

20-1590

ORIGINAL

In The

Supreme Court of the United States

FILED
MAY 04 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

AUDREY L. KIMNER

Petitioner,

v.

CAPITAL TITLE OF TEXAS, LLC; KEVIN G. LONG; BILL SHADDOCK,
CEO; NICHOLE BAKER; DONALD LEE MCCLAIN;
JEM ADVISORY GROUP, LLC; TANGLEWOOD CONDOMINIUM
OWNERS; FIRST RESIDENTIAL; CEASONS HOLDINGS, LLC;
MARGARET A. POISSANT; MICHAEL G.TAPP; BRADFORD W.
IRELAN; SARAH M. VIDA; CLAYTON R. HEARN

Respondents

On Petition For A Writ of Certiorari in the United States
Supreme Court of Appeals for the Ninth Circuit, San Francisco, CA

PETITION FOR A WRIT OF CERTIORARI

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SUPREME COURT, U.S.

LIST OF PARTIES

The following is a list of all parties to the proceedings in the court below, as required by Rule 24.1 (b) and Rule 29.1 of the Rules of the Supreme Court of the United States.

1. Audrey L. Kimmer, Petitioner;
2. Capital Title of Texas, LLC;
3. Kevin G. Long, Esq.;
4. Bill Shaddock, CEO of Capital Title of Texas;
5. Nichole Baker, Capital Title Escrow Manager Officer;
6. Donald Lee McClain, Owner, JEM Advisory Group;
7. Tanglewood Condominium Owners Midrise Property Association, Inc.
8. First Service Residential, HOA Company;
9. Ceasons Holdings, LLC.;
10. Margaret A. Poissant, petitioners Ex lawyer;
11. Michael G. Tapp, Esq.;
12. Bradford W. Irelan, Esq.;
13. Sarah M. Vida, Esq.;
14. Clayton R. Hearn, Esq.

QUESTIONS PRESENTED

1. Whether the California Federal District Court in San Jose and the Ninth Circuit Court of Appeals intentionally and willfully deprived petitioner of all Rights under 18 U.S.C. § 242, Equal Protections under the law, violations of the United States Constitution, including two Bill of Rights as an assault victim during financial abuse, which the petitioner requested in petitioners complaint and appeal. Does the Supreme Court find it appropriate by law under the United States Constitution and Federal Civil Rule 60 and Civil Rule 59 to VACATE ALL orders and Mandate, as ALL orders conflict, error of law, and reflect VACATED orders by Honorable Magistrate Nathanael Cousins, and denied petitioners Rights under 28 U.S.C. § 636 (c) to deny a Magistrate judge by law and request a United States District Court judge voted in by a President of The United States.
2. Whether the District Court and Ninth Circuit denied petitioners First Amendment Rights to be heard by failing to offer court time per the United States Constitution, and while this case involves intentional Extrinsic Fraud.
3. Whether the District Court and Ninth Circuit failed to acknowledge multiple Federal Crimes as in, Mortgage Fraud involving Fraud for profits, Conspiracy, Proven Wiretapping, Forgery, Mortgage Wire Fraud, Forced Extortion and Robbery under the Federal Hobbs Act, Obstruction of Justice, False Foreclosure and sell, Title Theft, Tampering with Evidence concerning Real Estate financial documents after a fraud closing and involving Extrinsic Fraud in both Texas and California Federal District Courts.
4. Whether this case was ruled in error concerning proper jurisdiction in California Federal District Court, therefore is not a Texas state case, nor frivolous, as orders omitted facts of Federal laws after District Court Honorable judge Edward Davila viewed crucial evidence, and while tampering with Federal defendants in this case and ruling with VACATED orders of the Magistrate judge collectively.
5. Whether the District Court and Ninth Circuit judges intentionally ignored proven and self admittance of Mortgage Fraud with profiting, willful and intentional Conspiracy involving all respondents, and respondents admitting to premeditated obstruction of justice while following through.

6. Whether the District Courts retaliated against petitioner by retracting a Forma Pauperis after petitioner paid for the case fee in full by check, and after petitioner filed an appeal in the Ninth Circuit Court of Appeals.
7. Whether the Federal orders should have been VACATED, as requested by petitioner, and the California Courts failed to acknowledge the extended case time frame during a global pandemic, intentional obstruction in this case as the petitioner had no control and petitioner has Rights to a fast trial per Domestic Violence assault victim laws, including Marsy's Law and Article 1 of the California Constitution under Financial abuse.
8. Whether the Federal District Courts in California failed to offer petitioner Proper Procedural Due Process, failed to acknowledge No Due Process by respondents while respondents created false and misleading statements in Court and Financial Documents Under the color of law in Texas, and unlawfully obtaining petitioners personal property, including Heirloom furniture against petitioners will in exchange for commerce.
9. Whether the petitioner should be awarded a filed Default Judgement after serving all respondents per the Ninth Circuit Court of Appeals Court Order TIME SCHEDULE date, and the Ninth Circuit then failed to acknowledge a filed motion by petitioner for a hearing to discuss prior to a final order and mandate against petitioners First Amendment Right.
10. Whether the California District Court judge intentionally ignored Fiduciary Theft by Texas respondent, Margaret Poissant, Esq., which was documented in the petitioners original Federal complaint, and after the California District Court judge viewed evidence of self admittance of Conspiracy and Fraud by this respondent who was running for Judgeship in Texas at the time of the state case. This also involved respondents, Sarah Vida, Esq and Tanglewood Condominium Owners, involving checks placed in Margaret Poissant, Esq. name after the original checks were written in petitioner's name.

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The United States Constitution

Equal Protections Under the Law

Bill of Rights, Victims Bill of Rights

Marsy's Law, Article 1, Declaration of Rights

Conspiracy to Commit Mortgage Fraud

Extrinsic Fraud

Fraud Enforcement and Recovery Act, (FERA)

Model Rule 3.3 (c)

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SUMMARY

Petitioner, Audrey L. Kimner respectfully request for review and acceptance of this Petition for Writ of Certiorari in this case. Petitioner is pro se after being forcefully extorted out of petitioners midrise during a time frame of assault victim financial abuse, and after petitioner was forced to sell the midrise solely in petitioners name with a clear title and up to date taxes. This case is a Conspiracy to commit Mortgage Fraud, which is a Federal case, out of Texas state jurisdiction, and after the death of the original hired counsel and after failure to fullfull Fiduciary responsibilities with Fiducuary Theft. Petitioner filed a complaint and had shown proof of self admittance of fraud and premeditated obstruction, along with new found evidence of all respondents involved in a conspiracy. Respondents were tampering with evidence involving petitioners property, previlidged documents and financial contracts with judge participation. Petitioner is discriminated against for being pro se while forced to be pro se involving abuse of power to obstruct Federal Conspiracy to Commit Mortgage Fraud while violating petitioners Constitutional Rights. The respondents have worked under the color of law with a state judge and Margaret Poissant, esq while both were running for judgeship at the time of the state case, and as personal friends against canons of ethics during both cases with no resolve. After an unsuccessful mediation the petitioner has been vilified, bullied, harassed and threatened by respondents across state lines to date and never offered petitioner Due Process, nor Procedural Due Process. The state judge admitted personal issues with Mark Sandoval, Esq. in open court as Honorable Steve Kirkland unlawfully released petitioners title, injunction and bond of petitioners midrise and HOA account to a bankrupt LLC, and after respondents defaulted on an unlawful lien and loan, theft of petitioners home contents and profited with leases not holding title and without petitioners knowledge and consent. Petitioner request ALL orders and Mandate be VACATED under Federal Rule 60 and 59 due to tampering, ongoing Conspiracy to commit fraud to date, and ALL orders involve VACATED orders of a California Magistrate while ruling on two cases collectively. Petitioners Federal case's were not associated whatsoever, and all respondents were involved in violating petitioners Constitutional Rights. Petitioner was intentionally defamed by respondents, extorted and vilified, but respondents did not know that petitioner had knowledge of the Federal laws that were broken in this Federal case, and ongoing. All ill intent actions and behavior of the respondents were intentional, malicous, and cruel with no professionalism, no resolve and no hearing, No Due Process, No Procedural Due Process, nor canons of ethics followed, including Rule 4.1, Rule 1.6 and Business and Professions Code section 6068 (e).

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OPINIONS BELOW

Petitioner did not read or explain full orders due to knowing petitioner filed in the proper jurisdiction, which the MEMORANDUM reflects from the Ninth Circuit Court of Appeals under 28 U.S.C. § 1291, including petitioner knowing all Orders reflect untruths with VACATED ORDERS by the Magistrate judge. Also, the courts printed a false narrative online about the case while this case was pending in the Ninth Circuit. The Memorandum states NOT FOR PUBLICATION, Filed March 18, 2021 after submitted on March 16, 2021, not allowing Petitioner lawful time to file by a 28 day deadline, including during a pandemic with no regard for petitioners Bill of Rights as a victim of assault and financial abuse.

The MANDATE, dated March 18, 2021 reflects Defendants, AFTER the judge allowed most DEFENDANTS out of the case prior to any hearing and case management hearing, which was moved with no proper procedural due process, and against petitioners First Amendment Rights in TX and CA.

Motion to Resconsider filed on April 12, 2021 proves the proof was sent to the District Court Judge Davila with all defendants still in this case. The following order left only Margaret A. Poissant who is now a judge, and has no immunity. Order Denying plaintiffs motion for reconsideration and Defendants were later included back in March, 2020.

The Magistrate GRANTED FORMA PAUPERIS, and plaintiff PAID BY CHECK.

This was retaliation and unlawfull due to petitioner being allowed to file an appeal without any further affidavit. The fee waiver is only allowed for an illegal immigrants, as a judge waived all fees and SET ASIDE OUR CONSTITUTION. This is descrimination towards petitioner and a pattern.

NOTICE OF REASSIGNMENT TO A DISTRICT COURT JUDGE, Dated Dec, 03, 2019, Clerk RESETTING CASE, Dec, 05, 2019, File stamped proof, Dated Nov, 18, 2019 including ALL DEFENDENTS, Proof of Forgery and Wiretapping of Digsigner, as this is not petitioners writing, nor IP #. Emails of proof by respondents of self admittance of Fraud, knowingly, and threat of obstructing the case, including FALSE information that petitioner did not work in good faith, and the case was undercivil suit.

COO admitting to oweing petitioner money with interest, photo of the building, proof of restraints, PERMANENT injunction by petitioner, Mediation proof, Fedex letter to Mercedes Financial to have car replaced and check.

JURISDICTION

Petitioner has been a California resident since petitioner was forcefully extorted out of petitioners midrise, and remained stranded in California. Respondants failed to wire petitioners full amount owed to petitioner. The property was involved in a Mortgage Conspiracy to Commit Fraud Scheme. The Texas judge refused to release the case vexatitous litigation and released Petitioners Title unlawfully. Petitioner filed under Diversity and Federal question, as petitioner has been deprived of Due Process, Procedural Due Process and Constitutional violations. Petitioner found new evidence of Conspiracy. Constitutional violations under 28 U.S.C. 131, provides "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, and treaties of The U.S. The complaint exist of a "pattern" with exclusive Rights under (2) 47 § 227, and the Federal form reflects this diversity case under 28 U.S.C. § 1332, (a)(1), as Respondents live in Texas. The case should have been heard in District Court, which now the Ninth Circuit agrees on jurisdiction under 28 U.S.C. § 1291.. As respondents intentionally conspired under Model Rule 3.3 (c), which states a lawyer should " refuse to offer evidence that the lawyer reasonably knows is false." The state of Texas sent petitioner new evidence of another lien against the property, but the Ninth Circuit refused to allow petitioner to have Proper Procedural Due Process, and First Amendment Rights to be heard.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Deprivation of Rights under 18 U.S.C. § 242,

“ makes it a crime for a person acting under the color of law to willfully deprive a person of a Right or privilege protected by the Constitution or laws of the United States”.

1. Fourteenth Amendment, “ Due Process”, Procedural Due Process,

“ No state shall make or enforce any law which shall abridge the privilege or immunity of citizens of the United States; nor shall any state 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.”

Procedural refers to the constitutional requirement that when the federal government acts in such a way that denies a citizen of a life, liberty, or property interest, the person must be given notice, the opportunity to be heard, and a decision by a neutral decisionmaker. 2. (hearing) 758.

2. First Amendment,

“Congress shall make no law respecting an establishment of religion, or prohibiting the free Exercise thereof, or abridging the freedom of speech, or of the press: or the right of the people Peaceably to assemble, and to petition the Government for a redress of grievances”

3. Eighth Amendment,

“ Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

4. Sixth Amendment,

“ Rights to a fair trial.” Petitioner also has Rights under ADA Laws, Marsys Law and two Bill of Rights for victims. Declaration under Article 1 in California includes twelve states to date and do not allow for harassment and theft of awarded assets.

STATEMENT OF THE CASE WITH FACTS OF LAW

1. Whether the California Federal District Court in San Jose and the Ninth Circuit Court of Appeals intentionally and willfully deprived petitioner of all Rights under 18 U.S.C. § 242, Equal Protections under the law, ignored violations of the United States Constitution, including two Bill of Rights as an assault victim during financial abuse as requested by law. Does the Supreme Court find it appropriate by law under the United States Constitution and Civil Rule 59 and Civil Rule 60 to VACATE ALL orders and Mandate, as ALL orders conflict, involves fraud, error of law, and reflect VACATED orders by Honorable Magistrate Nathanael Cousins, and denied petitioners Rights under 28 U.S.C. § 636 (c) to deny a Magistrate judge by law and request a United States District Court judge voted in by a President of The United States.

Petitioner respectfully request for the Supreme Court to offer relief while the California Federal Courts ignored petitioners Rights, especially the First Amendment Right to be heard. The California courts offered no relief or help, and refused to allow petitioner to have court time to retrieve petitioner's own monies with interest owed by respondents. If the California District Court had allowed petitioners First Amendment Right to be heard, petitioner could have easily explained the Federal laws of this case, proper jurisdiction, and moved forward Prior to a global pandemic. The laws below are under the California Article 1 Declaration of Rights and the United States Constitution.

Article 1, section 32, 3 (4). " Nothing in this subversion supercedes or modifies and provisions of this Constitution, including the guarantees that a person may not be deprived of Life, Liberty, or Property without Due Process of Law, or denied Equal Protections of Laws", as provided in Section 7, Section 28 (14). "To prompt return of property when no longer needed as evidence". The entire section, under victim, as petitioner, (e) financial abuse and victim means protection of the victim, including family members.

Civil Rule 60 allows a movant to make the following claims within one year of the judgement : 1) mistake, inadvertence, surprise, or excusable neglect: (2) new discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59: (3) fraud, misrepresentation and error of law or facts in the court's decision. See Mc Dowell v Calderon, 197 F.3d 1253, 1255 n. 1 (9th Cir. 1999), (Rule 59 (e) is available to "correct manifest errors of law or fact upon which the judgement is based".

Petitioner for Writ of Certiorari is filed within 28 days after the entry of judgment, and prior, but the judges refused to offer relief or resolve. See Fed R. Civ 6(b), United States v Fiorelli, 337 F.3d 282 (3d Cir. 2003).

United States Constitution, Deprivation of Rights under 18 U.S.C. § 242,

" Makes it a crime for a person acting under the color of law to willfully deprive a person of a Right or privilege protected by the Constitution or laws of the United States".

Victims' Bill of Rights: To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, and the Right to a fast trial.

2. Whether the District Court and Ninth Circuit denied petitioners First Amendment Rights to be heard by failing to offer court time per the United States Constitution, and while this case involves intentional Extrinsic Fraud.

The United States Constitution, First Amendment,

" Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances".

The District Courts and Ninth Circuit Ruled in error of law, and petitioner was not denied all court time. Petitioner also requested changes under Rule 60 and was denied. See Potts v Lazarin, No. HO44587 in Cal. (6th Cir. 2020) under the first Anti Slapp Law in California.

Extrinsic Fraud is a legal term for an action or actions taken to prevent someone from acquiring information or otherwise learning about their rights in certain circumstances. The perpetrator usually engages in this activity to keep the victim from filing a lawsuit, appearing in court, or getting a fair hearing. See United States v Throckmorton, 98 U.S. 61 (1878) U.S. Supreme Court, MR JUSTICE MILLER delivered the opinion of the court.

3. Whether the District Court and Ninth Circuit failed to acknowledge multiple Federal crimes, including Mortgage Fraud involving Fraud for profit, Conspiracy, proven Wiretapping, Forgery, Mortgage Wire Fraud, Forced Extortion and Robbery under the Federal Hobbs Act, Obstruction of Justice, False Foreclosure and sell, Title Theft, Tampering with evidence concerning Real Estate financial documents involving a fraud closing with Extrinsic Fraud in both Texas and California Federal District Courts.

Mortgage fraud involving fraud for profit is prioritized by the FBI, is usually committed by industry insiders who use their specialized knowledge or authority to commit or facilitate the fraud. This fraud focuses on misusing the mortgage lending process to get cash and equity from lenders or homeowners. Mortgage fraud for profit was used in this case to misuse the mortgage lending process to steal cash and equity from the Petitioner. Petitioner was kept out of all monies transactions intentionally as all Respondents self admit to all and requested petitioner walk away or take ten thousand dollars for a midrise that petitioner held full title, and the midrise is recently listed on the market with Martha Turner Sotheby's in Houston, Texas for approximately \$700,000. with all respondents knowingly using petitioners heirloom furniture and to profit as a rental for profit while a fraud suit was filed with a bond and injunction in place. Petitioner was forced out of the building with security and told not to be allowed back in the building even though the petitioner still held title. Petitioner was left stranded in California in May 2017.

Conspiracy to commit Mortgage Fraud occurs when two or more people work together to engage in the manipulation of financial markets or fraudulently induce investors to make financial decisions. Respondents refused to allow petitioner to be involved in any communications intentionally and after petitioner requested all numerous times, after learning of a large lien place against the property without petitioners knowledge or consent. Information was not known at closing time, and the petitioner learned after the closing. There were many involved in this financial transaction, and all is self admitted by petitioners ex counsel, and a return confirmation by another respondent. All were involved and see attached emails for proof between both. There were emails of "future business" self admitted between counsel, Capital Title of Texas attorney and other respondents. This happened to petitioner in another state after divorce, so petitioner knew the federal laws, including hacking to change financial documents with omitted and missing at the time of closing and new found evidence that counsel did not place on the record, nor would the Texas judge take the proof intentionally, as he participated with multiple respondents Unlawfully, including the mediator in Houston who could not close the case due to bad faith litigation and cover ups. This is a federal crimes, which is why petitioner is allowed in the California Federal Courts as this is the proper jurisdiction. Under 18 U.S.C. § 157, the Federal crime of Mortgage Fraud is committed when a person engages in a

Scheme to defraud during the mortgage application process, which all documents were Fraudulent before, during and after close, even several years after across state line and out of jurisdiction. The respondents also used the petitioners home in exchange for Commerce for unwarranted legal fees, which is another Federal Crime under the Hobbs Act Federal Law, 18 U.S.C. § 1951, Section 1951 proscribes conspiracy to commit robbery or extortion without reference to the conspiracy statute at 18 U.S.C. § 371. See Scheidler v National Organization for Women, 547 U.S. 9, (2006)

Wiretapping and forgery was noticed by petitioner and petitioner gave the proof to petitioner's lawyer, Margaret A. Poissant who did not bring this forward. Petitioner is knowledgeable about wiretapping and called digisign to have all logins sent to petitioner from the petitioner's account. The account was hacked by the broker, respondent, Don McClain. The log ins has his IP number, along with times and dates which were changed, and Don McClain also changed the price and forged petitioners initials after doing so. Capital Title of Texas then used the lowered price without petitioners knowledge and consent to the changed price, therefore their company, respondents had intent and prior knowledge of changes after the petitioners Fraud closing, which had no witnesses present, except Don McClain and Nichole Baker, but later all all Respondents conspired. Wiretapping is a Federal Crime under The Federal Wiretap Act and Forgery is a felony and under Penal Code 115 PC in California for Forged documents. The severity of these crimes, which is all intentional allowed petitioner to file in California Federal court jurisdiction, so the recent Federal Orders are not lawful, and are indeed an error of law by the California District Court and Ninth Circuit Court judges. The Digisign login involves the Wiretap Act, a Federal law aimed at protecting your privacy, and " ANY' interception and the communications of others without the court's approval, unless one of the parties has given their prior consent. It is a Federal crime to use or disclose any information acquired by legal wiretapping or electronic eavesdropping. There is new case law on Wiretapping. See Luis v Zang, No. 14-3601, 6th Cir. Ohio, (2018). Those who commit forgery are often charged with the crime of fraud. Documents that can be the object of forgery include contracts, identification cards and legal certificates. Forgery is a Federal crime in all 50 states with jail or prison time, fines, probation, and restitution (Compensating the victim for money or goods stolen as a result of the proven forgery.

Mortgage wire fraud is a growing scheme to send fake wiring instructions. In this Case the amount was changed, and when petitioner questioned the missing funds and what transpired, Capital title of Texas and the broker refused to answer questions. Petitioner found out months later that the funds were wired to Don McClain and Michael Tapp, Esq. without my consent or knowledge, now respondents. Capital

Title of Texas stated they were not involved, but the company wired the monies to the respondents without petitioners consent, knowledge and tried to cover it up. This is a Federal crime and Capital Title of Texas refused to comply after self admitting to owing petitioner a large amount of funds and interest, and acted belligerent to petitioner. Respondents lawyer told petitioner to contact a lawyer for making statements that were truth, so petitioner filed a lawsuit from California. To date the Respondent, Kevin Longs, Esq. thinks it's funny and Bill Saddock, CEO of Capital Title defamed petitioner to witnesses. Under 941. 18 U.S.C. 1343, Elements of Wire Fraud, (1) the defendant voluntarily and intentionally devised or participated in a scheme to defraud another out of money. Wire Fraud is punishable by imprisonment for 20 years, a fine, or both. Fines under The Fraud Enforcement and Recovery Act, (FERA) enacted in 2009. The fine is \$1,000,000. alone. See Laura A. Eilers & Harvey B. Silikovitz, Wire Fraud, 31 Am. Crim. L. Rev. 703, 704, (1994).

Forced extortion was committed by respondents by intentionally forcing petitioner out of the building and making a threat to petitioner if security allowed petitioner in the building, and Petitioner was told by security at the building that all guards were told to keep petitioner out Of the building and petitioner was not allowed to enter the building to retrieve furniture, as the Respondents allowed Don McClain to move into the midrise with no content insurance against the respondent, Tanglewood Condo Owners own by laws. Petitioner was forced to pay fees, taxes and property for years after extorted by forced out of the property while Respondents rented the midrise for profit. Under 2403, the Hobbs Act Federal Law, Extortion By Force, Violence and Fear, this case is Federal, not state. The petitioner no longer had a Houston address, so the orders of the state judge are moot in Texas. The Hobbs Act, 9-131.000 U.S.C. § 1951, prohibits Robbery and Extortion affecting interstate or foreign commerce. See, Scheidler v National Organization For Women, 547, U.S.9, (2006). Also Marsy's Law in twelve states under victims financial abuse, and return of property during this time frame, which was intentional by respondents.

Obstruction of Justice occurred in both states, and the most common forms of Federal Obstruction of justice is tampering with a witness, under 18 U.S.C. § 1512, which also Prohibits tampering with a victim or a government informant. This offense occurs when a person knowingly interferes with the course of justice in order to protect someone else or alter the outcome of a criminal case, as the order proves in California. In Texas, respondents destroyed evidence to hide the original closing contract, refused to comply to give petitioner any invoices, contracts to rent the property while petitioner held title, and respondents requested petitioner not criminally charge respondent Don McClain after mediation or settlement, but petitioner refused to sign off to their request and threats. This entire case falls under the case law of obstruction of justice by respondents and Judges for wiretap obstruction. See, United States v Aguillar, 515 U.S. 593 (1995). Petitioner made all aware in the Federal complaint and posed letters to the case in Texas of this Federal crime, as all respondents had knowledge of the forgery after closing.

Title Theft, False sell and Foreclosure took place during a civil case in Texas and now to date with new found evidence in California by Texas offering evidence of another false lien in Texas by the state with false child support that the petitioner does not owe, no could have owed. This MESS could not be resolved without a hearing for the petitioner, and two cases were blended together by multiple orders with false information in court documents. This also ruined the petitioners good credit, business and petitioner had to leave California to drive to Texas to resolve, but also had petitioners car tracked and repossessed due to Respondents harassing the petitioner and refusing to pay the money owed. Petitioner has many witnesses and had to stay with a friend after spending thousands on hotel bills due to bad faith litigation, and fraud. Title Theft, False Foreclosure and False sell is happening to date, As the property should go back to petitioner by law, and the property is on the market in Texas under what appears to be a false name. The false lien was never paid to South Carolina respondents in the other federal case. The two cases do not have any connection whatsoever, and all orders now conflict. Due to Title Theft, the petitioner has not been able to pay taxes, and have any resolve due to obstruction and multiple federal crimes, along with multiple violations of petitioners Constitutional Rights. Title Theft, False sell and False Foreclosure while obstructing justice for four years all falls under the Hobbs Act Federal Law, with rent skimming of a property that the respondents do not own with five or more Properties within two years can now be prosecuted criminally, and Cal. Model Rule 4.1, Truthfulness in Statements to others, Prohibits a Lawyer from making a false statement of fact or law to a third, whether this rule was necessary as a rule of professional conduct in California. Fraud conspiracy charges are distinct from standalone fraud charges. All Respondents committed in agreement in writing of fraudulent activity, this qualifies as Fraud Conspiracy. Conspiracy has a ten year statute, and the fraud is ongoing, as Petitioner has been obstructed by all in this case and against oaths of office and canons of ethics. See Tanner v United States, 483 U.S.107, 128, (1987); and Dennis v United States v Tuohey, 867 F. 2d 534, (9th Cir. 1989).

4. Whether this case was ruled in error concerning proper jurisdiction in California Federal District Court, therefore is not a Texas state case, nor frivolous, as orders omitted facts of federal laws after District Court Honorable judge Edward Davila viewed crucial evidence, and while tampering with Federal defendants in this case and ruling with VACATED orders of the Magistrate judge collectively.

Petitioner is a four year resident of California since the date the petitioner was extorted out of the petitioners midrise condo while still holding title and after a fraud closing. Petitioner filed a lawsuit immediately with a Texas lawyer and several years for the Texas judge while several years later litigated under the color of law. This case involved multiple respondents when the respondent filed in Texas civil court by Mark Sandoval, Esq. in Texas, and later proved to be an ongoing issue in Houston per multiple lawyers. Petitioner knew with new found evidence of laws and obstruction, petitioner is allowed to file a diversity case and with federal questions in California District Court prior to petitioners' federal complaint. Pro se status of petitioner has been used by Judges in California and Texas as a tool to discriminate and intentionally harm the petitioner 's future during financial abuse unlawfully. All respondents knew the petitioner's situation and took full advantage of a family tragedy.

Please see Jurisdiction explained on page 4 for references and Rules 59 and 60 apply. Under the color of law refers to Section 242 of Title 18 makes it a crime for a person acting under the color of law to willfully deprive a person of a right or privilege protected by the Constitution of laws of the United States. See Crandall v Nevada, 75 US 35, Supreme Court 1868. Petitioner did not know how to file in civil state court, so petitioner posted letters to the judge, requested a recusal and to close the case to move the case to California to the proper jurisdiction and Steve Kirkland refused. Petitioner was hung up on by the judge on a phone hearing, and multiple hearings took place with No Due Process, nor returned emails to have a phone hearing by the clerk, which was intentional. Multiple hearings took place months after both attorney's were not on the case, and a self admittance by respondent, Kevin Long, Esq. that no hearing was on the record that date going forward, and never offered Due Process of law. The proof was given to the Ninth Circuit Court of Appeals, which were never ruled on or acknowledged by law. Orders were clearly out of Jurisdiction with No Due Process per the Fourteenth Amendment of the United States Constitution, and was cruel, as all knew petitioners domestic assault and abuse situations. The orders were so outrageous, no lawyer would take the case on in Texas, and were shocked at the amount of motions, which were frivolous and abusive. One motion by Kevin Long, Esq. was retracted by himself after the abuse was brought to his attention. This week petitioner was sent an email from this respondent stating " LOL", and " this case will never be heard". He has told petitioner to " move on", as all placed petitioners property with contents up for rent while under a lawsuit, and later a false foreclosure and sell.

5. Whether the District Court and Ninth Circuit judges intentionally ignored proven and self admittance of Mortgage Fraud with profiting, willful and intentional Conspiracy involving all respondents, and respondents admitting to premeditated obstruction of justice while following through.

The proof is stamped " received" in the Ninth Circuit, but petitioner is unaware if any of the petitioners proof provided to the Ninth Circuit was ever placed on the record. Petitioner is attaching three pages of the proof with the Orders of this petition to be reviewed. See attached self admitted emails by respondents and please take note of the dates.

See United States v Santos, 128 S.Cir. (2008). In a 4-1-4 decision, the Supreme Court held that the term "proceeds" in § 1956 refers to " profits" and not gross receipts. Such as this case and petitioners, the money that is paid to runners and other participants/ employees/ respondents, the activity does not amount to a transaction in proceeds, because this money does not represent the profit. The respondents profited, rented petitioners midrise and refused to give petitioner any amounts or charges for taxes to obstruct mortgage fraud with profits. Respondents had no regard for petitioners belongings and Heirloom furniture that petitioner uses for a design business

6. Whether the District Courts retaliated against petitioner by retracting a Forma Pauperis after petitioner paid for the case fee in full by check, and after petitioner filed an appeal in the Ninth Circuit Court of Appeals.

Petitioner paid in full by check # 8188 on May 14, 2020 and was sent a second affidavit when the District Court had already verified the Forma Pauperis, which allows petitioner to file an appeal in the Ninth Circuit. This is a pattern of retracting fees in petitioners cases and with multiple Federal offenses, along with No Due Process or Procedural Due Process. Multiple stays were placed on petitioners cases for no reason given, and told " you should have hired a lawyer and your case could sit here for a year" per the court staff attorney, Stephanie. Now it appears to petitioner that this is retaliation for requesting court time when court time was necessary and placed petitioner in harm's way, and without monies of petitioner during a global pandemic when this could have been resolved in a five minute hearing that was scheduled and changed four times without notice and ex parte.

Procedural Due Process Civil, Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive a person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protections of the laws.

28 U.S.C. § 131 provides;

" The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States".

Note: Petitioner had monies, but funds were withheld against the Federal Hobbs Act Laws, including Capital Title of Texas intentionally withholding Petitioners monies due to fraud and theft. This is not frivolous, and in fact dangerous to petitioner and college age children extorted in another state and during a global pandemic. See Scheidler v National Organization for Women, 547 US 9 (2006).

Retaliation falls under 18 U.S.C. § 1513, Crimes and Criminal Procedures is retaliation against a witness, victim or an informant. Forcing a litigant to depend on state monies when the petitioner had funds and a home withheld is disingenuous, unlawful and cruel. Petitioners witnesses would have been beneficial, but not allowed due to bias, pro se status and retaliation. See EEOC v Morgan Stanley and Co., Inc. 324 F.Supp. 2d 451, (S.D.N.Y. July 8, 2004). Gender and pro se discrimination claims, the courts recognition that defendants' criticisms of the proposed expert testimony were more properly addressed to the weight to be given to the evidence, and not its relevance or admissibility, applies with equal force in this harassment case. The Federal Courts in California and Texas have been extremely abusive, biased and racist.

Forma Pauperis was used as a tool to place unwarranted stays to obstruct this case. Under Rule 24, (3), petitioner had prior approval to move forward Forma Pauperis and did not need any further affidavit to file an appeal in the Ninth Circuit. This is a pattern of petitioners cases that are not related whatsoever. The California judge's have shown a complete disregard for the petitioners victim status under Article 1 Declaration of Rights, as petitioner clearly stated in petitioners original complaint.

7. Whether all Federal orders should have been VACATED, as requested by petitioner, and the California Court failed to acknowledge the extended case time frame during a global pandemic with intentional obstruction in this case, as the petitioner had no control over the courts time, and petitioner has rights to a fast trial per the Bill of Rights under Domestic Violence assault victim laws, including Marsy's Law and Article 1 of the California Constitution under Financial abuse.

The orders were not posted or mailed in the time frame to file under Rule 59 and 60, including violations of the United States Constitution with no resolve or relief. Petitioner has rights to be heard under the First Amendment, and to have litigation overturned with litigation, and amended to correct errors of law. All orders are proof of error of law, and by taking respondents out of the case and replacing the respondents back in against oaths of office and canons of ethics by the District Courts judge's in

San Jose, California, and after petitioner wrote letters and requested by motion to reconsider, and petitioned to have one new honorable judge to hear the case, but the District Court judge refused to recuse, and stated complete untruths. This happened in both cases, so the judge has a bias towards petitioner, and the Magistrate was furious that I was stating bar members as defendants, now respondents. Federal offenses are automatic disbarment, but these respondents self admitted to all in writing, and continued after years of bad faith litigation. Petitioner was fair, worked in good faith and exhausted all remedies available with no avail. The respondents willingly, knowingly and intentionally committed crimes and violated all of petitioners rights while causing emotional and more financial stress, which falls into punitive damages to the petitioner to date. Respondents took many vacations and used vacation time as excuses not to comply or return petitioners property and contents of the midrise. See Scheidler v National Organization For Women, 547 U.S. 9 (2006), (NOW) argued that acts of physical violence are sufficient to establish a Violation of the Hobbs Act, which pertains to this case of extorting petitioners mid rise with by force. Hobbs Act Federal Law, under 18 U.S.C. § 1951, is a U.S. Federal law enacted in 1951 also proscribes conspiracy to commit robbery and extortion without reference to the Conspiracy statute at 18 U.S.C. § 371. Mortgage Conspiracy has a ten year statute, and up to 30 years in Federal prison. Troxel v Granville. Pg 99-138 (2000) also applies for not offering Due Process to petitioner at any time by law against petitioners Fourteenth Amendment Right. Marsy's Law in twelve states now protects petitioner from any harassment, and across state lines into California from Texas.

8. Whether the Federal District Courts in California failed to offer petitioner Proper Procedural Due Process, failed to acknowledge No Due Process by respondents while respondents created false and misleading statements in Court and Financial Documents Under the color of law in Texas, and unlawfully obtaining petitioners personal property, including Heirloom furniture against petitioners will in exchange for commerce.

Petitioner was not offered Due Process by respondents when filing vexatious motions in Texas, and failed to serve petitioner, and failed to call for hearings. The State judge refuse to allow petitioner time for counsel against petitioners Six Amendment Right and continued to place outrageous number of motions and hearings knowing the Petitioner lived out of state and could not come to court. The petitioner stated there were no hearings after counsel was allowed out of the case with no notice and against petitioners denial because of no counsel, and after approximately thirty lawyers refused to get involved knowing this case was old and vexatious. The Federal District Court did not serve respondents, and petitioner served an appeal to all respondents with no response from respondents. Petitioner filed a Default Judgement and was ignored by The Ninth Circuit Court of Appeals. The California Courts offered No Procedural Due

Process against petitioners Fourteen Amendment Rights, and ignored Rule 60, which the Petitioner requested before being forced to file a petitioner for writ in the United States Supreme Court. There was Conspiracy to commit fraud, Rule 60 and 59 apply, including violating petitioner Fourteenth Amendment Right and Right to Procedural Due Process. Procedural Due Process refers to the Constitutional requirement that when the Federal government acts in such a way that denies a citizen of a life, liberty, property interest, the person must be given notice, the opportunity to be heard, and a decision by a neutral decision maker. Rule 1.6 applies due to failure to disclose a material fact to avoid Assisting a client in a criminal act or fraudulent act, subject to the lawyer's duties, under Rule 1.6 and Business and Professions Code Section 6068 (e). The Federal District Court judge was sent the proof attached, and stated that petitioner did not mention anything wrong, which is false, and the Ninth Circuit failed to acknowledge Federal Crimes and violations of Petitioners Rights, especially Due Process and Procedural Due Process, Rights Guaranteed : Privileges of Citizenship. The privileges " must be" in a case dealing with negligent state. Failure to observe a procedural deadline. Under Section 1, No. 760, Thus, the notice of hearing and the opportunity to be heard " must be granted at a meaningful time and in a Meaningful manner", which did not occur in this case. (2) Hearing. Some form of hearing is required before an individual is finally deprived of a property or liberty interest". There was no hearing, and the orders are ruled on error in jurisdiction and failure of Due Process. The violations proved to be unjustified in their actions and caused injury to petitioner in numerous ways that fall under punitive damages being awarded to petitioner as requested within thirty days of a ruling. See, Carey v Piphus, ruled 8-0 on March 21, 1978 the courts held that Piphus was entitled to " substantial non punitive" damages because their procedural due process rights were violated.

9. Whether the petitioner should be awarded a filed Default Judgement after serving all respondents per the Ninth Circuit Court of Appeals Court Order TIME SCHEDULE date, and the Ninth Circuit then failed to acknowledge a filed motion by petitioner for a hearing to discuss prior to a final order and mandate against petitioners First Amendment Rights.

Petitioner filed a default judgement within thirty days after respondents did not respond to service by petitioner by United States mail. The Ninth Circuit Court of Appeals did not honor a motion filed for a hearing, and sent a mandate without offering petitioner twenty eight days to file any response or petition for Writ of Certiorari. The petitioner had five days after the courts drug the time out to file stamp and enter the judgement, which was during a pandemic, and after the case remained pending for over a year. Petitioner feels this was intentional due to many reasons, including being pro se and bias. Covid backed the courts up and all were working low staff, but this had nothing to do with petitioners timeframe, and petitioner was violated by all Rights unfair and unjust.

10. Whether the California District Court judge intentionally ignored Fiduciary Theft by Texas respondent, Margaret Poissant, Esq., which was documented in the petitioners original Federal complaint, and after the California District Court judge viewed evidence of self admittance of Conspiracy and Fraud by this respondent who was running for Judgeship in Texas at the time of the civil state case. This also involved respondents, Sarah Vida, Esq. and manager of Tanglewood Condominium Owners, involving checks placed in Margaret A. Poissant, Esq. name after the original checks were written in petitioner's name.

Note: The state judge, Honorable Steve Kirkland is now a Federal judge, but not at the time of the civil state case when he willfully and maliciously released petitioners property title to a bankrupt LLC when the title was in Audrey L. Kimner's name, and involving multiple Judicial canon violations.

Respondents participated in withholding, changing checks, and took petitioners funds in and out of escrow unlawfully. Respondents named in question 10 refused to respond, and intentionally while knowingly took the funds. The funds were sent to escrow at a Different firm with a different address. The manager of the Tanglewood Condominium Owner, respondent, was belligerent when questioned by petitioner about the change of Names and amounts on the checks and Matt refused to help, and hung up on the petitioner. Fiduciary theft under penal Code § 32.45 states Misapplication of Fiduciary Property or Property of Financial Institution. (1) (B) an attorney in fact or agent appointed under power of attorney. Margaret A. Poissant was petitioners attorney of record when this happened, and the other respondents were defendants who worked in bad faith, including an unlawful Mediation in Texas. Petitioner had to quit her job, drive to Houston, and lost everything due to Conspiracy to commit Mortgage Fraud and Fiduciary Theft. Petitioner was ignored after being threatened and harassed while told untruths and outrageous comments of abuse. Petitioner filed grievances with the Texas bar two months prior to anyone leaving the case, and was ignored, which drug out for months. The Texas Ombudsman covered for all respondents with no regard for the law, nor for petitioners property, along with all respondents. This abuse was overwhelming and in the middle of assault financial abuse, and all respondents took full advantage of petitioners situation and property with profiting for themselves in every way and ongoing, while acting recklessly, intentionally and Knowingly to misuse funds and a property that belonged to petitioner with a clear title prior to the fraud closing. Plaintiff had the right to possess the property and still held Title. This CIVIL WRONG, as stated by the Supreme Court, must have proof of a "culpable state of mind", with a "knowledge of , or gross recklessness in respect to the improper nature of the relevant fiduciary behavior. Petition has witnesses and has documented all strange behavior of all to the Texas bar prior to a trial date in ample time, August of 2018. See Bullock v BankChampaign, 569 U.S._(2013), by unanimous decision.

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CONCLUSION

Petitioner would like the Supreme Court to honor petitioners Default Judgement due to all respondent's ignoring the Ninth Circuit Time Scheduled Order, and wasted the courts time. Capital Title of Texas was involved, self admitted to owing petitioner money with interest. Capital Title and their lawyer had several insurance companies to cover the fraud closing, and could have started over with proper closing documents as petitioner requested. Petitioner gave all a chance to pay at a loss to petitioner three years ago, and respondents cost petitioner millions in losses of business, credit, business furniture, and profited with knowledge of petitioners financial abuse situation. Petitioner was told to return a new Mercedes when the petitioner's car was almost paid off. Petitioner's car was repossessed due to respondents failing to return petitioners money or property. Petitioner feels two million is fair for what has transpired unlawfully. Petitioner experienced horrendous embarrassment for having to have a car repossessed while having a 800 plus credit score. The car company has now placed false fees on petitioners credit, and cost petitioner the ability to rent, and without a job for having to quit to take time to play legal games, wasting money and time. Their offenses are multi millions in fines, not including jail and disbarment for a felony, including Fiduciary Theft. Fraud also caused a mess with the IRS, and the petitioner has no documents upon request to date. There is no list of expenses and monies earned on renting petitioners property for profit. Petitioners request a fair trial, or judgement so the petitioner can move on. Petitioner deserves punitive damages within thirty days of judgement. This fraud has forced petitioners out in the street and in terrible situations. The respondents are in business together, and self admitted this fact and intentional obstruction. The Texas judge was disrespectful about Mark Sandoval, Esq., and his personal issues with Mark, which has nothing to do with petitioners mid rise, as petitioner had to endure his horrendous disdain for petitioners counsel. Mark's death is questionable now after being treated horrifically by all respondents. The threats and intimidation towards petitioner speaks volumes, federal offenses, and petitioner was not the only homeowner involved in fraud in TX. Petitioner requests resolve, and has no criminal record, no abuse of any kind and is a U.S. citizen.

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JUDGES ERROR OF LAW

Petitioner petitioned the District Court judge recuse himself after depriving petitioner of First Amendment Rights to be heard, failing to offer Proper Procedural Due Process and tampering with respondents. Petitioner feels this judge is biased, worked ex parte, and he ruled differently on two similar cases, which proves petitioners had a valid complaint to petition this judge to recuse. Petitioner has Rights to overturn bad faith litigation with litigation by law, and has never met this judge, nor any other judge. The canon of ethics were not followed and crimes were obstructed. This case has been intentionally continued and unlawfully set aside for over a year, which has left petitioners without relief during a global pandemic.

Canons violated: 1, 2, 2.3, 2.9, 3, 3.5.

The petition for Writ of Certiorari should be granted.

Respectfully submitted by:



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