

No. **20-6093**

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

OCT 13 2020

OFFICE OF THE CLERK

HANY SAYED ABUTALEB

— PETITIONER

(Your Name)

vs.

MONA MOHAMED ABUTALEB

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF ILLINOIS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

HANY SAYED ABUTALEB

(Your Name)

2656 W. Broadway Blvd Apt 7203

(Address)

Tucson, AZ, 85745

(City, State, Zip Code)

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QUESTION(S) PRESENTED

Whether trial court did not abuse its discretion in awarding wife 75% of husband's 401(k) account although both are still having four joint assets plus she has ownership for a town home in Manhattan IL plus several bank accounts in US and Egypt.

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:

RELATED CASES

- * The Marriage Of: Hany Abutaleb v. Mona Abutaleb, 126136, Supreme Court Of Illinois. Judgment entered Sep 30th, 2020.
- * The Marriage Of: Hany Abutaleb v. Mona Abutaleb, 3-19-0572, Appellate Court Of Illinois Third District. Judgment entered June 16th, 2020.
- * The Marriage Of: Hany Abutaleb v. Mona Abutaleb, 16D834, Circuit Court Of The Twelfth Judicial Circuit Will County, Illinois. Judgment entered Sep 24th, 2019.
- * The Marriage Of: Hany Abutaleb v. Mona Abutaleb, 3-18-0559, Appellate Court Of Illinois Third District. Judgment entered July 19th, 2019.
- * The Marriage Of: Hany Abutaleb v. Mona Abutaleb, 16D834, Circuit Court Of The Twelfth Judicial Circuit Will County, Illinois. Decision entered Sep 14th, 2018.

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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☐ is unpublished.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 A to the petition and is

☒ reported at September 30th, 2020; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Appellate Court of Illinois court appears at Appendix B to the petition and is

☒ reported at June 16th, 2020; 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 _____.

☐ 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: _____, 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. ____.

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 Sep 30th, 2020.
A copy of that decision appears at Appendix A_____.

☐ 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. ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

The trial court 16D834 and appellate court 3-5-0572 erred and made mistakes on the following:

1. The court did not account on marital assets distribution that both Mona and Hany shared four marital joint assets in Egypt and Mona has several bank accounts in Egypt and US plus she inherited during marriage from her dad in 2017, Appendix H
2. The court did not account that Hany sold his non-marital land to his brothers to compensate them for Mona's wrong act of selling Hany's family home 2006 and deposited the sale proceed in her personal bank in Egypt (MISR Bank), Appendix H, Pg 1
3. The court asked me during the trial in Aug 2019 for the estimate of the Egyptian land and I estimated the value to be \$6M Egyptian pound and asked me the value in USD. The was \$371 in 2017 (\$1=16.2 EGP) but mistakenly I divided by 5 which was currency exchange in 2012 (\$1=5 EGP in 2012) so the value was over estimated in USD, Appendix B item 14 and Appendix J, Appendix A item 56. I filed a case a lawsuit against Mona in Egypt in 2016 for that reason Appendix K
4. The court stated that Hany stopped paying maintenance after the divorce case dismissal on Sep '18 Appendix B item 7 and Appendix A item 44 and 15. This is not true I continued paying the maintenance to my ability plus utilities and her car payments
5. Mona (ex-wife) was doing court shopping by filling divorce in Egypt, US divorce court, US foreign judgment court and appeal courts to get benefits from all jurisdictions, Appendix B item 8 and Appendix B item 8 and Appendix A item 52
6. The court claimed that Hany's income is \$160K/year Appendix B item 31. My annual income is round \$100K/year, Appendix I
7. Mona managed to purchase a town home at Manhattan IL for \$179K before final trial in Aug 2019 and did not reveal this information to the judge as a marital assets on the other hand my credit was lowered due to the divorce case orders and could not buy any homes due to bad credit, low income and home foreclosure. I have been renting since April 2017, up to date. Appendix H Pg 5.
8. The appellate court on case 3-18-0559 erred on Appendix E item 30. I offered my ex-wife to move to previous investment home in Joliet which I re-modeled but she refused and the home was sold by court order and the proceed was deposited in my attorney's escrow and spent on both attorneys fees during this case. I offered her to sell the family home since I could not pay the mortgage and pay the spouse and child supports plus my rent and offered her to split the proceed to help her buying a smaller home. The home sale would be through my employer as part of my relocation benefit to AZ to the new job location. She refused and the home was sold in sheriff's sale and a deficit was ordered against me of \$15K.

REASONS FOR GRANTING THE PETITION

- 1- The trial and appellate courts over estimated my income and under estimated my wife's assets and income and ordered inequitable distribution on my 401K saving account by granting my ex-wife 75% of my account.
- 2- The appellate court erred on misjudging the condition of my ex-wife and my kids under her custody. She was receiving support before and after the final divorce and had an opportunity to benefit from the family home sale and save the family. In addition to that I support the kids by paying for their school tuitions, cell phones, clothes and allowance all the times before and after the divorce.
- 3- The trial case 16D834 (Appendix E) was dismissed originally in Sep 14th 2018 recognizing the Egyptian divorce which was filed by ex-wife in 2016 but ex-wife filed for an appeal 3-18-0559 and a retrial was done and the final order was unfair and was against me in Sep 24th 2019. I contested this judgment in appellate court and was denied and contested again in the Supreme court and denied again. I seek justice from the US Supreme Court as my last resort.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(750 ILCS 5/503) (from Ch. 40, par. 503)

property (N.M., Cal., La.): N.M. STAT. ANN. § 40-4-3 (1978); *Sands v. Sands*, 48 N.M. 458, 461, 152 P.2d 399, 400-01 (1944); LA. CIV. CODE ANN. art. 155, 159 (West 1952 & Supp. 1981); *Rawlings v. Stokes*, 194 La. 206, 214, 193 So. 589, 592 (1940), *Phillips v. Phillips*, 160 La. 814, 825-26, 107 So. 584, 588 (1926); CAL. CIV. CODE § 4800 (a) (West 1970 & Supp. 1981). The five other community property jurisdictions, although they inherited the equal division of the Spanish system, have since altered their system to allow equitable distribution. Foster & Freed, *Divorce*, supra note 5, at 4051.

Division of property under the separate property system has been called "the mere unscrambling of title to assets." GLENDON, *NEW FAMILY*, supra note 6, at 57. N.Y. DOM. REL. § 236 (McKinney 1977), before it was amended in 1980 to allow for equitable distribution, allowed only alimony and made no provision for dividing property. The courts of New York, in accord with this notion did not allow assets to be transferred between spouses to satisfy alimony judgments. See, e.g., *Jury v. Jury*, 242 App. Div. 476, 477, 275 N.Y.S. 586, 587 (1934). Similarly in Mississippi, a separate property state, where one spouse was divested of a one-half interest in real property, and such title was vested in the other spouse, the decree was overturned on appeal. *Windham v. Windham*, 218 Miss. 547, 554, 67 So.2d 467, 472 (1953). The court held that a chancery court did not have the power to transfer title in such a manner. *Id.*

¹⁰ Foster, *Commentary on Equitable Distribution*, 26 N.Y.L. SCH. L. REV. 1, 31 (1981) [hereinafter cited as Foster].

" W. DEFUNIAK, *PRINCIPLES OF COMMUNITY PROPERTY* § 93, 261-62 (1943) [hereinafter cited as DEFUNIAK].

12 *Id.* "[T]he Spanish law of community very plainly provided that [e]verything the husband and wife may earn during union, let them both have it by halves." *Id.* (quoting *Novisima Recopilacion*, Book 10 Title 4, Law 1).

FOLK U.L. REV. 1, 8 (1975) [hereinafter cited as Inker; Foster, supra note 10, at 31. See also *Lacey v. Lacey*, 45 Wis. 2d 378, 383-84, 173 N.W.2d 142, 145 (1970).

" Inker, supra note 54, at 8.

66 E.g., MASS. GEN. LAWS ANN. ch. 208, § 34 (West 1974): "The court may assign to either husband or wife all or any part of the estate of the other."

57 E.g., N.Y. DOM. REL. LAWS ch. 281, § 236 (B) (5) (McKinney 1977 & Supp. 1981); N.J. STAT. ANN. § 2A: 34-23 (West 1952 & Supp. 1981).

56 Foster and Freed list more than half of the equitable distribution states as subjecting all of the spouses' property to division. Foster & Freed, supra note 5, at 233.

69 MASS. GEN. LAWS ANN. ch. 208, § 34 (West 1974).

60 UMDA (1970) § 307 (a), 9 U.L.A. at 143-44.

61 UMDA (1973) § 307 Alternatives A and B, 9 U.L.A. at 142-43.

62 UMDA (1970) § 307 (a): "[T]he court shall divide the marital property without regard to the marital misconduct." See 1973 Alternatives A and B amend. at note 2 supra.

63 See, e.g., MASS. GEN. LAWS ANN. ch. 208, § 34 (West 1974).

a* *Rice v. Rice*, 372 Mass. 398, 361 N.E.2d 1305 (1977).

66 *Id.* at 398, 361 N.E.2d at 1306.

66 *Id.*

67 *Id.* at 399, 361 N.E.2d at 1306.

60 *Id.*

69 *Id.*

"property" within the meaning of the statute, or a source of income to be considered on the question of alimony. 166 N.J. Super. at 558.59, 400 A.2d at 136-37. See Foster, supra note 10, at 39.

141 GLENDON, NEW FAMILY, supra note 6, at 67.

142 Id.

149 Id.

144 CAL. CIV. CODE S 4800(a) (West 1970 & Supp. 1981).

145 In re Marriage of Wilson, 10 Cal.2d 851, 854, 112 Cal. Rptr. 405, 407, 519 P.2d

165, 167 (1974).

169 Id. (citing In re Marriage of Peterson, 41 Cal. App.3d 642, 651, 115 Cal. Rptr. 184, 191 (1974)).

16° See text and note at note 125 supra.

' 6 ' 15 Cal.3d at 848, 544 P.2d at 567, 126 Cal. Rptr. at 639.

162 See Survey, The Supreme Court of California 1975-76: Dividing the Community Property Interest in Non-Vested Pension Plans, 65 CALIF. L. REV. 231, 275 (1976).

16' For example, under the law of California, if one spouse held a large estate received by bequest prior to the marriage, while the other spouse worked and acquired a pension, a potential inequity would result. If the couple used the income from the wife's estate to live at an inflated standard of living, upon divorce the husband's pension might be subject to division, while the wife's estate would not be divisible, as it was acquired prior to the marriage. Thus, the relatively impecunious husband is forced to share perhaps his most significant resource, while the wealthy wife receives a windfall. Such an unreported case was recorded in Bruch, The Definition and Division of Marital Property in California.' Toward Purity and Simplicity, The California Law Revision Commission, at 19.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Hany S Abutaleb

Date: 10/12/2020