

SUPREME COURT OF THE UNITED STATES

HEATHER P. HOGROBROOKS HARRIS ,
Petitioner,

v.

Docket No. 20-5697

JIMMIE L. SMITH,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
RESPONSE TO WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether the trial judge erred in failing to
recuse herself?

LIST OF PARTIES

All parties appear in the caption of the case.

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STATEMENT OF THE CASE

This case arises out of an automobile accident which occurred on January 17, 2016. The case was set for status conference on February 19, 2018. The case was called, and defense counsel announced that there was a hearing in Petitioner's Bankruptcy case set for March 27, 2018.

Respondent began to speak, and the trial judge stopped her and continued the status conference to May 21, 2018 pending the Bankruptcy hearing. On March 15, 2018, Petitioner filed a Motion to Recuse the trial judge on the basis that the judge "cut the Plaintiff off after a couple of words" at the status conference, and that the trial judge is a member of the Daughters of the American Revolution, which Petitioner alleged is a "racist organization." (App.

H.) The trial judge entered an Order on Motion for Recusal on August 16, 2018 which explained that she was in the middle of a three week medical malpractice case and had a jury waiting at the time of the status conference, and that she only stopped Plaintiff from going into the merits of the case. The Petitioner failed to appear at the status conference on May 21, 2018, which was continued to June 25, 2018, then to August 20, 2018. (App. F.)

At the status conference on August 20, 2018, this case was set for jury trial on January 22, 2019. Petitioner failed to appear for trial, however she had filed a Motion for Continuance, which the Judge heard and granted, continuing the trial date to February 11, 2019 at 10:00. The trial judge entered an Order on January 22, 2018 which stated : “Absent good cause shown, it will not be continued

again. If Plaintiff fails to appear at the trial of this matter on February 11, 2019, this matter shall be dismissed for lack of prosecution with prejudice and costs will be assessed against the Plaintiff.” (App. E.) The Petitioner failed to appear for trial on February 11, 2019, and the case was dismissed with prejudice. (App. E.)

Petitioner appealed to the Tennessee Court of Appeals and on December 20, 2019, the Court of Appeals affirmed the judgment of the Trial Court. (App. E.) Petitioner filed a Petition for Rehearing which was denied on January 13, 2020. (App. C.) Petitioner filed an Application for Permission to Appeal to the Tennessee Supreme Court which was denied on June 5, 2020. (App. A.)

ARGUMENT

The Petitioner's case was dismissed by the trial judge not because of bias or prejudice, or in violation of the Petitioner's right to due process, but rather because Petitioner would not appear in Court for hearings and trial dates set by the Court. Petitioner failed to appear in Court for Respondent's Motion for Partial Summary Judgment heard on January 18 2019, failed to appear in Court for the trial date of January 22, 2019, and despite the Judge's Order warning the Plaintiff that if she failed to appear in Court for the trial date of February 11, 2019 her case would be dismissed with prejudice, she failed to appear on that date as well. At the oral argument hearing in the Court of Appeals on November 19, 2019, Petitioner was asked by the panel why she did not

appear in Court on February 11, 2019, and she responded that “it was cold and rainy that day, and that she had put back in service a 1985 vehicle.” (App. E at page 9.) The Court of Appeals found that reasoning insufficient, and affirmed the dismissal.

Petitioner failed to present any proof or evidence that the trial judge was biased, prejudiced or discriminated against her or any other individual, simply because she is a member of the Daughters of the American Revolution. Further, she failed to present any evidence that the Daughters of the American Revolution is a discriminatory organization. The trial judge explained in her Order on Motion for Recusal that she did not allow the Petitioner to go into the merits of the case at the status conference on

February 19, 2018 because it was not an appropriate time to do so, and because she had a jury waiting to proceed in an ongoing trial. (App. F.)

CONCLUSION

Petitioner has made baseless allegations of discrimination and racism against the trial judge. The case was dismissed because Petitioner failed to appear in Court for not one, but two, jury trial settings, after having been warned that her failure to appear would result in dismissal with prejudice. The Writ of Certiorari should be denied.

Respectfully submitted,



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