

Supreme Court, U.S.
FILED

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No. 20-1805

IN THE
SUPREME COURT OF
THE UNITED STATES

WYLMINA HETTINGA—Petitioner

vs.

UNITED STATES OF AMERICA, et al—

Respondents

On petition for a Writ of Certiorari to
the United States Court of Appeals
for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

Wylmina Hettinga

1587 17th Street, Los Osos, CA 93402

(805) 235-1699

QUESTIONS PRESENTED

Are the United States District Courts routinely deciding disputed facts in favor of the defending state court actor's motion for summary judgment under a 42 U.S.C. §1983 complaint in order to deny United States citizens basic due process rights?

Are these summary judgments consistently being upheld by the Ninth Circuit Court of Appeals?

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Wylmina Hettinga, Petitioner

United States of America, Respondent

Chicago Title Company, Respondent

Jeanie O'Connor, Respondent

Scott Raley, Respondent

Walter P Hammon, Respondent

Travis I Krepelka, Respondent

Timothy Loumena, Respondent

Pamela Kennedy, Respondent and state
court actor for 42 U.S.C. §1983 claim

RELATED CASE

Wylmina Hettinga vs. Timothy P. Loumena, et al.,

No. 17-6501, U.S. Supreme Court, Petition for

Writ of Certiorari denied January 8, 2018

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28 U.S.C. §1254	3
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<i>Morgan v. United States</i> 304 U.S. (1938)	4, 14

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—separately bound

APPENDIX A, In the United States Appeals Court for the Ninth Circuit, No. 19-55672 affirming the judgment listed in Appendix C entered 11/03/2020.

APPENDIX B, In the Ninth Circuit Court denying my request for panel rehearing and petition for rehearing en banc for the judgment listed in Appendix C, entered on 02/23/2021.

APPENDIX C, In the District Court for Central California, No. 2:18-CV-00150-R-AFM as Docket 56, stating on page 2, ID# 915, lines 7-10, “Because Hettinga refused to cooperate with the sale, the Superior Court authorized the court clerk, Defendant Pamela Kennedy, to execute the grant deed. In the instant lawsuit, Hettinga claims this conduct amounted to a violation of her civil rights.” entered 08/07/2018.

PETITION FOR WRIT OF CERTIORARI

I respectfully pray that a writ of certiorari issue to review the federal Ninth Circuit rulings upholding two summary judgment orders by the California federal district courts who had decided disputed facts in Kennedy's favor, as the state court actor, in a 42 U.S.C. §1983 action in order to dismiss her as a defendant.

JURISDICTION

On 11/03/2020, the federal Ninth Circuit Court of Appeals affirmed the District Court's dismissal in Appendix C, unpublished, and then denied a petition for rehearing in Appendix B on 02/23/2021 less than 90 days ago. Summary judgment had been entered on 05/30/2019. The jurisdiction of this Court is proper under 28 U.S.C. §1254(1) and notifications under Rule 29.4 have been made.

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED

Morgan v. United States 304 U.S. 1, 18 (1938) held that "The right to a "full hearing" embraces not only the right to present evidence, but also a reasonable opportunity to know the claims of the opposing party and to meet them. The right to submit argument implies that opportunity; otherwise, the right may be but a barren one. Those who are brought into contest with the Government in a *quasi-judicial* proceeding aimed at the control of their activities are entitled to be fairly advised of what the Government proposes and to be heard upon its proposals before it issues its final command."

STATEMENT OF THE CASE

The basis for federal jurisdiction was invoked under 42 U.S.C. §1983 as follows. Kennedy, a state court actor, deeded my residence to my ex spouse, defendant Timothy Loumena in violation of state court orders to sell the property to a third party who was willing to pay over a million dollars for it. I first went to local law enforcement for relief but they refused to prosecute Kennedy for the deed because she was a state court employee shielded with immunity.

The state court judge then acknowledged, on record, that Kennedy was not her court clerk, that Kennedy had violated her orders, and that Kennedy had not been authorized to sign the deed in my place, as trustee of my trust, or as the managing member of my company. However, Loumena had already long since recorded the deed as a part of the official county records.

I held the vast majority interest in my residence. I had purchased it before marriage as my sole separate property from proceeds of my mother's death and I had filed a state homestead declaration on it as a single woman. I had a separate property interest given to me from the California Sixth District Court of Appeals which has never been paid out to me. My company purchased the residence at a non-judicial sale in 2010 after Loumena purposefully had it foreclosed upon. Loumena told my attorney that he wasn't going to vacate my residence and that his attorneys would ensure that I was not going to set foot in my very unique property ever again or get a dime from it.

Armed with this knowledge, the state court judge still refused to order the county recorder's office to remove Kennedy's deed from their records. Instead the state judge did all that she could

to shield Kennedy and the remaining defendants with her judicial immunity. She first ordered the recorder's office to remove a lis pendens filed by my attorney on the property. She then claimed jurisdiction over the state civil suit my attorney had immediately filed. She subsequently ordered Loumena to sell the property quickly to a third party and to come back to her court to divide up the proceeds. However, the residence was now Loumena's sole separate property so Loumena ignored her and took out a mortgage on the property. Eventually he couldn't make the payments so he sold the property to a third party for far less than a million dollars as his sole separate property and divided up the proceeds with the remaining defendants which included Chicago Title Company and its employee, Jeanie O'Connor as well as Loumena's chosen realtor, Scott Raley who had participated in Kennedy's fraudulent deed to get paid.

I had no choice but to seek relief under 42 U.S.C. §1983 in the federal district court of Northern California. I attached the deed Kennedy had signed to my original federal complaint and included it here as well as Appendix E.

The Northern District ignore the deed and dismissed my complaint deciding this crucial disputed fact was in Kennedy's favor. The Court claimed that the deed was false and that Kennedy had signed as elisor in my place, as trustee of my trust, and as the managing member of my company, in order to deed my residence to a bona fide third party buyer in exchange for less than a million dollars in proceeds all in accordance with a state court judge's orders. The Northern District Court then declared my and my oldest son to be vexatious litigants in order to deny us any future ability to obtain relief from that District Court, without first obtaining approval, see Appendix D.

Between that time and now, the United States of America, as the IRS, audited my tax returns from 2010 through 2013.

I gave the auditor a copy of the deed and told him I was claiming a theft loss deduction. He stated that the IRS was relying on the Northern District Court's findings that Kennedy had sold the property to bona fide third party buyers instead of deeding it for free to Loumena. The IRS refused to audit Loumena for the short term gain he had made on my residence, acquiring it for \$0 and then selling for close to a million dollars in profit later that same year. The IRS assessed me income tax which I paid, as required, in order to file for a refund in the federal District Court for Central California where I now resided. I included all of the same defendants and expected that this time that I would finally be given a fair trial and be allowed to question Kennedy at that trial.

By that time, Loumena had testified under oath that Chicago Title Company and its employee, defendant Jeanie O'Connor had instigated all of Kennedy's acts of theft. Loumena further testified that his attorneys had prepared the deed for Kennedy to sign. Kennedy testified to me outside of the District Court that she had knowingly and unlawfully deeded over my million dollar property to Loumena for \$0 but that I had no recourse because she was retired from being a state employee.

I submitted all of this new evidence to the Central District Court. The Central District acknowledge that the defendants stories had all changed. However, it also stated I had to bring my claims about the fraud committed on the Northern District to that court and satisfy heightened pleading requirements, see Appendix C, p 4. The Central District then decided that it was a fact that I had "refused to cooperate" with the sale of my

residence to Loumena for \$0 and thus the state court judge had authorized Kennedy to deed it to him instead, See Appendix C, page 2, lines 6-10. The Central District then dismissed all of the defendants except the IRS and Kennedy, Kennedy was not originally dismissed because she had failed to appear after she had been properly summoned and served any and all filed documents.

The Central District determined it was a fact that Kennedy hadn't been served. However, when I submitted evidence she had, the Central District changed its mind and stated that I had failed to respond timely. When I submitted evidence that I had responded timely, the Central District shielded Kennedy and dismissed her as a defendant anyways. The Ninth Circuit affirmed the dismissal of Kennedy as well, see Appendix A, Docket 83-1, page 3. A cursory review of the Central District docket will support my timely responses to the Central District's untimely orders.

The Central District needed to dismiss Kennedy in order to support its position that the IRS should keep \$40,485.60 of my refund request and also support the Central District's claim that no theft loss of my residence had occurred.

In my statement regarding the issues that I presented to the Ninth Circuit, I clearly indicated that my affidavits regarding Kennedy's theft were true and sufficient enough to have defeated the Central District's summary judgement, had the District Court accept them as true, and Kennedy's deed shown in Exhibit E as true.

Instead, the Ninth Circuit agreed with the Central District's unilateral findings that the state court judge had ordered Kennedy to sell my residence to Loumena for \$0. This allowed the Ninth Circuit to invoke the Rooker-Feldman Doctrine and shield Kennedy from questioning by dismissing her as a defendant.

ARGUMENT FOR GRANTING THE WRIT

The end result is that the United States District Courts are routinely deciding disputed facts in favor of the moving party as part of that defendant's motion for summary judgment. This allows the District Courts to shield state court actors who violate constitutional rights from being questioned at a trial which in turn is denying United States citizens basic due process rights to confront the state court actor who took something from them in an unconstitutional manner in the first place.

I am simply one of the few that has the ability to fight back to try and stop District Courts from doing so in violation of my constitutional rights as a United States citizen to be free from unwarranted governmental interference in what rightly belongs to me. I am simply asking for a fair trial and the ability to question Kennedy at it.

In *Morgan vs. United States*, this court made it clear that a United State's citizen's rights must be protected by the rudimentary requirements of fair play. When District Courts are allowed to deny citizen's fair trials by deciding disputed facts as a part of summary judgment motions in order to dismiss state actors as defendants; then citizens' rights to hold onto their property become barren. This court, in *Morgan*, absolutely sought to stop this from happening in state courts but it has and it continues to be happening.

CONCLUSION

Respectfully, this petition should be granted.


Wylmina Hettinga
1587 17th Street
Los Osos, CA 93402
(805) 235-1699