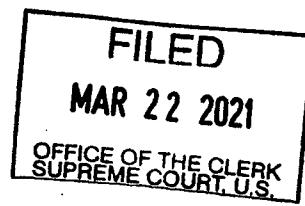


No. 20-1097



IN THE
SUPREME COURT OF THE UNITED STATES

KAREN C. HAN,

Petitioner,

v.

YANGRAI CHO,

Respondent.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

REPLY BRIEF FOR PETITIONER

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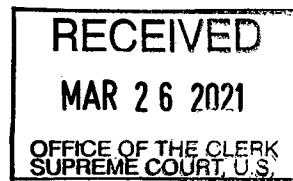


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REPLY BRIEF FOR THE PETITIONER

In this petition for writ of certiorari (the "Petition"), the sole question presented is whether a defendant who is a citizen of foreign country but is domiciled in a forum state is subject to the forum's exercise of general personal jurisdiction. (*See Pet. Section Question Presented*) Nonetheless, Respondent Yangrai Cho ("Cho") avoids to discuss said question, and fails to rebut Petitioner Karen C. Han's ("Han") arguments or position with regard to this question.

Moreover, in an apparent effort to obscure the subject issue in this Petition—that is, whether Han *alleged* jurisdictional facts sufficient for the district court to exercise general personal jurisdiction over Cho—Cho distorts the record; Cho argues that the courts below "*properly found* there was no general personal jurisdiction over Respondent[.]" (Opp. 5) (emphasis added).

Thus, as further discussed below, Cho merely confirms that this Court should summarily reverse the Ninth Circuit's opinion or grant this Petition.

A. Cho Has Failed To Respond To The Subject Issue In The Petition.

Cho makes false arguments under the sub-title "The Court[s Below] Properly Found No General Jurisdiction over Respondent"—*inter alia* that the Ninth Circuit "properly analyzed the Petition and found Petitioner did not provide evidence to support its claims that were based upon information and belief." (Opp. 2-5; Opp. 5)

This argument flies in the face of the record clearly showing that Han's action was dismissed solely based for her failure to allege jurisdictional facts in the Complaint to assert general personal jurisdiction over Cho. (See App. 2a) ("The district court properly dismissed Han's action for lack of personal jurisdiction because *Han failed to allege facts* sufficient to establish that defendant Cho had continuous and systematic contacts with Hawaii to establish general personal jurisdiction...over Cho.") (emphasis added).

Of significance, the district court denied Han's request for jurisdictional discovery, reasoning that: "Plaintiff Han has not provided any basis to justify jurisdictional discovery[]" because "[i]t is uncontested that Defendant Cho is a citizen of South Korea." (App. 19a) Therefore, the unequivocal conclusion of the courts below was that general personal jurisdiction cannot be exercised over a defendant who is a citizen of foreign country regardless of his or her domicile in a forum state.

As demonstrated above, the courts below dismissed this case because they found that the Complaint failed to allege jurisdictional facts to assert general jurisdiction over Cho, not because Han failed to produce evidence to support an exercise of such jurisdiction.

Accordingly, Cho has failed to respond to the sole subject issue before the Court: whether the Ninth Circuit's decision that Han's jurisdictional allegations that Cho is actually domiciled in Hawaii—which track in all relevant

respects the holdings of this Court in *Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014) and *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011) (Pet. 2)—are allegations insufficient to assert general personal jurisdiction over an individual defendant contradicts the precedent of this Court.

Cho's reliance on *Vivendi SA v. T-Mobile USA Inc.*, 586 F.3d 689 (9th Cir. 2009), in support of his argument that Han's jurisdictional allegations based on "information and belief" made without further facts do not survive a motion to dismiss, is misplaced. (Opp. 3) In that case, the Ninth Circuit affirmed the trial court's dismissal of the plaintiff's complaint on *forum non conveniens* grounds, finding that: the plaintiff "has alleged no facts that show that [the defendant] took any action from [the forum state].... These allegations do not establish plausibly that a U.S. entity participated in the alleged fraud and thus fail to show that the plaintiffs' fraud claims are connected to a U.S. business entity." *Id.* at 693-694. As shown above, *Vivendi SA* is wholly distinguished from this case and has no relevancy to the discussion at hand.

Cho finds fault with Han's service of summons on Cho at his business place in South Korea. (Opp. 4) The service in question has no bearing on the issue before the Court.

Since the central authority of South Korea, as designated under the Hague international service convention, allows a service of summons at a defendant's place of business in South Korea, in an attempt to save time and

money, Han chose to serve Cho at his well-known place of business in South Korea, rather than at his home in Hawaii, because Han did not know for sure where to serve Cho in Hawaii as he has multiple, at least three, residential addresses in Hawaii that the Complaint identifies (App. 27a).

As explained above, to the extent that the Complaint alleges Cho's actual domicile in Hawaii (Pet. 2; App. 27a), Han's service on Cho at his business place in South Korea is irrelevant to the discussion or analysis regarding the issue presented in this Petition.

In view of the foregoing, Cho provides no basis not to summarily reverse the Ninth Circuit's opinion in this case.

B. Cho's Objection To Factual Statements Has No Bearing On The Issues Before This Court.

Cho objects to Han's statement that "[c]urrently, South Korea's governmental agency (equivalent to United States' SEC) and the Prosecutors' Office of South Korea, are probing into said unlawful activities of Cho and Hankook Tire' as there is no evidence in the record to support such allegations."

(Opp. 1; Pet. 12) Cho's objection has no bearing on the issues before the Court.

Apparently, in this Petition Han does not purport to prove that the statement quoted above is true, but only draws the Court's attention to the fact that the public both in the United States and South Korea and South Korean authorities have been closely following up or referring to this case, in order to provide a compelling reason for this Court to summarily reverse the Ninth

Circuit's opinion written in the most insincere manner completely ignoring the well-established case law of this Court—which "has so far departed from the accepted and usual course of judicial proceedings [] as to call for an exercise of this Court's supervisory power" S. Ct. R. 10(a)—that "undermine[s] the credibility of the world-renowned, efficient and sophisticated judicial system of the United States" (Pet. 12-13).

Therefore, Cho's objection here does not affect the analysis of the issues before the Court, and no evidentiary ruling or consideration is required with regard to the objection.

As a related matter, Cho mischaracterizes "[t]his case" as "the last case in a series of cases spanning nearly twenty years..." (Opp. 1) If the Court were to deny this Petition, Han intends to seek a remedy against Cho and Hankook Tire, Co. Ltd. (Hankook Tire") for the wrongdoings alleged in the Complaint (App. 12) in South Korean courts, upon obtaining from on-going investigations by South Korean authorities addressed above evidence to prove illegality of their transactions that made the basis of Han's claims against them.¹

Indeed, the termination of this case in the United States courts due to procedural matters other than upon merits justifies Han's re-institution of her action against them in South Korean courts—especially because in effect Han

¹ It is noted that parties agreed to a contractual provision that no statutory statute of limitations shall apply until Han's financial losses sustained as a result of Cho's and/or Hankook Tire's wrongdoings are fully indemnified.

has been denied her statutory and constitutional right of access to courts in the United States (Pet. 3).

CONCLUSION

For the foregoing reasons and those stated in the Petition, the Ninth Circuit's opinion should be summarily reversed or the Petition should be granted.

Respectfully Submitted,

Dated: March 22, 2021



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