

NO: 20-1007

IN THE
SUPREME COURT OF THE UNITED STATES

MERRILEE STEWART, PETITIONER

V.

RRL HOLDING COMPANY OF OHIO, ET AL., RESPONDENTS

PETITION FOR REHEARING
ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF OHIO

PETITION FOR REHEARING

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- i. The discovery that Shumaker attorneys are extracting legal fees from Petitioner Merrilee's RRL Certified Award for the benefit of and legal representation of the company that seized all of RRL assets in violation of law and contract.
- ii. The January 22, 2021 and January 25, 2021 Fraudulent Tax Documents mailed by respondents to Petitioner constituting Identity Theft, Tax Evasion, Mail Fraud and Retaliation.
- iii. The February 9, 2021 decision in 19AP674, confirming the direct defiance to succeed jurisdiction to the higher court by CPC Judge and Shumaker with their unauthorized vendetta to silence and punish the reporter of White-Collar Crimes, Petitioner Merrilee Stewart, effectively continuing the obstruction of justice.
- iv. The February 9, 2021 decision in 19AP674, ignoring the motion to allow an attorney to proceed on behalf of Petitioner Merrilee Stewart, instead kicking out a fully briefed appeal with the unconstitutional application of the "Vexatious Litigator" statute.
- v. In the direct defiance of the higher court, Shumaker created material alterations, a new set of documents and fraudulently present them by affidavit to the lower CPC as authentic. Then Shumaker repeated their fraud with their March 16, 2021 fraudulent statements made to the Tenth District Court of Appeals
The March 16, 2021 fraudulent statements made to the Tenth District Court of Appeals by officers of the court, Shumaker.

"The reality is that the Closing Documents were form documents contained in the parties' Buy-Sell Agreement." *Id.* page 20 filed by Shumaker on 3/16/21 20AP493
- vi. Shumaker again on 3/16/21 in 20AP493 filing, further commits fraud upon the courts and is in violation of federal whistleblower laws that serve to protect the reporter of criminal activity.
- vii. The March 26, 2021 Supreme Court of Ohio Memorandum in Support of Jurisdiction of Appellant Merrilee on Appeal from Tenth District Court of Appeals Case No. 20-AP-674 leading to the discovery of Fraud upon the Court by Shumaker.

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Separately submitted

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I. PREAMBLE

Fraud upon the court by officers of the court is the substantial issue in this case. This Fraud Upon the Court is documented and provable.

A rehearing is especially apropos in view of new facts and circumstances which connect and implicate officers to the court in committing Fraud Upon the Court.

This Fraud Upon the court, by the officers of the court, deprived Petitioner Merrilee Stewart of her constitutional due process rights, halted the police and insurance investigations that were underway and inflicted punishment, all resulting from fulfilling her duty to report White Collar Crimes (the "Crime Reports") that were witnessed firsthand while in the position of president of Respondent IHT Insurance Agency Group ("IHT").

The aforementioned occurrence of new facts and circumstances should lead this Court to conclude that all five constitutional and federal law issues brought forth in Petitioner Merrilee Stewart's Writ and this Petition for re-hearing should be granted.

Furthermore, the case judgement should be reversed and remanded with instructions applicable to the facilitators and perpetrators of the Fraud.

II. PETITION FOR REHEARING

A. Preparatory Statement

Officers of the courts, including the lawyers and judges in Ohio, take an oath which includes the duty to defend the constitution and laws of the United States of America.

- What if these officers of the Ohio courts egregiously perverted the justice system, utilized Fraud Upon the Court, and blocked a citizen's constitution rights to procedural due process?
- What if these officers of the Ohio courts grasped power as if they were the King, judge, jury and executioner, and usurped those constitutional powers belonging to the people?

Then shall not, as the final Arbitrators of the Law and guardians and interpreters of the constitution, the Supreme Court of these United States step in and ensure the American people the promise of equal justice under the law?

B. Officers of the court

The Supreme Court of the United States possesses the power to investigate, question and overturn cases that were decided in lower courts to ensure "EQUAL JUSTICE UNDER LAW" as written above the main entrance to the Supreme Court Building.

Our justice system relies upon officers of the court including judges and attorneys who have an obligation to promote justice and the effective operation of the judicial system.

When officers of the court engage in Fraud upon the court, ignore the authority and orders of the higher court, do not properly succeed to jurisdiction and fail to enforce Federal Law (as prevails in this case) this seriously affects the integrity of the normal process of adjudication.

First, the 7th Circuit stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." *Moore's Federal Practice*, 2d ed., p. 512, ¶ 60.23 and "Officers of the court have no immunity, when violating a Constitutional right, from liability. For they are deemed to know the law." *Owen v. Independence*, 100 S.C.T. 1398, 445 US 622.

Second, when "Jurisdiction, once challenged, cannot be assumed and must be decided." *Maine v. Thiboutot*, 100 S. Ct. 250 and the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; [...] and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." *Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).

Third, courts are required to follow the decisions of higher courts in the same jurisdiction.

Fourth, Federal law & Supreme Court cases apply to state court cases." *Howlett v. Rose*, 496 U.S. 356 (1990).

Fifth, this case illustrates the deliberately planned and carefully executed scheme to defraud, directed to the judicial machinery itself, with fabrication of evidence by Respondents in which the attorney and judge are implicated. Coupled with defiance of the higher court, lacking jurisdiction and ignoring Federal law, the main case, now over six-years-old, has been afforded no discovery, no opportunity to defend, remains in a stayed status and has Petitioner Merrilee Stewart under a crippling preliminary entry.

Finally, maintaining an effective judicial system is critical to the success of a democratic society and therefore close scrutiny by the Supreme Court of The United States is apropos.

C. Constitutional:

The case involves questions arising under the Constitution of The United States of America. These questions include, but are not limited to: Does a citizen have a right to judiciary access, a right to have an attorney and the motion considered, and is the State Statute, as applied, unconstitutional?

The January 14, 2021 Petition for Writ of Certiorari (***MERRILEE No. 20-1007***) is, in part, a challenge to the Ohio State Statute which denied Petitioner's right to appeal and access to the courts. The writ also includes the reporting of overt discrimination in the affordability and accessibility of Auto and Home Insurance in violation of Fair Housing Act, Civil Rights Act, Sherman and Clayton Act. The suppliers on behalf of Respondents (doing business in 24 states) are being forced to abide by "Affluent Middle-Class Rules", or their ability to sell is shut off completely.

D. Public Interest:

This case is of great public interest affecting Petitioner and many other victims in multiple states. Respondents' White-Collar Crimes reported by Petitioner and embedded in this case include the Respondents documented and collaborated Overt Discrimination in our underserved communities (harming suppliers and consumers), the systemic embezzlement of over \$8 million and crimes against the government in their tax evasion schemes.

This case also demonstrates the failure of the Ohio courts to enforce the protections afforded by State and Federal Whistleblower Laws. Instead, the Ohio courts participated in silencing and punishing Petitioner for her fulfillment of her duty to report documented and now proven criminal activity, witnessed first-hand while in a position as President of Respondents' Company. When the first attempt to silence and punish Petitioner was reverse by the higher courts, this same judge, along with Respondent's attorney, purported the crime reports as Vexatious Litigation so that Petitioner could no longer appeal any decisions going forward. This was followed by a staunch refusal to abide by the higher courts order for a hearing on these very crime reports (the essence of this case).

These crimes were perpetrated upon Petitioner and multiple collaborating victims by the Respondents and originally reported to: The Columbus Police Department, The Ohio Civil Rights Commission, The Ohio Department of Insurance and Hartford and Liberty Mutual Insurance companies.

The Ohio common pleas court ("CPC") judge applied sanctions and attorney fees for the fulfillment of Petitioner's duty of reporting the White-Collar Crimes (the "crime reports").

The higher Appellate court disagreed with the CPC judge, and stated Judge Kim J Brown abused her discretion, "acted unreasonably, arbitrarily, or unconscionably", remanded for a hearing and vacated the finding and any award of sanctions and attorney fees associated with Petitioner:

Appeals Court quote: *Id.* ¶15. "An abuse of discretion connotes more than an error of law or judgment; it implies the trial court's attitude is unreasonable,

arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). Claims of error by the trial court must be based on the trial court's actions, rather than on the magistrate's findings. "Therefore, we may reverse the trial court's adoption of the magistrate's decision only if the trial court acted unreasonably, arbitrarily, or unconscionably."

The reporting of White-Collar Crimes is not litigation. However, this very same CPC Judge granted a judgement of Vexatious Litigator against Petitioner for these same crime reports.

In addition, the CPC Judge directly defied the higher court's order for a hearing on the crime reports, ignored the law and violated Portioner's constitutional rights and protections. This CPC Judge and Respondents attorney's implementation of the Ohio Vexatious Litigator Statute results in an unremovable derogatory branding of a citizen, forever and permanently. This is in direct conflict with the rights granted to all people by the Constitution of the United States. The guaranteed access to justice and the inalienable right to a hearing of the facts applies in all cases of law, civil and criminal.

Furthermore, our citizens must believe and trust the integrity of the Judiciary and be afforded the protections guaranteed by state and federal law when they fulfill their duty to report criminal activity. The Enforcement of Whistleblower protections is an essential component to the quality of justice which lies firmly in the hands of the Judiciary.

Petitioner continues to endure multiple scorching tactics, including but not limited to: liable, slander, defamation, industry blacklisting, harassment, retaliation, threats, identity theft, mail fraud, tax evasion, refusal to supply tax forms and years

of non-payment of payroll taxes. In addition, Petitioner has not been afforded any opportunity to resolve her claims because the CPC Judge refused to lift the stay on the six-year-old case.

This refusal to open the docket for an opportunity of finality of all parties claims and defenses and refusal of access to the judiciary violates the protections as guaranteed under the Constitution. Even more concerning is the CPC judge, in concert of effort with Respondents council, twice has inflicted harm upon Petitioner fulfilling her duty to report the Crimes ongoing at Respondents' business.

When the Judiciary fails, as in this case, the likelihood of future Whistleblowers coming forward diminishes, as does justice. The Taxpayer First Act protects Appellant as a tax whistleblower against retaliation as does the U.S. Constitution and other State and Federal Whistleblower laws.

D. New Events that postdate the Writ of January 14, 2021

These new events are unequivocal proof of Fraud upon the courts facilitated by Shumaker, Loop & Kendrick's lead attorney James R. Carnes ("Shumaker") in concert of effort with the Ohio lower court Judge Kim J. Brown ("CPC Judge").

Again, a rehearing is especially apropos in view of these new facts and circumstances, coupled with the six-year history, which connects, implicates and substantiates these officers to the court are committing Fraud Upon the Court.

1. The discovery that Shumaker is taking monies belonging to Petitioner in direct violation of the higher courts order and in violation of law and contract.

2. The January 22, 2021 and January 25, 2021 Fraudulent Tax Documents claiming the money Shumaker took was paid to Petitioner. These tax documents were mailed by Respondents to Petitioner using private information constituting Identity Theft, Tax Evasion, Mail Fraud and Retaliation.

It is Shumaker that facilitated making RRL a dead entity on behalf of a new set of owners on December 31, 2018. *See State of Ohio Certificate, Ohio Secretary of State, Jon Husted, 1658734, Document No(s): 201836501222 effective 12/31/2018.* However, not only did Shumaker withheld that information from the courts, they fraudulently presented it as a “name change only”.

It was seven months after the killing of RRL in the lower Common Pleas Court, that Shumaker placed RRL member Fritz Griffioen on the stand to testify “Firefly” was a name change only and the rebranding of IHT.

The “silent” merging out of existence of RRL by Shumaker did require specific performance on contracts already certified in Tenth District Court of Appeals and Awarded to Petitioner. These higher courts requirements, the law and contract were all ignored by Shumaker. Shumaker, in facilitating this merger out of existence, also failed to follow the laws of the State of Ohio in formally notifying all known creditors and possible creditors prior to making RRL a dead entity.

This required notification would have alerted the State to the known obligations of RRL and prevented the merger out of existence. Shumaker did not follow the law and presented a false picture to the court by claiming that this was a “name change only”. This making of RRL a dead entity resulted in a new Federal

Employer Identification Numbers (“FEIN”). The original FEIN for RRL was vanquished and a new FEIN was created for Firefly.

“Silence can only be equated with fraud when there is a legal and moral duty to speak or when an inquiry left unanswered would be intentionally misleading. We cannot condone this shocking conduct... If that is the case, we hope our message is clear. This sort of deception will not be tolerated and if this is routine it should be corrected immediately. *U.S. v. Prudden*, 424 F.2d. 1021; *U.S. v. Tweel*, 550 F. 2d. 297, 299, 300 (1977)”

3. The February 9, 2021 decision in 19AP674, confirming the direct defiance to succeed jurisdiction to the higher court by CPC Judge and Shumaker with their unauthorized vendetta to silence and punish the reporter of White-Collar Crimes, Petitioner Merrilee Stewart, effectively continuing the obstruction of justice.

4. The February 9, 2021 decision in 19AP674, ignoring the motion to allow an attorney to proceed on behalf of Petitioner Merrilee Stewart, instead kicking out a fully briefed appeal with the unconstitutional application of the “Vexatious Litigator” statute.

5. In the direct defiance of the higher court, Shumaker created material alterations, a new set of documents and fraudulently present them by affidavit to the lower CPC as authentic. Then Shumaker repeated their fraud with their March 16, 2021 fraudulent statements made to the Tenth District Court of Appeals: “The reality is that the Closing Documents were form documents contained in the parties' Buy-Sell Agreement.” *Id.* page 20 filed by Shumaker on 3/16/21 in 20AP493. This

statement not only directly contradicts the "Shumaker" documents previously (prior to killing RRL) provided in the lower CPC, it is also in direct defiance and disregard of higher courts determination.

Tenth District Court of Appeals 18AP118, quoted order:

"Therefore, it is ORDERED, ADJUDGED AND DECREED as follows: This Court hereby confirms the December 11, 2017 Final Award in American Arbitration Association Case No. 01-16-0003-9163 in all respects, pursuant to Ohio Rev. Code § 2711.09. The terms of the Final Award (filed with the Motion as Exhibit C) are specifically incorporated by reference into this Judgment Entry. The terms of the Final Award shall be binding on the parties." **EMPHASIS.**

Aside from the direct defiance of the higher court, denial of the principles of preclusion and Res Judicata, Shumaker fraudulently seeks a do-over and re-writing of an already certified award and contract. Shumaker is aided and abetted by the lower court CPC Judge in this fraudulent endeavor.

The Certified contract specifically requires the total Award is paid in full if there is a merger out of existence and RRL does not survive. The Certified contract further states any subsequent uncured default grants all membership shares as active share, with full rights including voting rights.

6. Shumaker again on 3/16/21 in 20AP493 filing, further commits fraud upon the courts and is in violation of federal whistleblower laws that serve to protect the reporter of criminal activity. In the words of the attorney representing Petitioner in the responsive filing: "It appears the main purpose of Appellee's Brief is to attack Ms. Stewart's character, credibility and even her sense of reality".

A diversionary tactic at best, as it was, after all, Shumaker who crafted a knowingly false affidavit, signed by RRL member Fritz Griffioen, that was uploaded to the lower CPC court and sent it to the Insurance Companies and the Police to halt investigations. This fraudulent affidavit claimed the unknowns (i.e., the embezzlement of \$8 to \$10 million) were totally false. However, later, documented in writing and signed in meeting minutes, RRL and Shumaker admitted to the unknowns.

7. It is with the March 26, 2021 filing in the Supreme Court of Ohio, Jurisdiction Memorandum of Appellant Merrilee Stewart, on Appeal (20-AP-674) that led to the discovery of Fraud upon the Court by Shumaker in concert of effort with lower CPC Judge.

This cognizable event not only reveals fraud upon the court in this case, it demonstrates the intentional obstruction of justice and destruction of RRL for the sole benefit of a new set of owners (Firefly), all while Shumaker is being paid by RRL.

III. Grounds for rehearing under rule 44.2

A. Historical:

The Supreme Court of the United States denied the January 14, 2021 Petition for Writ of Certiorari to the Supreme Court of Ohio on March 29, 2021 in this case named MERRILEE. *Merrilee Stewart, Petitioner v. RRL Holding Company of Ohio, et al.*, Respondents, Case No. 20-1007.

This petition, in part, challenged the Ohio Vexatious Litigator Statute and was therefore also served upon David Yost, Ohio Attorney General. Respondent RRL filed a waiver on March 16, 2021 and Ohio Attorney General did not respond.

B. Timely filed in accordance with Rule 44.2:

This Petition for Rehearing is timely filed, within 25 days, and is limited to "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented" in accordance with Rule 44.2.

C. New and intervening substantial grounds not previously presented:

This Petition raises new and intervening substantial grounds which should warrant a rehearing and granting of the Petition for Writ of Certiorari.

The intervening circumstances of a substantial or controlling effect not previously presented include seven specific events which postdate the January 14, 2021 filing of the Writ leading to compounding constitutional and federal law infringements.

The occurrence of these new facts and circumstances should lead this Court to believe that all five constitutional and federal law issues brought forth in the Writ have merit and the compounding injuries to Petitioner are caused by officers of the court committing Fraud Upon the Court.

IV. Conclusion

For the reasons set forth above, Petitioner Merrilee Stewart prays this Court will grant rehearing under Rule 44.2 and grant the Petition for Writ of Certiorari to the Supreme Court of Ohio and reverse judgement with remand with instructions.

V. Certificate of Counsel

I hereby certify that this petition for rehearing is presented in good faith, not for delay, and is restricted to the grounds specified in Supreme Court Rule 44.2.

Respectfully Submitted,

Merrilee Stewart

/s/ Merrilee Stewart

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CERTIFICATE OF COUNSEL
FOR THE PETITION FOR REHEARING

I hereby certify that this petition for rehearing is presented in good faith, not for delay, and is restricted to the grounds specified in Supreme Court Rule 44.2.

Respectfully Submitted,

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