

20-5886
No.

In The
Supreme Court of the United States

LYNN SMITH, et al.

Petitioner

v.

ANDREA DOBIN, et. al.

Respondents

ORIGINAL

On Petition For Writ of Certiorari
To the United States Court of Appeals for the Third Circuit

PETITIONER FOR WRIT OF CERTIORARI

Lynn Smith & Brian Smith
Pro se
294A Malvern Court East
Lakewood, New Jersey 08701
(732) 363-4451
appealscourt@optonline.net

FILED
JUL 11 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

The *Questions Presented* that immediately follow provide the U.S. Supreme Court with an opportunity to zero-in on current abuses in our state and federal court system.

Question 1: When a Bankruptcy Debtor files a formal objection to the amount of a Creditor's claim and requests that the Creditor provide the Additional Documents that the Debtor believes would conclusively demonstrate that the size of the Creditor's claim needs to be significantly reduced, can the Creditor refuse to provide the Additional Documents claiming that the Rooker-Feldman Doctrine precludes a Debtor from receiving such documents.

Question 2: When a Bankruptcy Debtor files a formal objection to the amount of a Creditor's claim and requests that the Creditor provide the Additional Documents that the Debtor believes would conclusively demonstrate that the size of the Creditor's claim needs to be significantly reduced, can the Bankruptcy judge deny the Additional Documents claiming that the Rooker-Feldman Doctrine precludes a Debtor from receiving such documents.

Question 3: When a Bankruptcy Debtor files a formal objection to the amount of a Creditor's claim and requests that the Creditor provide the Additional Documents that the Debtor believes would conclusively demonstrate that the size of the Creditor's claim needs to be significantly reduced, can the Bankruptcy Trustee deny the Additional Documents claiming that the Rooker-Feldman Doctrine precludes a Debtor from receiving such documents.

PARTIES TO THE PROCEEDING

The parties in this proceeding are Lynn Smith, et. al., Petitioner and Andrea Dobin, et al., Respondent.

RULE 29.6 STATEMENT

None of the petitioners is a nongovernmental corporation. None of the petitioners has a parent corporation or shares held by a publicly traded company.

TABLE OF AUTHORITIES

CASES

Crowe v. DeGioia,
90 N.J. 126 (1982)

Revel AC, Inc., et al., Debtors. Idea
Boardwalk, LLC

Philadelphia Entertainment & Development
Parties, LP, Case No. 17-1954
(3d Cir. Jan. 11, 2018)

STATUTES and CONSTITUTIONAL PROVISIONS

Amendment IV

Amendment V

Amendment VIII

Amendment XIV

OTHER AUTHORITIES

The Rooker-Feldman Doctrine

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.....	i
PARTIES TO THE PROCEEDING.....	i
RULE 29.6 STATEMENT.....	i
TABLE OF AUTHORITIES.....	ii
TABLE OF CONTENTS	iii
OPINIONS BELOW.....	1
JURISDICTION.....	2
STATUATORY PROVISIONS INVOLVED.....	3
STATEMENT OF THE CASE.....	4
REASONS FOR GRANTING THE WRIT.....	7

THIS COURT SHOULD GRANT REVIEW OF THE APPELLATE COURT DECISION THAT WAS INCONSISTENT WITH THE SUPREME COURT PRECEDENTS THAT ADVISE LOWER FEDERAL COURTS FROM OVEREXTENDING THE APPLICATION OF THE ROOKER-FELDMAN DOCTRINE IN CASES LIKE THIS WHERE DEBTORS HAVE NO INTENT TO OVERTURN STATE COURT FINAL JUDGMENTS BUT MERELY SEEK TO BE PROTECTED FROM EXCESSIVE CREDITOR CLAIMS THAT THE REQUESTED ADDITIONAL DOCUMENTS WOULD DEMONSTRATE NEED TO BE REDUCED IN DOLLAR PARTICULARLY SINCE THE DEBTOR REQUESTS THROUGH A FORMAL OBJECTION OF THE CREDITOR CLAIM BY MOTION TO THE COURT.

- A. This Court Should Grant Certiorari To Resolve The Above Conflict Which Denied the Debtor the Opportunity to Reduce a False Creditor Claim that Justice Demands Should be Significantly Reduced to Enable the Debtor to Proceed in Bankruptcy Court in Either Chapter 11 or Chapter 13, Rather than Chapter 7. The Petitioner Requests That This Court Also Note That The Treatment the Debtor Received in this Case is How Pro Se Litigants in Foreclosure Courts Seeking to Reduce Excessive Creditor Claims Routinely Conflicts With the Congressional Intent, Supreme Court Procedures, Rules, and Precedents That Protect the Overextension, the Misapplication of the Rooker-Feldman Doctrine.
- B. This Court Should Grant Certiorari To Resolve The Abusive Conflict Between The Misapplication By The Superior, Appellate And Supreme Courts of New Jersey of case precedents such as *Crowe v. DeGioia*, 90 N.J. 126 (1982) That In Certain Instances Can Deny The Civil, Due Process and Property Rights Of Foreclosure Defendants And Consider Making A Precedential Ruling To Protect Otherwise Viable Classes of Pro se Foreclosure Litigants That Are Currently Suffering From Ill-considered Rulings In State Courts,

Misapplication of Federal Court Cases Such As *Revel AC, Inc., et al., Debtor* And The Rooker-Feldman Doctrine In The Third Circuit Carry Over The Abuse And Denial of Civil, Due Process and Property Rights From The State To The Courts In A Self-Reinforcing Conundrum That Enables State Court Negligence and Misconduct to Be Reaffirmed By Judges and Trustee's Unwilling to Put in the Work to Protect the Pro Se Litigants That Trust them to Protect Their Rights and Equity.

CONCLUSION..... 7

APPENDIX

3 rd Circuit Appellant Brief of Lynn Smith.....	App. 1
February 13, 2020 Denial of a Petition for Rehearing.....	App. 2
December 17, 2020 Dismissal of Appeal.....	App. 3

Lynn Smith respectfully petition for a writ of certiorari to review the judgment of the New Jersey Supreme Court.

OPINIONS BELOW

There were a December 17, 2020 Dismissal of Appeal which contained the opinion that the Court of Appeals had no jurisdiction over a bankruptcy order that directly resulted in the sale of my home. The Third Circuit a year prior ruled in this matter that orders that resulted in the sale of property are considered “final orders”. In this case, they argued the opposite. The relevant order can be found in Appendix 3.

JURISDICTION

This Court has jurisdiction over federal cases under 28 U.S. Code § 1254(1).

CONSTITUTIONAL PROVISIONS

AMENDMENT IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. The Supreme Court centered its judgment on May 8, 2013 with an amendment dated May 30, 2013. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257.

AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT XIV.

SECTION. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law, which shall abridge the privileges or immunities of citizens of the United States; 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

3rd Circuit Appellant Brief of Lynn Smith states this case and needs to be read.

In this appeal, the trustee knew that the purchaser of my home was a ZIP CODE Buyer and the auction a scam. Combined with the Bankruptcy Court's refusal to permit the Debtor to have the Additional Documents that Congress intended for Debtor's to have after they file formal objections to the size of a Creditor's claim, by denying a August 8th motion requesting this relief, my property was certainly at risk since I was denied the Additional Documents that would have proved without a doubt that I should be in Chapter 11 or Chapter 13, not Chapter 7.

The 3rd Circuit indicated that I had to wait for a final judgment in the bankruptcy court per se before filing an appeal like I did. This is wrong. This is a clear error since before even deciding the motion on October 1st, the trustee and the judge evicted us from our home.

The abuse of the overextension of the Rooker-Feldman Doctrine occurred starting a month prior to our eviction from our home. The trustee and the bankruptcy court judge should have proceeded with the motion as a request for the State of New Jersey to honor the request for additional documents, but, instead, they knowingly and deliberately pretended that I was attempting to overturn a final judgment in state court immediately after the motion was filed on August 8th. We refuted this tactic immediately but were ignored. To pressure us and destabilize our home life and ability to litigate properly, the trustee threatened to evict us immediately. On September 13th we were evicted. If the "Emergent Motion" was treated as such and not scheduled for a hearing almost two months later, the Additional Information could have been obtained within days or a few weeks of August 8th and we would never have been evicted, our home never sold.

This eviction and having to tramp in hotels for several weeks led to my youngest daughter having a permanent respiratory condition that has subsequently resulted in close to 10 emergency room visits and hospital stays for life-threatening attacks.

The Dismissal of my Appeal should be vacated, and this matter referred back to Bankruptcy Court under a new judge and trustee who will not abuse or otherwise overextend the Rooker – Feldman Doctrine.

The misapplication of the Rooker-Feldman Doctrine and related precedents by all Third Circuit courts flies in the face of Congressional intent and precedents set in the Supreme Court. The lower federal court judges and trustees simply ignore their mandates and responsibilities.

My home, which is presently empty, should be returned to me.

With the Third Circuit ruling in *Philadelphia Entertainment & Development Parties, LP*, Case No. 17-1954 litigants saw a glimmer of hope for relief by debtor victims of fraudulent claims. Unfortunately, in that case a trustee was rewarded with a favorable ruling, but for debtors, such as Lynn Smith, who presented unimpeachable evidence that the State of New Jersey filed a false claim in federal court, she was denied justice by every lower federal court. What is good for the Trustee Goose in Philadelphia was not for the gander as the Trustee in Lynn Smith's Chapter 13 petition (converted into and maintained in Chapter 7 against all evidence) refused to act on the alleged victim's court testimony that the \$809,237 claim was an excessive claim. The evidence was presented and ignored.

In this case, federal judges who either shirk their responsibility to thoroughly investigate the excessive claim of the State of New Jersey by permitting them to withhold the Additional Documents.

Since this trustee and judge abuse occurred starting prior to our eviction and the eventual sale, my empty home needs to be returned to me.

The new trustee and bankruptcy judge should permit an adversary compliant against the State of New Jersey if they refuse to turn over the Additional Documents or refuse to settle the matter. The State of New Jersey does not want it on the record that they have filed false documents in federal court since 2011. This fraudulent concealment, when it is exposed, should result in compensatory, general, and punitive damages to me in the tens of millions of dollars, since their fraudulently placing me in Chapter 7 had the additional effect of denying me the opportunity to recover anywhere from \$25 to \$100 million in cash from stolen investments.

Right now, the Third Circuit took advantage of my pro se status to erroneously, or possibly maliciously, claim that they did not have jurisdiction over my appeal – ignoring that what was at stake was the immediate loss of my home for 30-years

In closing this section, Lower Federal Courts and Trustee Misapply the Rooker-Feldman Doctrine to Avoid Assuming their Jurisdictional Responsibilities

In re Revel AC, Inc. (3rd Cir. 2015) and the Hooker-Feldman Doctrine serve lower federal court judges, crooked banks and lazy or crooked trustees well as the federal court chants that deny the same basic rights as occurs in state court.

Lynn Smith was not the first person in all three lower federal courts to produce a firm financing offer for \$679,000 and be told that she had not proven she could succeed if granted her “stay to pay” motions - and she will not be the last until such time as the United States Supreme Court recognizes the corruption of process by banks, regulators and judicial officials that find it convenient to disregard for U.S. Supreme Court advice and precedent.

The disdain for Pro se litigant’s civil, due process and property rights occurs hand-in-glove in both state and federal courts operating within the state of New Jersey - and necessitates the multi-tiered relief requested in this petition. The point in this section is simple.

If the trustee and all three lower federal courts:

- (i) had not gone to the well time after time with the citing of *In re Revel AC, Inc. (3rd Cir. 2015)*, Lynn Smith would have closed a \$679,000 non-debt refinancing and would be in Chapter 13 instead of Chapter 7, and
- (ii) had not ignored the advice and precedent of the United States Supreme Court and the preponderance of published legal opinion and abused Lynn Smith and 200 families-in-interest by denying her clearly meritorious exception to the Rooker- Feldman Doctrine, the request for Additional Documents from the creditor to prove that the claim of \$809,237 should be significantly lowered, Lynn Smith would be in Chapter 11 or Chapter 13 or out of Bankruptcy Court completely instead of in Chapter 7.

Not only did Dobin proceed with the auction knowing that I did not owe the State of New Jersey \$809,237, but they conducted a ZIP CODE AUCTION which is illegal, then went against Congressional intent by ignoring her mandate, ignoring Congressional intent and denying me the Additional Information I requested after objecting to the state’s claim, solely to keep me in Chapter 7 to sell my home to her friends and associates.

REASONS FOR GRANTING OF THE PETITION

The Bankruptcy Court, District Court, and Court of Appeals all erred by relying on their overextension of the application of the Rooker-Feldman Doctrine to deny me the Additional Documents that Congress intended for Debtors who file formal objections to the size of Creditor claims to have.

In the Court of Appeals, they did have jurisdiction since what was at stake in the motions I appealed from, filed before eviction and sale of my home, should have been investigated properly. The key mistake was to claim the Rooker-Feldman Doctrine prohibited me from getting Additional Documents from the state of New Jersey that would have permitted me to reduce the size of that claim significantly from \$809,237 and get back to Chapter 11 or Chapter 13.

Quite frankly, these were not errors. This was an abuse of power against a pro se litigant. They ignored Congress, they ignored SCOTUS because they believed I would fold after eviction and not be able to mount an effective response to their misconduct toward me.

Strange, since, in July and August 2018 rulings, the Third Circuit defined a 'final judgment' for the purpose of having jurisdiction to appeal, as the imminent threat of the loss of my home.

CONCLUSION

This petition should be granted for all the above reasons, attached evidence and prior filings.

The primary intent of this petition brief was to more accurately and roundly present to this Court a serious problem that may not be unique to the state of New Jersey with respect to Pro se litigants forced into bankruptcy court. What goes on is largely a rape of innocent lower and middle class families struggling to make a proper homestead for their children and simply survive our complicated modern life increasingly typified by a myriad ways and means to extract cash from them.

There is a swamp in New Jersey.

Godspeed!

Please grant my petition.

If the Court sees the error or abuse clearly, ask me to file a Writ of Mandamus outlining this case and requesting an immediate order of this Court.

If Certiorari is granted, I will poach my pension funds and retain a law firm.

A District Court concealed a Reconsideration Motion for 90-days because it contained information that would have exposed the trustee and judges for their misconduct and abuse toward me. They said it was never filed even though I have the receipt that they signed for it.

The result of this is a waste of 30-days of my time that delayed the writing of this petition, and denied me the opportunity for my husband to attempt to obtain legal advice on a one-day basis or even retention – something also made difficult by the recent upsurge in COVID-19 cases. I may file a motion asking this Court to permit me to file an Amended Writ or an Addendum to this Writ.

I request a fee waiver. I have included a Motion to Proceed In Forma Pauperis recently filed in the Third Circuit which explains and details that I have no money until the end of August.

Thanks for your patience.

Respectfully submitted.

Lynn Z. Smith