20-5511

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IN THE

SUPREME COURT OF THE UNITED STATES

On Petition for a Writ of Certiorari to the

Illinois APPELLATE Court

DEBBIE PITTMAN,
Petitioner,
V.

RONNIE PITTMAN,
Respondent/.

PETITION FOR A WRIT OF CERTIORARI

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June 26, 2020

QUESTIONS PRESENTED FOR REVIEW

1. Whether a notice of appeal filed on May 10, 2016 is considered prematurely filed when the orders being challenged cover the
period between 2013 and 2017 is valid which was filed after the court made known its intention ON April 13, 2016 of entering an unfavorable final rulings set to be entered on June 10, 2016, and after a second notice of appeal was filed on December 18, 2017?

2. Whether charging a person with indirect civil contempt when it is actually indirect criminal contempt and then sanctioning them $15,000 for that contempt and punishing them further when they could not pay the fine violates the Due Process Clauses of the Fifth, sixth, thirteenth and fourteenth Amendments, the Excessive Fines Clause of the Eighth Amendment, and the Equal Protection Clause of the Fourteenth Amendment as afforded under the constitution?

PARTIES TO THE PROCEEDING

Debbie Pittman, Petitioner

Ronnie Pittman, Respondent

CORPORATE DISCLOSURE STATEMENT

The petitioner does not have a parent corporation in relation to this case and no publicly held corporation owns 10% or more of the petitioner's stock, as noted in this corporate disclosure statement.

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Illinois Supreme Court Rule 341(a) (7)

INTRODUCTION

1. This case provides the Court with an ideal vehicle with which to address the constitutionality of indirect criminal contempt charges imposed by courts under the guise of indirect civil contempt charges and the individuals are denied their constitutional rights associated with those charges and the questionable level of remaining impartiality to decision makers once an accommodation request has been made by a higher authority for people with disabilities.

OPINIONS BELOW

2. The Illinois Court of Appeals opinion was recorded on June 28, 2019 and is found at 2019 IL. APP. 1. (1st) 161316-U
3. The Illinois Supreme Court's denial of leave to appeal was entered on January 29, 2020 and is found at 435 Ill. Dec. 673 at App. B-1-302.

JURISDICTION

1. After having granted an extention for filing the motion for leave to appeal, the Illinois Supreme Court entered their judgment of The denial order of allowing the motion for leave to appeal on January 29 2020 App. B1, and the denial order of the motion to reconsider the motion for leave to appeal was entered on April 3, 2020 (App. B-2). This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

2. **The Fifth Amendment to the Constitution provides** in pertinent part that "[no person shall ... be deprived of life, liberty, or property, without due process of law."
3. **The sixth Amendment to the Constitution provides** that, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of
4. the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and

5. cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."
6. **The Eighth Amendment to the Constitution provides**, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."
7. **Section 1 of the Thirteenth Amendment to the Constitution provides**, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."
8. **Section 1 of the Fourteenth Amendment to the Constitution provides** in pertinent part, "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."

STATEMENT OF THE CASE

1. Petitioner Debbie Pittman filed for divorce in late 2012, after learning that her husband of more than 30 years and who was the primary breadwinner of the family, working for the Internal Revenue Service R. C2138, for 30 years, abandoned her, after transferring his electronic check to his private account and closing the joint bank account. Respondent Ronnie returned to the home three months later in early 2013 and was violent and was made to leave the home by no

contact order, R. C161-C162. An order of protection and exclusive possession hearing was held on May 21, 2013 granting Debbie only exclusive possession, R. c 125-126.

2. Because of the loss of respondent's income in the home, petitioner DEBBIE went from being upper middleclass to indigent and completed a form establishing her impoverished state R. c225. Due to her impoverished state, she was unable to keep an attorney. After losing her attorney because of inability to pay, she was forced to make an accommodation request of a court reporter and transcripts being made available to her through the disability accommodations officer because she learned that the respondent's attorney was taking advantage of her blindness and changing wording in the orders. After the disability coordinator received a negative response from the court to grant the accommodation request, she then, without the petitioners knowledge, sought approval of the accommodation request from Chief Judge Evans who granted it, which petitioner learned of the next time she returned to court.
3. Out of desperation , petitioner DEBBIE took out what she thought was a loan against a structured settlement which Respondent had signed away his rights via notarized affidavit, (Brief app. A-28), to from a finance company J. T. Winters which turned out to be a bogus company who defrauded her. Though the notary Mr. Dina verified that Respondent Ronnie brought him the affidavit and Mr. Dina verified his notarization and signature on the affidavit, the court determined the affidavit signed by Mr. Dina and both parties in this case was invalid since Respondent Ronnie claimed not to have signed it. Petitioner filed a claim with the

Attorney General's office under claim no. 201600026144 and in the meantime was found in civil contempt of court and sanctioned $15,000 for "spending money" which she had been ordered not to do as per the November 10, 2015 order, R. C1382-C1385, and December 2, 2015 orders, R. C1504-C1506. Petitioner objected to the sanction on May 10, 2016 to no avail and a commit ordered was entered on May 19, 2016 when she was unable to pay the $15,000 sanction, App. C-10.

4. Petitioner appealed, raising constitutional challenges under the Due Process Clause, of the fifth amendment, the right to counsel clause under the sixth amendment, the excessive fines clause under the eighth amendment, the involuntary servitude clause under the thirteenth amendment and the Equal Protection Clause of the fourteenth amendment. The Illinois Appellate Court determined that the notice of appeal was untimely, and none

of the orders between May 21, 2013 and November 15, 2017 were final. The constitutional challenges centered around the April 13, 2016 contempt decision was rejected and it was deemed proper and neither of the other approximately 18 points including the July 19, 2017 contempt order were not addressed. Petitioner is requesting re-evaluation of the appellate court's decision with instructions to them to address all the points raised by petitioner in her brief, since had she not raised those points according to Supreme Court Rule 341, they would have been considered waived, (h.) (appellant's brief) (7.) "Points not argued are forfeited and shall not be raised in the reply brief, in oral argument or on petition for rehearing.", Wright. V. Wright 61 Va. App. 432, 737 S.E.2d 519 (2013).

5. The Illinois Supreme Court denied leave to appeal, leaving the lower court's published opinion as the State's final adjudication of these issues. App. A-1-30. This timely petition for certiorari follows.

REASONS FOR GRANTING THE PETITION

1. IN ERROR, THE APPELLATE COURT'S OPINION PROCEEDS FROM THE IDEA THAT none of THE ORDERS written in a four year period WERE FINAL ORDERS AND THEREFORE THE NOTICE OF APPEAL FILED MAY 10, 2016 AND AMENDED NOTICE OF APPEAL FILED MAY 19, 2016 WERE NOT TIMELY. Illinois SUPREME COURT RULE 303 states, "(A NOTICE OF APPEAL FILED AFTER THE COURT ANNOUNCES A DECISION, BUT BEFORE THE ENTRY OF THE JUDGMENT OR ORDER, IS TREATED AS FILED ON THE DATE OF AND AFTER THE ENTRY OF THE JUDGMENT OR ORDER.)" *John G. Phillips & Assoc. v. Brown,* 197 Ill. 2d 337 (2001), Illinois Constitution Article VI Section 6 Final orders, People v. Shinaul Supreme Court of Illinois. February 17, 2017 IL 120162 88 N.E.3d 760. The petitioner filed a second notice of appeal on December 18, 2017. In addition, this court has held that a prematurely filed notice of appeal is valid as long as the Appellee is not harmed by the time the appellate court makes its decision, Swede v. Rochester Carpenter's Pension Fund , 467 F.3d 216 223 2d cir (2006) "We have held that where an appellant files a notice of appeal before final judgment is entered that premature notice of appeal may ripen into a valid notice of appeal if a final judgment has been entered by the time the appeal is heard and the appellee suffers no prejudice; Leonard v. United States, 633 f.2d 599, 611 2d cir 1980 in the absence of prejudice to the non-appealing party."; Griggs v. Provident C onsumer Discount Company, 459 U.S. 56, 103 S. Ct. 400, 74 L.Ed.2d 225 (1982). In addition, the petitioner filed a second notice of appeal on December 18, 201 and it is under case number 173174, which the appellate court separated from this case App. C (June 25 2019 order), after they learned of the circuit court entering further orders, due to the actions of the Respondent, prior to the appellate court's June 28, 2019 decision and prior to the case being released back to the circuit court.
2. This domestic violence victim is found guilty of indirect civil contempt when it is clearly criminal contempt when she is being punished for past actions as clearly glaringly noted in the April 13, 2016 order R. C2141-2142 and May 19, 2016 order R._C2175A hereto attached in Appendix C, which could not be undone and is constitutionally impermissible under the fifth, sixth, eighth, thirteenth and fourteenth amendments of the united States constitution which this individual who is a citizen of the United states is supposed to be protected by the longstanding

due process and equal protection precepts under the 14th amendment clause. See Tumey v. Ohio, 273 U.S. 510, 523 (1927) ("it certainly violates the Fourteenth Amendment and deprives a defendant in a criminal case of due process of law to subject her liberty or property to the judgment of a court." This violation of the petitioner's constitutional rights were further compounded when a $15,000 sanction was added as punishment for her alleged indirect civil contempt action which was really indirect criminal contempt as noted in the April 13, 2016 order, App. C-8-9, which constitutes as an excessive fine and violates the Eighth Amendment's Excessive Fines Clause which is confirmed in Alexander v. United States, 509 U.S. 544 (1993) which "was properly limited to assets linked to petitioner's past racketeering offenses. *Id.*, at 835. Lastly, the Court of Appeals concluded that the forfeiture order does not violate the Eighth Amendment's prohibition against "cruel and unusual punishments" and "excessive fines." In so ruling, however, the court did not consider whether the forfeiture in this case was grossly disproportionate or excessive, believing that the Eighth Amendment "does not require a proportionality review of any sentence less than life imprisonment without the possibility of parole.' " *Id.*, at 836 (quoting *United States* v. *Pryba*, 900 F. 2d 748, 757 (CA4), cert. denied," The petitioner was not allowed to pay the sanction out of accounts that had been frozen and she only lived off her social security disability . There was no chance of parole for the petitioner once the May 19 2016 order was enforced, which is constitutionally impermissible. Petitioner was unable to pay the $15,000 sanction and was held until it was paid by an outside party, an officer of another court, thereby violating her Section 1 Thirteenth Amendment constitutional Right of "involuntary servitude, except as a

3. punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." In affect punishing her for her impoverished state and inability to pay a debt imposed by the court. With no possibility of parole thereby violating the Eighth Amendment of the Constitution for cruel and unusual punishment as recognized in Betts v. Brady 316 U.S. 455, 62 62 S. ct. 1256.
4. This court has the obligation of clarifying to the lower courts that regardless of race, creed, color, sex, disability or financial standing the constitutional rights are to be equally applied to all citizens of the United States, and accommodations are to be made available to those people needing said accommodations where necessary according to their disability without fear of reprocussions for having made that accommodation request to achieve fair and equal impartial treatment under the law. .
5. Next, punishing a person on a indirect contempt order that first of all was for past actions and second of all, could not be complied with because it required her to be penniless and "spend no money" is constitutionally impermissible and infringes on the petitioner's right to life since she cannot live without spending money. As noted in the following case, "In determining whether contempt has occurred, there must be a determination made as to whether or not if the order can be complied with; Hopp v. Hopp 279 Minn. 170, 156 N.W.2d 212 (Minn . 1968) ("1. The only purpose of civil contempt proceedings in divorce cases is to secure compliance with an order presumed to be reasonable. Punishment for past misconduct is not involved." In direct contrast criminal contempt is solely for the

purpose of punishment, rule 21.3 Indirect criminal contempt for the 14th judicial circuit of Illinois. As noted in Bruzzi v. Bruzzi 332 Pa. Super. 346 (1984) "On the other hand, criminal contempt is of a punitive character. In Cipolla v. Cipolla, 264 Pa.Super. 53, 398 A.2d 1053 (1979), defendant violated a Protection From Abuse Act order. He was held to be in civil contempt; *353 however, on appeal the court stated that "The sole motivation was the endeavor to punish [appellant] for non-compliance." The record and opinion of the court below shows that the court was not inclined to fashion a remedial order . . . ." Cipolla v. Cipolla, supra, 264 Pa.Superior Ct. 57, 398 A.2d at 1055. **A civil label is inappropriate when the court is attempting to punish the contemnor for past acts of misbehavior** rather than setting forth the conditions of compliance to which the contemnor was required to conform and conditioning punitive measures on failure to comply therewith. Philadelphia Marine Trade Association, et al. v. International Longshoremen's Association Local Union No. 1291, et al., 392 Pa. 500, 140 A.2d 814 (1958)." Even in In Re Marriage of Pavlovich (2019) IL. App. (1st) 172859; 133 n.e. 3d 1 433 IL. Dec. 653 Ill. App. (2019) IL. APP. 1 (2019), the court saw fit to reverse the contempt claim given the similar circumstances as the petitioner's current case. "715 f.2d 34 "when it becomes obvious that sanctions are not going to compel compliance they lose their remedial characteristics and take on more of the nature of punishment." As noted in the Pavlovich case.

6. The petitioner also was accused of not providing an accounting when in fact, she provided the bank statements and was told, they didn't count since she hadn't prepare them herself." In any case, she was punished for past actions and

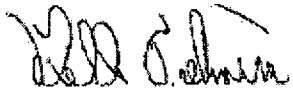
therefore it was indirect criminal contempt, not indirect civil contempt which is constitutionally impermissible. Furthermore, the petitioner was not given a hearing to determine if she was able to pay the $15,000, People v. Duenas 30 Cal. app. 5th 1157, 242 Cal.RPTR.3d 268 (Cal. App. 2019). Petitioner was punished strictly because of her poverty level on May 19, 2019; "It simply punishes her for being poor;" People v. Duenas 30 Cal. app. 5th 1157, 242 Cal.RPTR.3d 268 (Cal. App. 2019); preston v. Municipal court 1961 188 cap app. 2d 76 87, 88 10 cal RPTR 301. It is clearly clarified in Hopp v. Hopp 279 Minn. 170, 156 N.W.2d 212 (Minn . 1968); there is supposed to be a hearing to determine whether the fine can be paid. The petitioner was not given such a hearing. The Eighth Amendment protects citizens against such "proscriptions of cruel and unusual punishment and excessive bail the protection against excessive fines guards against abuses of governments punitive or criminal law enforcement authority"; Timbs v. Indiana, 139 S. Ct. 682, 203, L.Ed.2d 11 (2019).

7. Worst case scenario, if the petitioner was guilty, the punishment was to the extreme for the alleged crime committed, "The abuse-of-discretion standard of review is highly deferential. People v. Peterson, 2017 IL 120331, ¶ 125. A reviewing court will reverse only when "the trial court's decision is arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it." (Internal quotation marks omitted.) Id. However, a trial court errs i it fails to understand it has discretion to act or wholly fails to exercise its discretion. Fox, 130 Ill App. 3d at 797; People v. Queen, 56 Ill. 2d 560, 565, 310 N.E.2d 166, 169 (1974).

8. The indirect criminal contempt punishment is just one such decision made in this case which is of an extreme nature since the accommodation request was granted and each decision in some form unfavorable to the petitioner in direct contrast to the Eighth Amendment of the constitution.
9. The writ of certiorari is warranted To demonstrate that granting an accommodation request to a person with a disability does not lessen the entitlement to fair and impartial decisions within our justice system. Because Even people with disabilities who make an accommodation request and receive it regardless of race, creed, religion, physical or mental challenges and economic standing are still entitled to the exact same rights, privileges, and protections afforded other citizens of the United States Constitution. This Court explained in Mathews v. Eldridge, 424 U.S. 319, 334 (1976), that due process is a "flexible" doctrine "call[ing] for such procedural protections as the particular situation demands." (citing Morrissey v. Brewer, 408 U.S. 471, 481 (1972)).
10. To resolve whether sufficient process has been provided, the courts must weigh: (1) the private interest affected; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) the government's interest. Mathews, 424 U.S. at 335 (citation
11. Finally, according to Mathews v. Eldridge, 424 U.S. 319, 334 (1976), our judicial system is supposed to have the flexibility to meet the legal needs of all its citizens, including people with disabilities, to ensure liberty, and justice for all, thereby demonstrating that justice is equally attainable within our judicial system through

the accommodations necessary to even the legal playing field for those that are significantly more challenged than others, without fear of retribution for making those accommodation requests.

CONCLUSION

7. 

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