

In the
Supreme Court of the United States

ESTATE OF BASAVAPUNNAMMA K. RAO,
Deceased.

PADMA RAO,
Petitioner,

v.

MIDLAND TRUST COMPANY,
Respondent.

On Petition for a Writ of Certiorari to the
Illinois Appellate Court, First District

PETITION FOR REHEARING

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PETITION FOR REHEARING

Petitioner respectfully requests rehearing in this matter under Supreme Court Rule 44.1, which allows Petitions for Rehearing either for intervening circumstances of a substantial or controlling effect, or for other substantial grounds not previously presented. After Petitioner filed her Petition for Writ of Certiorari asserting that the denial of standing by the lower court was an illegal violation of her right to procedural due process, this Court issued its decision in *Uzuegbunam v. Preczewski* reversing a lower court decision which improperly found a lack of standing. 141 S.Ct. 792 (2021). In reaching its decision, *Uzuegbunam* emphasized the importance of remedying a violation of procedural due process in its standing analysis, which is precisely the issue before the Court in this matter. As discussed herein, the Court's new decision in *Uzuegbunam* is an intervening circumstance of substantial effect, and is also a substantial ground that has not been previously presented by Petitioner. Accordingly, Petitioner respectfully requests that this Petition for Rehearing be granted and that the Petition for Writ of Certiorari be allowed, to either consider this matter fully on the merits, or alternatively to vacate the lower court's decision and remand for further consideration in light of *Uzuegbunam*.

I. THE PETITION FOR WRIT OF CERTIORARI HERE ASSERTS THE LOWER COURT'S DISMISSAL FOR LACK OF STANDING WAS IMPROPER, THE SAME ISSUE AS IN *UZUEGBUNAM*.

Petitioner seeks to remedy the violation of her procedural due process rights when she was denied standing on appeal to obtain review of a court decision depriving her of property rights both as an estate beneficiary and as a wrongful death claimant. The appellate court here actually reversed the trial court's decision properly granting Petitioner standing to address these issues. The central meaning of procedural due process is: "Parties whose rights are to be affected are entitled to be heard." *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972). The Due Process Clause of the 14th Amendment requires that the opportunity to be heard occur "at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). When her procedural due process rights have been violated, *Uzuegbunam* holds that a party must have standing to redress this injury: "Because the common law recognized that 'every violation imports damage,' Justice Story reasoned that '[t]he law tolerates no farther inquiry than whether there has been the violation of a right.'" 141 S.Ct. at 799, *quoting Webb v. Portland Mfg. Co.*, 29 F. Cas. 506, 508-509, F. Cas. No. 17322 (No. 17,322) (CC Me. 1838). *Uzuegbunam* is examined in much more detail in Part II below.

The Petition for Writ of Certiorari shows how Petitioner Dr. Rao has two different property rights at issue here for which she is constitutionally entitled to procedural due process protection. First, Petitioner Dr. Rao has a property interest here as a legatee and

beneficiary of the Estate. Dr. Rao's rights are therefore affected by the (improper) settlement compromising the Estate claim, and such interest of Dr. Rao entitles her to procedural due process rights to be heard and protect this interest. This matter is of great general importance, as Estate legatees deserve to have their rights as to the Estate heard and protected as they proceed through the judicial system. The idea that an Estate legatee has no recourse to protect herself from improper Estate Administration and resulting loss of her legatee property rights is anathema to our ideals of fairness and due process under the Constitution. The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision-making when it acts to deprive a person of his possessions. *Fuentes*, 407 U.S. at 80. "For when a person has an opportunity to speak up in his own defense, and when the State must listen to what he has to say, substantively unfair and simply mistaken deprivations of property interests can be prevented." *Id.* at 81. The probate process is perhaps the most widespread use of the legal system among Americans, and this Court should ensure there is a uniform body of state and federal law that estate beneficiaries do have the right to be heard and their rights protected under the constitutional principles of due process.

Dr. Rao also must have standing under *Uzuegbunam*, *Mathews* and *Fuentes* to obtain her procedural due process rights and be heard to present any objections in order to protect her property interest in the wrongful death claim at issue on appeal before such claim is compromised. In this common and heartbreaking tort of wrongful death, it is of great importance throughout

the country that this Court ensure that wrongful death parties in interest, such as Dr. Rao, also have their due process rights protected for this property interest. Where Dr. Rao and others similarly situated have rights to recover damages as determined by a jury in a wrongful death claim, the idea that Dr. Rao must be barred from protecting those rights in any way is antithetical to constitutional procedural due process as well as common sense.

II. THE *UZUEGBUNAM* STANDING DECISION MANDATES THAT PETITIONER MUST HAVE STANDING TO ADDRESS AND OBJECT TO THE DEPRIVATION OF HER CONSTITUTIONAL RIGHTS.

Just as the *Uzuegbunam* petitioners were granted reversal of a lower court decision incorrectly dismissing their case based on an improper finding of lack of standing, Petitioner here seeks reversal of the lower court's improper dismissal and denial of standing. The *Uzuegbunam* plaintiffs alleged they suffered injury from a deprivation of their constitutional rights, and this Court held that even seeking nominal damages was sufficient for these plaintiffs to meet the standing requirement of a remedy likely to redress an injury. 141 S.Ct. at 797.

Most importantly for the Petition here asserting that the Due Process Clause requires reversal of the lower court's standing ruling, *Uzuegbunam* emphasizes the importance of remedying a violation of procedural due process in its standing analysis. The *Uzuegbunam* Court expressly cited a procedural due process standing case to support its standing holding, explaining: "A contrary rule would have meant, in many cases, that there was no remedy at all for those rights. *Uzueg-*

bunam at 800; *Carey v. Piphus*, 435 U.S. 247, 266-267 (awarding nominal damages for a violation of procedural due process).” In fact, this *Uzuegbunam* cited case of *Carey* itself expressly mandates that the “right to procedural due process is ‘absolute’ in the sense that it does not depend upon the merits of a claimant’s substantive assertions.” *Carey*, 435 U.S. at 266 (standing present to assert due process violation “because of the importance to organized society that procedural due process be observed”). Because the entire premise of the lower court’s standing ruling in this matter is that Petitioner is not entitled to any remedy at all for a violation of her property rights (App.26-27a), this ruling is in direct contradiction to *Uzuegbunam* as shown above, and thus the lower court’s ruling must be vacated.

In addition, this Court’s conclusion in *Uzuegbunam* as to how its plaintiffs have standing must also apply here: “Because ‘every violation [of a right] imports damage.’” 141 S.Ct. at 802, *quoting Webb*, 29 F. Cas. at 509. This Court in *Uzuegbunam* mandated that its parties had standing to protect their constitutional right, and for this Petition this Court should likewise mandate that Dr. Rao has standing to protect her constitutional right to be heard under procedural due process—“Parties whose rights are to be affected are entitled to be heard.” *Fuentes*, 407 U.S. at 80 (emphasis added). Thus, Petitioner Dr. Rao requests this Court to remedy the violation of her rights that occurred here, and to follow *Uzuegbunam* and reverse the lower court’s decision that she lacked standing in this matter. At the very least, this court should grant the Petition for Writ of Certiorari to vacate the lower

court's decision and remand for consideration in light of *Uzuegbunam*.

Finally, the Court's new standing ruling in *Uzuegbunam* may be further emphasized in the next few days by the upcoming Court opinion in *California v. Texas*, Sup. Ct. Nos. 19-840 and 19-1019, as the Court's 2020-2021 term is concluded. One of the issues to be decided in *California v. Texas*, as in this Petition, is whether the individual plaintiffs have standing to sue and appeal in the matter. In the appealed lower court's opinion of *Texas v. United States*, the Fifth Circuit held that its plaintiffs being required to buy something that they otherwise would not want was clearly within the scope of a legally cognizable injury, and concluded that economic injury of this sort is "a quintessential injury upon which to base standing." 945 F.3d 355, 380. Petitioner here has also shown such a "quintessential economic injury" to her property rights in both her Estate beneficiary rights and as the party in interest in the wrongful death claim, and thus Petitioner is likewise entitled to standing under the Due Process Clause to be heard and protect her property rights. Should this Court in *California v. Texas* affirm the Fifth Circuit's decision and uphold those plaintiffs' standing in its upcoming opinion, it would be appropriate for this Court to grant the Petition for Writ of Certiorari here to vacate the lower court's decision and remand for consideration in light of this Court's opinions in both *Uzuegbunam* and *California v. Texas*.



CONCLUSION

Based on this Court's recent decision that the petitioners in *Uzuegbunam* have standing to seek relief from violations of their rights, Petitioner Dr. Rao respectfully requests that this Petition for Rehearing and her Petition for Writ of Certiorari be granted, with either full consideration on the merits or alternatively to vacate the lower court decision and remand to the lower court for consideration in light of *Uzuegbunam* (and potentially *California v. Texas* as well).

Respectfully submitted,

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JUNE 11, 2021

RULE 44.1 CERTIFICATE

Pursuant to Supreme Court Rule 44.1, I certify that (1) This petition for rehearing is presented in good faith and not for delay; and (2) The grounds of this petition are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

Respectfully submitted,

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