaintiff's, Elizabeth O'Shea, Patricia Plews and Wayne Gray all lived in Florida and attorney Schumm claimed the farm was valued at over \$150,000.00 or in the alternative Anne Arundel County Circuit Court would have been the proper court since the alleged fraudulent transfer occurred there.

In fact, the Kent County Circuit Court had no jurisdiction since attorney Schumm frauded service on Hirshauer, 3 times, and then forced her to court in Maryland to defend the court had no jurisdiction over her where Mr. Schumm, rather than defend his

bad service, handed Hirshauer the summons in court.

The problem with that is by that time the summons had expired.

Kent County Judge Sweeney said in Court, after over a year in the partition or sell case how do I know I have jurisdiction since the property is in the name of James Gerben, Jr and he is not here.

Mr. Schumm told Judge Sweeney not to worry about it he has jurisdiction and the case proceeded.

The law says jurisdiction must be proven on the record before the court can proceed.

Hirshauer hired a Anne Arundel County attorney to create the new deed to the Gerben's, she gave the new deeds to her

sons in Anne Arundel County and the Anne Arundel County attorney mailed the Gerben's deed to the Queen Anne's County Circuit Court for filing, which is not required by law.

First, the Clemons Parties attorneys crafted a motion to the Queen Anne's County Circuit Court, falsely titled "Request for Writ of Execution on Real Property, (**Apx 1-9, Apx 11-20 and Apx 26-34**) when in reality these 3 motions were requesting the Queen Anne's County Circuit Court to find Hirshauer guilty of fraudulently transferring the farm to her sons, in recorded judgment cases where there is no judicial jurisdiction. Recorded

judgment cases are a clerk of the court

function, per **Maryland Rule 2-641**.

Maryland Rule 2-641. Writ of execution - Issuance and content.

(a) Generally. Upon the written request of a judgment creditor, the clerk of a court where the judgment was entered or is recorded shall issue a writ of execution directing the **sheriff to levy upon property of the judgment debtor** to satisfy a money judgment. The writ shall contain a notice advising the debtor that federal and state exemptions may be available and that there is a right to move for release of the property from the levy. The request shall be accompanied by instructions to the sheriff that shall specify (1) the judgment debtor's last known address, (2) the judgment and the amount owed under the judgment, (3) the property to be levied upon and its location, and (4) whether the sheriff is to leave the levied property where found, or to exclude others from access to it or use of it, or to remove it

from the premises. The judgment creditor may file additional instructions as necessary and appropriate and deliver a copy to the sheriff. More than one writ may be issued on a judgment, but only one satisfaction of a judgment may be had.

This motion was based on deception since it was ex parte, the evidence attached was from 2006 when the transfer in question occurred in 2004.

“Writ of execution was improperly issued and not warranted by the facts.”

Unites States v. Darwin Constr. Co. 679 F.

Supp. 531 (D. Md. 1988) Cited in **Kroop &**

Kurland, Pa v Lambros, 118 Md. App 651, 703

A.2d 1287 (1998); **Griffin v Shapiro**, 158 Md.

App. 337, 857 A.2d 519 (2004).

Hirshauer would like to adopt all the case law from her motion to declare writs of execution are void, the Judge Sweeney, of Kent County Circuit Court, ignored. **(Apx 70 thru Apx 79)**

3 of the Clemons Party recorded their Anne Arundel County Circuit Court judgments in Queen Anne's County Circuit Court, where these ex parte motions were filed Case Nos are Elizabeth O'Shea, Case No 17-C-06-11800, Alice Hall, Case No 17-C-06-11808 and Terry Brumwell, Case No 17-C-06-11809, (writ cases).

The complaint in the fraud case still had not been served on any defendant.

These ex parte motions, with no

certificate of service, yet the clerk of the Queen Anne's County Circuit Court accepted it, violating **Maryland Rules 1-351 and 1-323.**

Maryland Rule 1-323 Proof of Service

The clerk shall not accept for filing any pleading or other paper requiring service, other than an original pleading, unless it is accompanied by an admission or waiver of service or a signed certificate showing the date and manner of making service.

Maryland Rule 1-351

No court shall sign any order or grant any relief in an action upon an ex parte application, unless:

(a) an ex parte application is expressly provided for or necessarily implied by these rules or other law, or

(b) the moving party has certified in writing that all parties who will be affected have been given notice of the time and place of presentation of the application to the court or that specified efforts commensurate with the circumstances have been made to give notice.

No notice was given to Hirshauer or the Gerben's, this

was all done in secrecy with Mr. Schumm and Judge Ross.

The clerk of the Queen Anne's County Circuit Court had rejected Hirshauer's filings, 3 times, for having no certificate of service, 1 was merely updating her address.

The Queen Anne's County Circuit Court Judge, Ross, accepted the ex parte motion to find Hirshauer guilty of fraud, and in fact,

within 3 days, Judge Ross put out an order stating Hirshauer did fraudulently transfer the farm to her sons, her sons deed is void, the farm is now back in Hirshauer's name and ordered the clerk to issue writs of execution in the 3 recorded judgment cases. **(Apx 21-24, 35-38)**

Per **Maryland Rule 2-311(b)** states a party has 15 days after being served with a motion to respond.

Maryland Rule 2-311. Motions.

(b)Response. Except as otherwise provided in this section, a party against whom a motion is directed shall file any response within 15 days after being served with the motion, or within the time allowed for a party's original pursuant to Rule 2-321 (a), whichever is later. Unless the court order otherwise, no response need be filed to a

motion filed pursuant to Rule 1-204, 2-532, 2-533 or 2-534. If a party fails to file a response required by this section the court may proceed to rule on the motion.

The clerk did not mail a copy of this order to Hirshauer or her sons, the Gerben's, violating **Maryland Rule 2-535(b)**.

The clerk of the Queen Anne's County Circuit Court issued the 3 writs of execution in August 2006 in the name of Shirley Hirshauer to be levied on the Gerben's farm.

Attorney Brooke Schumm III delivered the writs of execution to the Queen Anne's County Sheriff and in August 2006 the sheriff placed these ex parte, ordered without jurisdiction, void writs of execution on the

Gerben's farm, but neglected to mail anything to Hirshauer or the Gerben's per **Maryland Rule 2-642(d)**. "The writ was required to be served on the judgment debtor, who was entitled to respond." **Kroop & Kurland, P.S., et al v. Michael J. Lambros**, No. 281, Sept. Term 1997, January 06, 1998.

All of the above had occurred in secret, ex parte, with the Queen Anne's County Circuit Court lacking all jurisdiction, with the Gerben's and Hirshauer having no knowledge, at a time when Hirshauer and James Gerben, Jr were, and still are, Florida residents.

Due to lack of service, notice, knowledge on the part of Hirshauer and the Gerben's, lack of all jurisdiction by the Queen

Anne's County Circuit Court, the clerk not following the law and the attorney's fraudulently labeled ex parte motion to Judge Ross all of the above actions are void.

On September 7, 2006 Judge Ross sent an ex parte letter to attorney Michael Cuches asking if what he did was correct. **(Apx 92-101)**

Mr. Cuches basically told Judge Ross he has to get jurisdiction and have a trial.

Mr. Cuches also stated that the law is vague seemed unconstitutional **(Apx 92)**

No one will acknowledge these actions are void so I am praying this Honorable Court will inform everyone that Hirshauer was found innocent of fraudulently transferring the farm to her sons, to a final judgment.

The Honorable Judge Corrigan, of the US District Court for the Middle District of Florida's order no fraud and the Gerben's deed cannot be avoided stands, even though all the Maryland Courts have been determined to ignore the Honorable Judge Corrigan.

Judge Corrigan's order came out of an appeal that was filed by the Clemons Parties attorney and the trustee in Hirshauer's involuntary bankruptcy, that the Clemons Party placed Hirshauer into, in Florida.

All of the above people have perverted the course of justice which has caused great financial and emotional distress on Hirshauer and the Gerben's.

As this Honorable Court can see by the above there never were any valid writs of execution on the Gerben's farm, and therefore the claimed sheriff's sales of the Gerben's farm with void writs of execution in the name of Shirley Hirshauer are void.

The sheriff's ad claims they are selling Gerben's property with Hirshauer's writs of execution. This makes no common sense much less legal sense.

A writ of execution is only valid against property of the debtor at the time the writs of execution are levied.

"A sentence of a court, pronounced against a party without hearing him or giving him an opportunity to be heard, is not a judicial determination of his rights and is not

entitled to respect in any other tribunal".

Windsor v. McVeigh, 93 U.S. 274 (1876); "the court granted Darwin's motion to vacate the IRS's writ of execution because the writ was issued before there was a judgment regarding the violation of the court's final contempt order." **United States, et al v.**

Darwin Construction Company, US Court of Appeals, Fourth Circuit 873 F.2d 750. "The law is well-settled that a void order of judgment is void even before reversal", **Valley v. Northern Fire & Marine, Inc. Co.**, 254 U.S. 348, 41 S.Ct. 116 (1920)

Hirshauer's counter-claim should not have been dismissed by Judge Sweeney, in the Kent County Circuit Court.

Judge Ross lost his immunity when he

made the decision to make unlawful orders in the absence of all jurisdiction, that should have been merely an administrative act, and attorney Brooke Schumm et al produced no defense or evidence that his actions in August 2006 were lawful and AQ Holdings, LLC asking to sell a property he bought at an invalid sheriff's sale is not legal. AQ Holdings, LLC does not own any portion of the farm and should not be requesting to sell it. "A Judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity." **Forrester v White**, 484 U.S. at 227-229, 108 S. Ct at 544-545; **Stump v Sparkman**, 435 U.S. at 380, 98 S. Ct at 1106; **Mireles v Waco**, 112 S. Ct. 286, at 288 (1991)

Even if AQ Holdings, LLC did own a portion of the farm, and Hirshauer and the Gerben's believe AQ Holdings, LLC does not, it would be unlawful for Judge Sweeney to order a sale if would harm the other owner and it would harm Hirshauer as her father and brothers ashes are buried on the farm, and she recently purchased at an invalid sheriff sale to keep it in the family prior to getting the fraudulent sheriffs sale voided, or if the property can be divided. This is just land it can be divided without harm or injury.

Maryland Rule 14-107(a)

14-107(a) A circuit court ay decree a partition of any property, either legal or equitable, on the bill or petition of any joint tenant, tenant in common, parcener, or concurrent owner, whether

claiming by descent or purchase. ***If it appears that the property cannot*** be divided without loss or injury to the parties interested, the court may decree its sale and divide the money resulting from the sale among the parties according to their respective rights. The right to a partition or sale includes the right to a partition or sale of any separate lot or tract of property, and the bill or petition need not pray for a partition of all the lots or tracts.

If AQ Holdings, LLC believes he owns any part of the farm he could sell his claimed interest instead of going to court to force Hirshauer to sell her share that was just purchased at the sheriff's auction in an attempt to not have any gap in using the farm and visiting my families graves that are on it until the courts could unwind all the bad acts by the lower courts and attorneys.

AQ Holdings, LLC was at the auction where Hirshauer bought the farm, therefore he had the opportunity to out bid Hirshauer, but he chose not to and then shortly there after his attorney, still Brooke Schumm III the same attorney as the Clemons Party's, filed a suit to force me to sell.

On September 28, 2006 Judge Ross issued an Memorandum and Order Regarding Stay of Execution. **(Apx 87-91)**

This document states "No showing of service of process..." **(Apx 87)** "The law requires proof of jurisdiction to appear on the record..." **Hagans v Lavine** 415 U.S. 533; "A judgment obtained without jurisdiction over the defendant is void." **Overby v. Overby**, 457 S.W.2d 851 (Tenn 1970). Volume 20:

Corpus Juris Sec s/s 1785. "A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a **void order can be challenged in any court.**" **Old Wayne Mut. L. Assoc. v. McDonough**, 204 U.S. 8, 27 S.Ct. 236 (1907) "There is no discretion to ignore lack of jurisdiction." **Joyce v. U.S.**, 474 U.S. 215 "The burden shifts to the court to prove jurisdiction" **Rosemond v. Lambert**, 469 F.2d 416.

In this September 28, 2006 order, (**Apx 87**), Judge Ross states, "Randy W. Gerben, James A. Gerben, Jr. and Jason W. Gerben, the fee simple owners of the subject property..."

I think everyone can agree that if

Judge Ross is admitting on September 28, 2006 that the Gerben's own the farm then the sheriff could not have created a levy on the farm in August 2006 for Hirshauer's debt, with writs of execution in Shirley Hirshauer's name.

Maryland Rule 2-641, Judge Ross refers to in (**Apx 89**, page 2, footnote 3), states:

Maryland Rule 2-641. Writ of execution - Issuance and content.
(a) Generally. Upon the written request of a judgment creditor, the clerk of a court where the judgment was entered or is recorded shall issue a writ of execution directing the **sheriff to levy upon property of the judgment debtor** to satisfy a money judgment. The writ shall contain a notice advising the debtor that federal and state exemptions may be available and that there is a right to move for release of the property from the levy. The request shall be accompanied by instructions to

the sheriff that shall specify (1) the judgment debtor's last known address, (2) the judgment and the amount owed under the judgment, (3) the property to be levied upon and its location, and (4) whether the sheriff is to leave the levied property where found, or to exclude others from access to it or use of it, or to remove it from the premises. The judgment creditor may file additional instructions as necessary and appropriate and deliver a copy to the sheriff. More than one writ may be issued on a judgment, but only one satisfaction of a judgment may be had.

Per this Memorandum and order plaintiff's had until September 25, 2006 to respond to Hirshauer and Gerben's request to quash the writs of execution, but per Judge Ross "no response was forth coming". **(Apx 90)**

(Apx 90) states "it would appear that

the writs of execution, real property, and orders issued therewith should be **rescinded, released and vacated**, without prejudice, until such time as Civil #06-11769 is adjudicated. Furthermore, Civil #06-11800, Civil #06-11808 and Civil 06-11809 should be consolidated with Civil 06-11769. Until such time as the matter can be heard and proper **assurances regarding transfer** of the property can be made, the Court will stay enforcement of the subject writs of execution and orders.

Which means nothing can occur in any of the 4 above cases due to Hirshauer's bankruptcy discharge.

Although, we must keep in mind that Judge Ross still has no jurisdiction.

Hirshauer, Randy Gerben and Jason Gerben were served in December 2006, according to Brooke Schumm and James Gerben, Jr. was served on March 13, 2007, in Florida in jail, 3 days before the March 16, 2007 trial in Queen Anne's County Circuit Court of Maryland.

Judge Ross said at trial he did not care James Gerben, Jr was just served because we were there about Hirshauer.

Judge Ross would also never have jurisdiction over the fraud issue since the alleged fraud occurred in Anne Arundel County.

Anne Arundel County is where Hirshauer hired an attorney to draw up a new deed on the farm, Anne Arundel County is

where she handed the new deed to her 3 sons, then the Anne Arundel County attorney mailed the deed to Queen Anne's County Court.

So, Judge Ross knew what he should do but chose not to.

Civil Case #06-11769 was closed without a valid judgment due to Hirshauer's involuntary bankruptcy stay voiding Ross' July 27, 2007 judgment, and due to Hirshauer's discharge the fraud case can never be re-opened to get a judgment.

Any actions taken after June 19, 2007, the date Shirley Hirshauer was placed into an involuntary bankruptcy, by the Clemons Parties attorney's, are void for violation of the Federal Bankruptcy Stay 362 and the Federal

Bankruptcy Discharge 727 laws. **(Apx 60)**

Hirshauer counter-claim should not have been dismissed by Judge Sweeney, in the Kent County Circuit Court.

Judge Ross lost his immunity when he made the decision to make unlawful order in the absence of all jurisdiction, and attorney Brooke Schumm et al produced no defense or evidence that his actions in August 2006 were lawful and AQ Holdings, LLC asking to sell a property he bought at an invalid sheriff's sale is not legal. AQ Holdings, LLC does not own any portion of the farm.

These actions by the attorney, clerk and judge were unconstitutional, illegal and a Plain Error per the Rule 52 and Reversible

Error, per Rule 52 and violate **Maryland Rule 2-535.**

Hirshauer is requesting this Honorable Court order all the actions taken in Queen Anne's County Circuit Court against Hirshauer and her sons are void, and all the actions and orders that followed in the Queen Anne's County Circuit Court and the Queen Anne's County Sheriff are void as well as they are based on void orders.

The writs of execution are void, by law, and therefore it would be impossible for Judge Ross to stay them as they do not exist.

On December 20, 2006 Judge Ross ordered a trial to be held on March 16, 2007 even though Judge Ross still lacked jurisdiction since not all defendants were

served and the fraud issue is not in his jurisdiction.

James Gerben Jr was served on March 13, 2007, 3 days prior to the trial, in jail, in Florida.

When Mr. Darrow objected to having a trial as improper since James Gerben, Jr. was just served, Judge Ross said he didn't care because the trial was all about Shirley Hirshauer.

So the trial went on.

Judge Ross did not issue an order in the fraud case until July 27, 2007, the order stated Shirley Hirshauer was guilty of fraudulently transferring the farm to her sons, the Gerben's deed was void and **now the sheriff may levy.**

(Apx 101-102)

The sheriff never levied.

Prior to Judge Ross's order of July 27, 2007 Mr. Schumm placed Shirley Hirshauer in an involuntary bankruptcy, in the Middle District of Florida, Case No. 3:07-bk-02587-JAF, on June 19, 2007.

This bankruptcy filing immediately triggered the automatic bankruptcy stay, Rule 362.

Even though Hirshauer's attorney, Mr. Darrow, informed the Queen Anne's County Circuit Court, 3 times, of the involuntary bankruptcy, because Mr. Schumm did not per **Maryland Rule 2072-1**, Judge Ross continued to make orders for Mr. Schumm's filings.

Mr. Schumm claims to be a bankruptcy

attorney and yet he continued to violate the Federal Bankruptcy Stay Rule 362.

The Federal Bankruptcy Court Judge, the Honorable Judge Funk, disagreed stating on account of the fraud charge Hirshauer was a necessary party to the Maryland actions and ordered Judge Ross violated the Federal Bankruptcy Stay Rule 362 and therefore Judge Ross' July 27, 2007 order was void. **(Apx 43-57)**

After the unlawful acts to issue ex parte writs of execution, while the Queen Anne's County Circuit Court of Maryland lacked all jurisdiction, no one has defended the fact that these writs of execution are void.

Every time Hirshauer requested a judge to order the writs of execution were issued

illegally and were not valid the request was ignored.

Attorney Brooke Schumm III and all the judges would only go back far enough in the case to see the sheriff levied in August 2006, but refused to look at the actions between the judge and the attorney's prior to the levy that got the writs of execution in the first place, and no judge has answer whether the writs of execution the sheriff used were valid or not.

This case is of great importance to the Constitution and the laws, especially since Judge Ross is the only circuit court judge in Queen Anne's County.

Hirshauer has a right to an unbiased trier therefore she requested Judge Ross

recuse himself, several times, he refused until he believed he had the unlawful taking of the Gerben's farm set in stone, then he recused himself.

Hirshauer believes that since Judge Ross ordered she was a fraud, prior to having jurisdiction, with no due process Judge Ross' future orders would be unfairly ordered against her.

Hirshauer has no reason to believe she would receive fair due process with Judge Ross due to the fact Judge Ross already ordered she was guilty, without jurisdiction, notice, knowledge or any due process.

"Where defendant does not believe he can have a fair and impartial trial, his case **shall** be removed upon proper suggestion to

another District Court judge sitting in or assigned to same district but not to a court of general jurisdiction." **Thompson v Giordano**, 16 Md. App. 264, 295 A.2d 881 (1972)

Maryland Rule 3-505.

Disqualification of judge.

(a) Request for recusal. A party who believes that a fair and impartial trial cannot be had before the judge to whom the action has been assigned may request the assigned judge to disqualify himself or herself.

The cases were sent to the Kent County Circuit Court where the only circuit court judge in Kent County, Judge Bowman, held one hearing and then recused himself without being asked.

Which was a disappointment to Hirshauer because Judge Bowman was

allowing Hirshauer's counterclaim and a jury trial as she had requested.

This guilty order/judgment is void, by the law and the Constitution, as it was done without jurisdiction, ex parte, while Hirshauer was a Florida resident and without Hirshauer having any knowledge or due process in recorded judgment cases where no complaint lies, no summons, no service and no jurisdiction. "A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate its want of vitality is a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists."

People v Greene, 71 Cal. 100 [16 Pac. 197, 5 Am St. Rep. 448]. "If a court grants relief,

which under the circumstances it hasn't any authority to grant, its **judgment is to that extent void.**" (1Freeman on Judgments, 120c.) An illegal order is forever void. "A judgment of a court without hearing the party or giving him an opportunity to be heard is not a judicial determination of his rights. **Sabiego v Maverick**, 124 US 261, 31 L. Ed 430, 8 S Ct 461, and is not entitled to respect in any other tribunal."

The Court of Special Appeals, (**Apx 105-149**) and the Court of Appeals ignored Hirshauer's claim of Constitutional violations as well.

Hirshauer raised the issue of the writs of execution being issued illegally but the courts ignored her.

This is why Hirshauer prays this
Honorable Court will inform everyone
Hirshauer is not a fraud and the Gerben's
own the farm, undue the unlawful acts of the
courts of Maryland, the attorney's, the clerk
of the court and the sheriff.

"A void judgment does not create any
binding obligation. **Kalb v Feuerstein** (1940)
308 U.S. 433, 60 X Ct 343, 84 L ed 370; **Ex parte**
Rowland (1992) 104 U.S. 604, 26 L.Ed. 861.

The Queen Anne's County Circuit Court
cases were all 4 closed, without a judgment,
for lack of prosecution.

Hirshauer was awarded a discharge of
all her pre-bankruptcy debts, which would
include all the judgments of the Clemons
Party.

After Hirshauer's discharge attorney Brooke Schumm went right back to Judge Ross, in closed cases, and stated we all agree Hirshauer is a fraud, asked Judge Ross to award him Fraudulent Conveyance Rule 15-205 and let him sell the Gerben's property because the trustee did not raise that issue in the Florida Bankruptcy Court trial, but Mr. Schumm omit's the fact that he was an attorney in the case defending the Clemons Party.

Judge Ross and attorney Schumm et al violated the rule of res judicata, federal bankruptcy discharge, in contempt of the Honorable Judge Corrigan's final judgment on the fraud issue, issue preclusion/collateral estoppel.

The Constitutional Rights of Shirley

Hirshauer that were ignored/tramped upon, by Maryland attorney's, the Queen Anne's County Circuit Court Clerk, the Queen Anne's County Circuit Court Judge and the Queen Anne's County sheriff, are 4th, 5th, 7th, 8th and 14th.

"A sentence of a court, pronounced against a party without hearing him or giving him an opportunity to be heard, is not a judicial determination of his rights and is not entitled to respect in any other tribunal".

Windsor v. McVeigh, 93 U.S. 274 (1876); "the court granted Darwin's motion to vacate the IRS's writ of execution because the writ was issued before there was a judgment

regarding the violation of the court's final contempt order." **United States, et al v.**

Darwin Construction Company, US Court of Appeals, Fourth Circuit 873 F.2d 750. "The law is well-settled that a void order of judgment is void even before reversal", **Valley v. Northern**

Fire & Marine, Inc. Co., 254 "No showing of service of process..." "The law requires proof of jurisdiction to appear on the record..." **Hagans v Lavine** 415 U.S. 533; "A

judgment obtained without jurisdiction over the defendant is void." **Overby v. Overby**, 457 S.W.2d 851 (Tenn 1970). Volume 20:

Corpus Juris Sec s/s 1785. "A court **cannot confer jurisdiction where none existed and cannot make a void proceeding valid.** It is

clear and well established law that a void

order can be challenged in any court," **Old Wayne Mut. L. Assoc. v. McDonough**, 204 U.S. 8, 27 S.Ct. 236 (1907) "There is no discretion to ignore lack of jurisdiction." **Joyce v. U.S.**, 474 2.d 215 "The burden shifts to the court to prove jurisdiction" **Rosemond v. Lambert**, 469 F.2d 416.

Which means you cannot stay writs of execution that are void.

I think everyone can agree that if Judge Ross is admitting on September 28, 2006 that the Gerben's own the farm then the sheriff could not have created a levy on the farm in August 2006 for Hirshauer's debt, with writs of execution in Shirley Hirshauer's name.

Maryland Rule 2-641, Judge Ross refers to:

Maryland Rule 2-641. Writ of execution - Issuance and content.

(a) Generally. Upon the written request of a judgment creditor, the clerk of a court where the judgment was entered or is recorded shall issue a writ of execution directing the **sheriff to levy upon property of the judgment debtor** to satisfy a money judgment. The writ shall contain a notice advising the debtor that federal and state exemptions may be available and that there is a right to move for release of the property from the levy. The request shall be accompanied by instructions to the sheriff that shall specify (1) the judgment debtor's last known address, (2) the judgment and the amount owed under the judgment, (3) the property to be levied upon and its location, and (4) whether the sheriff is to leave the levied property where found, or to exclude others from access to it or use of it, or to remove it from the premises. The judgment creditor may file additional instructions as necessary and appropriate and deliver a copy

to the sheriff. More than one writ
may be issued on a judgment,
but only one satisfaction of a
judgment may be had.

So, Judge Ross knew what he should
do but chose not to.

Civil Case #06-11769 was closed
without a valid judgment due to Hirshauer's
involuntary bankruptcy stay, and due to
Hirshauer's discharge Civil Case #06-11769
can never be re-opened to get a judgment.

Any actions taken after June 19, 2007,
the date Shirley Hirshauer was placed into an
involuntary bankruptcy, by the Clemons
Parties attorney's, are void for violation of the
Federal Bankruptcy Stay 362 and the Federal
Bankruptcy Discharge 727 laws.

Hirshauer is requesting this Honorable

Court order all the actions taken in Queen Anne's County Circuit Court against Hirshauer and her sons are void, and all the actions and orders that followed in the Queen Anne's County Circuit Court and the Queen Anne's County Sheriff are void as well as they are based. This case is of great importance to the Constitution and the laws, especially since Judge Ross is the only circuit court judge in Queen Anne's County and is willing to make orders ex parte that have a huge affect on innocent peoples lives.

REASON FOR GRANTING

Constitutional violations and unconstitutional law

CONCLUSION

Shirley Hirshauer prays this Honorable Court will take this case and rectify the unconstitutional and unlawful acts perpetrated against her in the Queen Anne's County Circuit Court and to clarify the unconstitutional Maryland Rule 15-209.

A handwritten signature in cursive script that reads "Shirley Hirshauer". The signature is written in black ink and is positioned above the printed contact information.

Shirley Hirshauer
650 W. Pope Road
Unit 266
St. Augustine, FL 2080
904-625-3309
hirshauer@gmail.com