

No. 20-5697

Supreme Court, U.S.
FILED

AUG 31 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

HEATHER P. HOGROBROOKS HARRIS- PETITIONER

VS

JIMMIE L. SMITH-RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO

TENNESSEE SUPREME COURT

PETITION FOR WRIT OF CETRIORARI

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ORIGINAL

Questions Presented

Whether a judge who lied about her reasons for not hearing from the Petitioner during a hearing and subsequently lied in her Order denying to recusal from Petitioner's case, violates Petitioner's rights pursuant to the Due Process and Equal Protections clauses of the Fourteenth Amendment to the Constitution as well as 42. U.S.C 1981 (a). (Appendix G & F)

Whether the Tennessee court of appeals and the Tennessee Supreme court violated the Petitioner's right to Fourteenth Amendment Due Process and Equal Protection of Law, as well as, 42 U.S.C 1981(a) where those courts did not address Petitioner's constitutional claims. Petitioner objected to the trial Judge's stated reasons for not recusing which the Petitioner showed to be untruthful in her pleadings and that untruthfulness is supported by an Order of a federal court. The trial judge ultimately dismissed the Petitioner's civil suit with prejudice. The record conclusively shows the white trial judge's reasons provided were untruthful. Again, hereby nullifying the Fourteenth Amendment as it relates to Petitioner, a Black American descendant from chattel slavery and this Court's decision and rationale in *Blyew v. United States*, 80 U.S. 581 (1871).

List of Parties

All parties appear in the caption of the case on the cover page.

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June 5, 2020 denial of Application for Permission to Appeal by Tennessee Supreme Court.

APPENDIX B

Petitioners' application for permission to appeal filed March 2, 2020.

APPENDIX C

Order on Petition for Rehearing in the Tennessee court of appeal filed 1/13/2020.

APPENDIX D

Petitioners' Petition for Rehearing filed December 27, 2019.

APPENDIX E

Tennessee court of Appeals decision rendered December 20, 2019.

APPENDIX F

Judge Mary L. Wagner's Order on Motion for Recusal August 16, 2018.

APPENDIX G

Order of discharge from the Western District of Tennessee Bankruptcy Court dated September 25, 2017.

APPENDIX H

Petitioner's Motion to Recuse trial Judge Mary L. Wagner filed March 15, 2018.

TABLE OF AUTHORITIES CITED CASES

Blyew v. United States, 80 U.S (1871)

Dred Scott v. Sandford, 60 U.S. 393 (1857)

Litkey v. United States, 510 U.S 540 (1994)

Liliberg v. Health Svcs.Acq.Corp.,486 U.S 847, 869 (1988)

Offutt v. United States, 348 U.S 11, 14 (1954)

STATUTES AND RULES

42 U.S.C 1981 (a)

OTHER

Fourteenth Amendment to the Constitution of the United States

**IN THE
SUPREME COURT OF THE UNITED STATES
PETITON FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the Tennessee court of appeals at Jackson No. W 2019-00394-COA-R3-CV (Dec. 20, 2019) appears at Appendix E to the petition.

The opinion of the Tennessee Supreme Court, CT-001046-16 (June 5, 2020) appears at Appendix A.

JURISDICTION

The date on which the highest state court decided my case was 06/05/2020. A copy of that decision appears at Appendix A. The Jurisdiction of this Court is invoked under 28 U.S.C 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States

Due process clause of the Fourteenth Amendment to the Constitution of the United States

42 U.S.C 1981(a)

STATEMENT OF THE CASE

This case is about focused as analyzed in *Lijeberg v. Health Svcs. Acq. Corp.*, 486 U.S. 847 at 868, presenting the simple question of focus, risk, unfairness.

At a hearing in state court on February 19, 2018 Judge Mary L. Wagner refused to allow Petitioner to be heard in response to argument made by Respondent's counsel Melanie M. Stewart a white attorney at Heaton and Moore, P.C.. On March 15, 2018 Petitioner filed her request for Judge Wagner to recuse.

Judge Wagner filed her Order of Recusal on August 16, 2018 stating that her principal reason claimed for not hearing from the petitioner was due to Petitioner being in bankruptcy court and her having more pressing matters to attend. However, the Petitioners bankruptcy case 17-20334 Western District of Tennessee was discharged on September 25, 2017 by that court's presiding Chief Judge. There exist no pleading of record filed requesting a continuance on the basis cited in the Judge's order denying recusal nor any order entered into the record on that or any basis filed on or after February 19, 2018 relating to her claimed reasons for non hearing from the Petitioner.

Neither the Tennessee court of appeals nor the Tennessee Supreme Court has addressed the fact that the bankruptcy court order of discharge dated September 25, 2017 contradicts and makes impossible Judge Wagner's claims in her order denying recusal dated August 16, 2018. Neither court have addressed the Petitioners claims that her federal constitutional rights pursuant to the 14th amendments due process and equal protection clauses as well as 42 U.S.C 1981 (a) have been violated by the judge not only in initially not

hearing from Petitioner, but denying recusal on a basis that is not supported in the trial court record, contradicted by a federal court record and then proceeding to dismiss Petitioner's case with prejudice. Prior to the trial judge dismissing the Petitioner's cause with prejudice, Petitioner sought to amend her complaint including affidavits and city court documents indicating or strongly suggesting that the Respondent's counsel had been disingenuous in her filed pleadings.

As Justice Stevens queried in Lieberg at 868 is the "greater risk of unfairness" unquestionably crediting the disproven reasons the trial judge gave in her Order denying recusal or giving credence not to the words of this American Black petitioner but to the Order of a federal court (showing the judge's reasons untruthful) thus allowing the Petitioner rights she should have and had by "allowing a new judge to take a fresh look".

REASONS FOR GRANTING THE WRIT

The conduct of the trial judge should be reprehensible to everyone involved in our justice system at all level. The trial judge admits that she refused to hear from the Petitioner but then creates a reason for not allowing Petition to be heard in the first instance. That in-and-of itself is a constitutional violation. It's clear to this Petitioner the Judge knew not hearing from her was unconstitutional thus the pretext. The dishonesty of the trial court claimed by this Petitioner is fully supported by the record.

The conduct Petitioner brings to the court implicates the rights of all Americans and trust in our judicial structure. Two levels of courts in the State of Tennessee have decided that the rights this Black Petitioner is less important than burying the conduct of a white trial judge that is clearly a threat to our country.

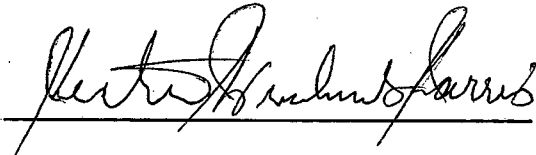
The only question is will the highest court in our land too ignore the fact that a judge in this country has proven to be a willing impediment to a citizen, a black descendent of a slave's receipt of basic constitutional rights.

CONCLUSION

The facts are simple and clear. The conduct complained of is simple and clear. The federal court order and record as a whole proves the trial judge is ethically and morally challenged. The only issue is does this Court of last resort side with the Constitution and the body of law it has produced since after *Dred Scott v. Sandford*, 60 U.S. 393(1857).

The Petition for writ certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Victor H. McIntosh", is written over a horizontal line.

Date: 8/30/20