

No. 20-1457

Supreme Court, U.S.
FILED
FEB 02 2021
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IN THE
SUPREME COURT OF THE UNITED STATES

Tracy Nixon — PETITIONER
(Your Name)

General Motors Corporation vs.
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
United States court of Appeals
for the Federal Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Tracy Nixon
(Your Name)

4415 South Malcolm X Blvd
(Address)

Dallas Texas 75215
(City, State, Zip Code)

469-407-1468
(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Whether The U.S. District Court Judge Commit An Error In Decision adopting the U.S Magistrate Judges order signed on June 11, 2020 Petitioner submit Appendix(A) As Evidence, And ASKS whether Appendix(A) Relied on as Evidence, Was The Respondent Properly Served According To Federal Rules of Civil Procedure 4(a)(h), frCP 4(e)(1)...
2. Whether Respondent GMC Registered as a foreign corporation IN Texas Upon Proof It Failed to maintain A Registered Agent Entitle Petitioner to Default Judgment.
3. Whether The Method of service on Respondent According to Appendix(A) was In accordance with service on a Non-Resident by the Texas, Civ. Prac. and Rem. Code 17.044, (a), Texas Business Corporation ACT 8.10
4. Whether The APPENDIX(A) ALLOW The federal Court to Exercise Personal Jurisdiction Over Respondent.
5. whether After Clerks Entry of Default Judgment Was the Court Refusal To Issue Default Judgment A Prejudice To Petitioner

LIST OF PARTIES

✓ All parties appear in the caption of the case on the cover page.

✗ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Tracy Nixon 4415 South Malcolm x BIND
Dallas Texas 75215

General Motors Corporation
Global Headquarters
300 Renaissance Ctr
Detroit, MI 48243

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. 636 (c)(1)(3)

Texas Business Corporation Act 8,10

Texas Civil Practice and Remedy Code 17.044(a)

Texas Civil Practice and Remedy Code 17.044(b)

14th Amendment

STATEMENT OF THE CASE

The Petitioner filed Civil Complaint Respondent failed to Answer, appear or Take Any Action showing Intent to defend
FRCP 55(a)(b)(1) Franchise Holding II, LLC, v. Huntington Rests Group 375 F.3d 922, 927-28 (9th Cir. 2004).

The Petitioner Requested Entry of Default Judgment That The U.S. District Clerk Entered against Respondent.

Petitioner then asked the court for Default Judgment. The Trial court Denied the Request upon Magistrate Judges

Order Attached to this Petition for

Writ of certiorari Appendix F

Petitioner timely appealed the U.S. District Court's order adopting the U.S. Magistrate Judges Recommendation under 28 U.S.C. 1636

(c)(1)(3) Petitioner originally assumed

The Appeal was Interlocutory. The Appeal was Assigned to Two different Appeals Court Appendix D and Appendix E. The Notice of Appeal was filed with the wrong court.

Appendix E is the outcome of the Appeal.

REASONS FOR GRANTING THE PETITION

Respondent was properly served in accordance to F.R.C.P. 4(e) served with Waiver, Summons and Complaint

See, *Omni Capital Int'l v. Rudolf Wolff and Co.*, 484 U.S. 97, 104, 108 S.Ct 404-409 (1987)

Service was Amenable by Statute when Respondent failed to maintain a Registered Agent while doing business in the State of Texas. The Texas -

General Long-Arm Statute Authorizes substituted Service on the Secretary of State. See, -

Texas Business Corporation Act §§ 8.10 (A)(B)(C)(D)(E) Service of Process on foreign Corporation

Texas has other Long Arm Statutes under Texas, Civ. Prac and Rem. Code 17.044(a),

See, *Campus Investments, Inc. v. Culliver*, 144 S.W.3d 464 (Tex. 2004) Holding that Secretary of State's certificate of showing receipt and forwarding to Defendant conclusively established Service of Process on Defendant.

The Petitioner was Prejudice By The

Setting Aside the Entry of Default By The U.S. District Court Judge Decision.

See *ENRON 10*, F.3d at 96

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Secretary of STATE
2020-312826-1

APPENDIX B

APPENDIX C U.S. court of Appeals Federal Circuit
Brief

APPENDIX D U.S. Court of Appeals Fifth Circuit
Document 00515652399

APPENDIX E U.S. Court of Appeals Federal Circuit
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APPENDIX F U.S. District Court
Eastern District of Texas
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order
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TABLE OF AUTHORITIES CITED

CASES

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Campus Investments, Inc, v. Culliver, 144 S.W.3d 464 Tex. 2004 10 e

Enron 10, F.3d at 96 10 .

STATUTES AND RULES

9

28 U.S.C. 636 (c)(1)(3) 9 .

Texas Business Corporation Act 8, 10 (A)(B)(C)(D)(E) 9, 10 .

Texas Civil Practice and Remedy Code 17.044(a) 10 .

OTHER

- F.R.C.P. 4(E) F.R.C.P. 55 (a)(b)(1)
- F.R.C.P. 4(a)(h)
- F.R.C.P. 4(e)(1)

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 11, 2020.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Because The District court failed to establish
The Three criteria that must be
assessed In order to decide whether
To relieve a party from Default or
From a default Judgment.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tracy No

Date: April 7, 2021