

No. 20-5442

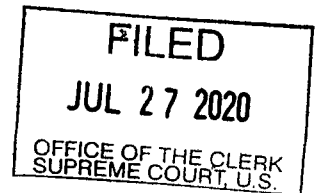
IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Condra L. Smith — PETITIONER
(Your Name)

vs.

united states department of education, et al — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Condra L. Smith
(Your Name)

3301 Lafayette St
(Address)

Fort Wayne, Indidna, 46806
(City, State, Zip Code)

(260) 745-3551
(Phone Number)

QUESTION(S) PRESENTED

I. Whether the courts can suit between the four states, the petitioner is in Indiana and one of the respondents (General Recovery) is located in Ohio, one of the respondents (Pioneer Recovery) is located in New York, and another respondent (United States Department of Education) is in Washington, D.C and the amount in controversy is more than the minimum amount needed for diversity jurisdiction.

II. Whether the courts can rule on a fraud crime involving student loans that do not contain the petitioner's signatures and the continuing to unlawfully garnish wages when instructed to stop by ECMC hearing. (Educational Credit Management Corporation)

III. Whether the courts can hear and resolve this case involving
The U.S. Department of Education et al which all parties are apart of an agency of the federal government.

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:

US Department of Education
USA Fund C/O Navient
Pioneer Recover
General Revenue

RELATED CASES

CASE NUMBER: 1:18-cv-00348-TLS-SLC

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

CONDRA L. SMITH
Plaintiff(s)

vs.
U.S. DEPARTMENT OF EDUCATION et al,

Case Appeal No 20-1069

CONDRA L. SMITH,
Plaintiff —Appellant,
VS

Appeal No 20-1069
UNITED STATES DEPARTMENT OF, EDUCATION, et al,
Defendants —Appellees

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CASES

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Fox v. Clinton, 684 F.3d 67, 77

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STATUTES AND RULES

OTHER

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 May 8 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: July 9 2020, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Equal Protection clause provides:

Nor shall any state... deny to any person within its jurisdiction
the equal protection of laws

The Due Process Clause provides:

No person Shall... be deprived of life, liberty,
or property, without due process of law

STATEMENT OF THE CASE

The respondents are apart of an agency of the federal government.

US Department of Education and fellow respondents have been jointly garnishing and withholding Petitioner's money from paychecks and tax returns due to fraudulent loan(s)

Respondent General Revenue did not respond to federal complaint in time permitted by law. A motion for default judgment was submitted February 6, 2019

US District Court Clerk over looked motions submitted
And closed case seven months later in August 2019

United States Court of Appeals for the Seventh Circuit closed the appeal May 2020 and denied the rehearing July 9th 2020

REASONS FOR GRANTING THE PETITION

This court should resolve the appropriate standard of review where there were
Multiple explanations were provided for certain challenges and the federal trial judge
Made only conclusory findings insufficient to permit meaningful appellate review.

The federal courts could of heard case because of the suit between the three states, the petitioner is in Indiana and one of the respondents (General Recovery) is located in Ohio, one of the respondents (Pioneer Recover) is located in New York and a respondent (US Department of Education) is located in Washington. All four of the respondents are apart of the government.

The federal courts could of heard the case because the fraud activity involving the student loans that does not contain the petitioner's signatures is federal crime
The respondents also continued to unlawfully garnished wages when instructed to stop by ECMC while they conducted their investigation.
(Educational Credit Management Corporation)

Petitioner alleges in her complaint:

The respondents garnished paycheck and any other entitled money without giving proof of Condra L. Smith taking a loan(s). The documents on hand do not have petitioner's signatures

The Complaint contains all this and more in page after page of detailed allegations, quotes.
I, Condra L. Smith attended the university on a scholarship and while attending there received additional scholarships and awards. The documents that respondents have at hand clearly shows that the hand writing and signatures do have Condra L. Smith's hand writing.
Under any reading of the applicable standard requiring particularity, Condra L. Smith meets and exceeds it pleading obligations.

Judge Brady closed the case, without sufficient explanation to permit meaningful appellate review, the usual deferential review falls away and the question is whether this court, upon review of the record, finds by a preponderance of the evidence that the defendant has acted in a fraudulent crime.

After spending pages of briefing asserting that its interpretation of the master calendar provision was an exercise of agency discretion meriting deference, ED reverses course and states that a "lack of discretion" meant it was not required to consider the impact of that interpretation and resulting delay of the Borrower Defense Rule in the IFR. Defs.' Mem. at 47-48. ED cannot have it both ways. Even if an agency is owed deference in interpreting an ambiguous statute, it must comply with the basic principles of reasoned decision-making, including at least considering the consequences of its interpretation. See, e.g., *Fox v. Clinton*, 684 F.3d 67, 77 (D.C. Cir. 2012) (even if agency action warranted Chevron deference, it "would still fail for want of reasoned decisionmaking"). Because Pioneer Credit Recovery, General Revenue, USA Funds C/O Navient did not engage in any reasoning as to the impacts of its actions, the IFR is arbitrary and capricious.

Respondent General Revenue did not respond to federal complaint in time permitted by Law. A motion for default judgment was submitted February 6, 2019

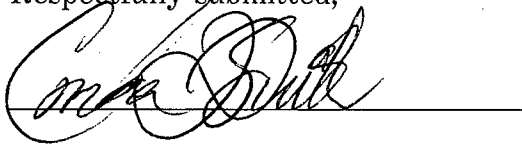
US District Courts over looked motions submitted
And closed case seven months later in August 2019
United States Court of Appeals for the Seventh Circuit closed the appeal May 2020 and denied the motion to recall on July 9th 2020

The burden of proof question presented by the petition is an important and recurring constitutional question that has seriously divided the federal appellate courts. Because this case is regarding fraud crimes which is a federal offense, and the parties are in three or more states and the amount in controversy is more than \$100,000. The courts should hear this case because it is also involving parties in which all parties are apart of an agency of the federal government.
The jurisdiction is no longer in question.
Whether due process places on the government the burden of persuasion on the withdrawal issue is a fundamental question of constitutional law that this court should resolve.
This court should grant the petition on this question and grant petitioner a fair review and trial on all counts.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 7-27-2020