

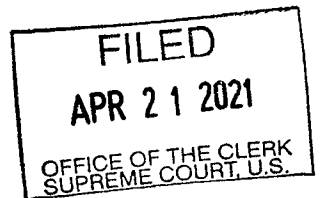
No. 20-1537

IN THE SUPREME COURT OF THE UNITED STATES

TERENCE K. DICKINSON
Petitioner

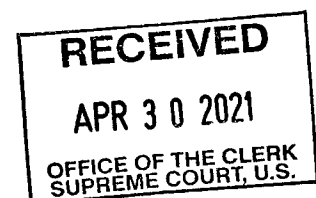
v.

HSBC BANK USA, N.A., et. al.
Respondent



PETITION FOR WRIT OF CERTIORARI TO THE US
SUPREME COURT

TERENCE K. DICKINSON
3611 Duke Homestead Road
Durham, NC 27704



QUESTION PRESENTED

(Rule 14.1(a))

1. Is the Truth-in-Lending-Act, passed by Congress into law, to be adhered to by the United States Federal Courts.

Lower Court: relegates said Act to be a purported act of Congress.

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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

TERENCE K. DICKINSON, Petitioner

v.

HSBC BANK USA., N.A., et. al., Respondents

**PETITION FOR WRIT OF CERTIORARI FROM
NINTH CIRCUIT COURT OF APPEALS**

Petitioner, TERENCE K. DICKINSON, respectfully asks that a writ of certiorari issue to review the judgment and opinion of the 9th Circuit Court of Appeals, filed on _____.

OPINION BELOW

The opinion of the 9th Circuit Court of Appeals DENIED Petitioner's Petition and En Banc Hearing., and is attached as Appendix A.

JURISDICTION

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

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The Federal Truth in Lending Act provides, in pertinent part:

“This Act (Title I of the Consumer Credit Protection Act) authorizes the Commission to enforce compliance by most non-depository entities with a variety of statutory provisions. Among other requirements, the Act requires creditors who deal with consumers to make certain written disclosures concerning finance charges and related aspects of credit transactions (including disclosing an annual percentage rate) and comply with other mandates, and requires advertisements to include certain disclosures. The Act has been amended on numerous occasions, adding requirements for credit cards and open-end credit; for mortgage credit such as ability to repay standards, loan origination, anti-steering, appraisal independence, and mortgage servicing; and others. A number of laws amending and enforced under this Act are listed separately.”

United States Constitution, Amendment 14 provides, in relevant part:

No state . . . shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF CASE

A. The underlying dispute and lengthy litigation of this case began in 2007 in a Nevada State Court, the County of Clark. In 2008, the real estate market crashed, backlogging the courts. By 2007, however, the judicial system in Nevada had recognized serious irregularities in the manner of mortgages and increased litigation relating to the same. To streamline case docketing, to promptly handle a sudden burden on the judicial system, a specialized docket was established to handle mortgage cases. The instant case was assigned to that specialized docket. The arduous nature of this case began there.

The assumption of being assigned to the specialized “mortgage docket” was that a mortgage was at issue, or the case would not be on this docket.

In this case, no mortgage existed between the parties.

Plaintiff already paid his mortgage in full to Bank of America, which exhibits has been provided to this court. The 2nd mortgage was initiated by representatives of Fidelity Mortgage of New York. [See Deed of Trust]

Appellant signed the Deed of Trust presented to him at his home with representatives of Fidelity, but after sleeping on the matter, signed and duly served the Notice of Cancellation. See Appellant’s Exhibit, Executed Right to Cancel.

That should have been the end of the matter - but it was not.

Respondent HSBC and OCWEN were in the late stages of purchasing mortgage from Fidelity of New York. It appears that the Appellant's 2nd mortgage was included in that deal - even though it was cancelled. The State Courts would not recognize the validity of the TILA nor its consequences.

B. Current Action

That Plaintiff has and had the right to rely upon valid law. The Respondent's position is that, due to their lack of due diligence, Appellant should have to pay for his home at least twice.

The Federal District Court decision states, "Dickinson filed...his purported "right of cancellation documents" but makes no further reference to said right.

This issue was never addressed in State Court, it being a Federal right.

Even though Respondent admits the Bank of America submitted a "Securitization Audit" [Page 5 Respondent's Reply to Appellant's Statement] stating Appellant is the rightful owner of said property, free and clear, Respondent makes no mention of that document. Respondent repeatedly argues that Appellant took out several loans on his home and paid most of them off. [Page 6 Respondent's Reply to Appellant's Statement.] This is merely Respondent trying to infer that Appellant was wheeling and dealing as they do. Appellant had one mortgage with

Bank of America on his home and has never borrowed money for anything else - not even his automobile.

POINTS AND AUTHORITIES

In addition to the Truth-in-Lending-Act, this case is right on point with *Jesinoski, et ux v. Countrywide Home Loans, Inc., et. al.*

This case has been summarized as follows:

“Exactly three years after borrowing money from respondent Countrywide Home Loans, Inc., to refinance their home mortgage, petitioners Larry and Cheryle Jesinoski sent Countrywide and respondent Bank of America Home Loans, which had acquired Countrywide, a letter purporting to rescind the transaction. Bank of America replied, refusing to acknowledge the rescission’s validity. One year and one day later, the Jesinoskis filed suit in federal court, seeking a declaration of rescission and damages. The District Court entered judgment on the pleadings for respondents, concluding that a borrower can exercise the Truth in Lending Act’s right to rescind a loan, see 15 U. S. C.

§1635(a), (f), only by filing a lawsuit within three years of the date the loan was consummated. The Jesinoskis’ complaint, filed four years and one day after the loan’s consummation, was ineffective.

The Eighth Circuit affirmed.

The court held as follows:

A borrower exercising his right to rescind under the Act need only provide written notice to his lender within the 3-year period, not file suit within that period. Section 1635(a)’s unequivocal terms—a borrower “shall have the right to rescind . . . by notifying the creditor . . .of his intention to do so” (emphasis added)—leave no doubt that rescission is effected when the borrower notifies the creditor of his intention to rescind. This conclusion is not altered by §1635(f), which states when the right to rescind must be exercised, but says nothing about how that right is exercised. Nor does

§1635(g)—which states that “in addition to rescission the court may award relief . . . not relating to the right to rescind”—support respondents’ view that rescission is necessarily a consequence of judicial action. And the fact that the Act modified the common-law condition precedent to rescission at law, see §1635(b), hardly implies that the Act thereby codified rescission in equity.

Pp. 2–5. 729 F. 3d 1092, reversed and remanded.

Appellant herein timely rescinded the loan. There was proper notice provided.

Appellant merely seeks this court to acknowledge he never received proceeds from the refinance - and Respondent CANNOT prove receipt of such funds by Plaintiff.

It is a travesty of justice that this matter cannot be resolved by the merits of the case. Appellant has lost his home due to this wrongdoing, and has no where else to turn.

REASONS FOR GRANTING THE PETITION

This case presents an important issue relating to the Truth-in-Lending Act. Appellant never received the proceeds of the loan after a rescission, yet the bank continued to proceed as if the Appellant had, in fact, received the loan - which he did not. Is that what always happens when a party rescinds properly within three days? Is there no resolution to such a situation?

CONCLUSION

Appellant's timely cancellation of the refinance, pursuant to TILA, means Appellant is entitled to relief. Appellant merely desires Respondent to acknowledge wrongful possession and acquisition of the residence, as Appellant never received a loan against this property, upon which Respondent has foreclosed.

Dated: 4/19/21

Respectfully submitted,

/s/ Terence K. Dickinson

TERENCE K. DICKINSON