

App. No. 19A371

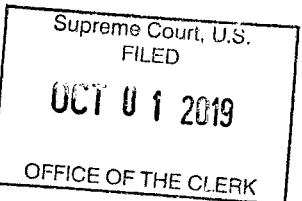
ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

LIN OUYANG,

Petitioner,

v.



Achem Industry America, Inc.

Respondent

**APPLICATION TO THE HONORABLE ELENA KAGAN FOR
AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF
CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA**

LIN OUYANG
1124 WEST ADAMS BLVD.
LOS ANGELES, CA 90007
TEL: (213) 747-5296
PETITIONER IN PRO SE

**TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE NINTH CIRCUIT:**

Under Supreme Court Rule 13.5, 22 and 30, petitioner Lin Ouyang respectfully applies for a 60-day extension of time, up to and including February 8, 2020, to file her petition for a writ of certiorari to review the California Court of Appeal's decision dated June 28, 2019. (See Exhibit D). The California Supreme Court denied a petition for review on September 11, 2019. (See Exhibit F). Absent an extension of time, the petition would be due on December 10, 2019. This application is filed at least ten days before the due date.

JURISDICTION

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

BACKGROUND

Petitioner is the plaintiff in an employment lawsuit brought in Los Angeles Superior Court. After the trial court entered a final judgment against petitioner, petitioner was ordered to appear at a debtor's examination and was also ordered to turn over her personal electronic devices for respondent to search for unidentified respondent's files (See Exhibit A). No complaint is filed against petitioner.

At the conclusion of debtor's examination, petitioner informed the trial judge that she needed to claim exemptions for her properties but she did not know how, the trial judge entered a turnover order without hearing the

matter of exemption. Petitioner appealed turnover order. Petitioner raised a federal claim that California 's enforcement judgment statue fails to safeguard judgment debtors' procedural due process rights as the statue scheme does not provide a procedure for judgment debtor to claim exemption before a turnover order is issued and the statute does not require the debtors be given a notice of right to claim exemption before the issuance of a turnover order, petitioner was deprived the usage of her exempt properties without procedure due process. Even though the deprivation is only temporary, it may significantly impact indigent debtors' means to obtain essential food, clothing, housing and medical care before exempt property is released. California Court of Appeal does not agree and affirmed the order. (See Exhibit D at p. 25)

At the contempt hearing initiated by respondent for alleged violation of trial court's order requesting petitioner to turn over her personal electronic devices, trial judge volunteered to prosecute petitioner after respondent withdrew its motion for an order to show cause. According to the conversation between the trial judge and respondent attorney at the hearing, respondent attorney did not withdraw the motion voluntarily, the attorney withdrew the motion because the trial judge construed the attorney filed the motion under a wrong code. Petitioner filed a motion to disqualify on the ground that the trial judge is in favor of respondent and she would not have a fair hearing. The trial judge denied the motion. (See Exhibit B) The trial judge held petitioner in contempt of the court for her refusing to turn over

her personal computer for respondent to search unidentified respondent's files. (See Exhibit B) Trial judge sentenced petitioner to jail for five days under California Penal Code section 166, a misdemeanor. (See Exhibit B)

Petitioner filed her notice of appeal of the contempt judgment with the clerk of Los Angeles Superior Court-unlimited civil jurisdiction where the misdemeanor conviction was entered. Los Angeles Superior Court forwarded the appeal to the California Court of Appeal. Petitioner filed her request for court appointed counsel and an affidavit establishing low income status. California Court of Appeal denied request for court appointed counsel. (See Exhibit C) The administrative presiding justice dismissed the appeal in a non-binding order before petitioner filed her briefs. Petitioner asked California Court of Appeal in her reply brief to transfer the appeal of the misdemeanor conviction to the appellate division of Los Angeles Superior Court (AR 44). California Court of Appeal found petitioner failed to ask the court to reconsider administrative presiding justice's order, thus the dismissal of the misdemeanor appeal was finalized by the California Court of Appeal's opinion. (See Exhibit D at pp. 13-14) Without the assistance of an attorney, petitioner 's appeal of the misdemeanor conviction was dismissed without reaching its merit.

Petitioner raised the claim that trial court's order requesting petitioner to turn over her personal electronic devices for respondent to search for unidentified respondent's files violates of the unreasonable search clause of the Fourth Amendment. California Court of Appeal disagreed relying on

California Supreme Court's opinion *Greyhound Corp. v. Superior Court of Merced County* (1961) 56 Cal.2d 355, 394. (See Exhibit D at pp. 15-16 fn.

12) Trial court's turn over order is in fact a California Civil Code section 3426.2 misappropriation injunction. (See Exhibit A)

ISSUE PRESENTED

First question: California 's enforcement judgment statue does not provide a procedure for judgment debtors to claim exemption before a turnover order is issued and the statute does not require the debtors be given a notice of right to claim exemption before the issuance of a turnover order. The question is whether California's enforcement of judgments law (C.C.P. sections 680.101 through 724.260) is consistent with the due process.

Second question: Whether an indigent contemnor has constitutional right to paid counsel in the direct appeal of a misdemeanor judgment entered by a civil court.

Third question: Was the Superior Court's findings of contempt against petitioner in violation of the unreasonable search clause of the Fourth Amendment?

Fourth question: Does due process require a recusal in the circumstance in which a judge chooses to be an advocate of a party?

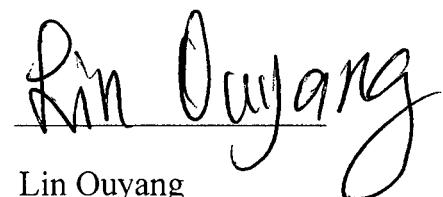
REASONS FOR REQUEST

Petitioner intends to raise four import federal constitution issues in her petition for writ of certiorari and petitioner needs additional time to prepare an appropriate petition for consideration by this Court.

In addition, petitioner has the same deadline to file another petition for writ of certiorari to review California Court of Appeal's decision in case B261929.

No meaningful prejudice would arise from granting the extension. The California Court of Appeal has already issued a remittitur in this case, and the case is not stayed.

Respectfully submitted,


Lin Ouyang

Petitioner in pro se