NO. 20-6136

ORIGINAL

In the
Supreme Court of the United States

OWEN W. BARNABY — PETITIONER

VS.

BRET WITKOWSKI, et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT Of APPEALS
FOR THE SIXTH CIRCUIT
CINCINATI, OHIO

PETITION FOR A WRIT OF CERTIORARI

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Date October 13, 2020

IN THE

SUPREME COURT OF THE UNITED STATES

OWEN W. BARNABY — PETITIONER

VS.

COUNTY TREASURER, BRET WITKOWSKI
And BERRIEN COUNTY GOVERNMENT— RESPONDENTS

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QUESTIONS PRESENTED

This United States Supreme Court and Michigan Supreme Court are clear on unauthorized practice of law and void judgment and Order. The US Supreme Court emphatically articulated in, Rowland v. Calif. Men's Colony, 506 U.S. 194, 201-203 (1993).

It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel. Osborn v. President of Bank of United States, 9 Wheat. 738, 829, 6 L.Ed. 204 (1824); see Turner v. American Bar Assn., 407 F.Supp. 451, 476 (ND Tex. 1975) (citing the "long line of cases" from 1824 to the present holding that a corporation may only be represented by licensed counsel), affirmance order sub nom. Taylor v. Montgomery, 539 F.2d 715 (Table) (CA7 1976), and aff'd sub nom. Pilla v. American Bar Assn., 542 F.2d 56 (CA8 1976)....

Michigan law prohibits the unauthorized practice of law by individuals MCL 600.916 and MCL 450.681.

> Sec. 916. (1) A person shall not practice law or engage in the law business, shall not in any manner whatsoever lead others to believe that he or she is authorized to practice law or to engage in the law business, and shall not in any manner whatsoever represent or designate himself or herself as an attorney and counselor, attorney at law, or lawyer, unless the person is regularly licensed and authorized to practice law in this state. A person who violates this section is guilty of contempt of the Supreme Court and of the circuit court of the county in which the violation occurred, and upon conviction is punishable as provided by law. Also, MCR 2.612(C) (1) (d), (e), (f) and MCR 2.612(C), (3)
>
> MCL 450.681. It shall be unlawful for any corporation or voluntary association to practice or appear as an attorney-at-law for any person other than itself in any court in this state or

> before any judicial body, or to make it a business to practice as an attorney-at-law, for any person other than itself[.] . . . But no corporation shall be permitted to render any services which cannot lawfully be rendered by a person not admitted to practice law in this state nor to solicit directly or indirectly professional employment for a lawyer.

Furthermore, both Courts are in agreement that Judgment and Orders are void and all times and does if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985). Milliken v. Meyer, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940)...or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally.

> "Fraud upon the court" makes void the orders and judgments of that court. The U.S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, cannot be made valid by any judge, nor does it gain validity by the passage of time. The order is void ab initio. Vallely v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S.Ct. 116 (1920). "Fraud destroys the validity of everything into which it enters," Nudd v. Burrows (1875), 91 US 426,23 Led 286,290; particularly when "a judge himself is a party to the fraud," Cone v. Harris (Okl. 1924), 230 P. 721, 723. Windsor v. McVeigh (1876), 93 US 276, 23 Led 914, 918.

"void judgment, as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus here, by). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, [any disgruntled litigant may reopen old wound and once more probe its depths. And it is then as though trial and adjudication had never been." Fritts v. Krugh, Supreme Court of Michigan, 92 N.W.2d 604, 354 Mich. 97 (10/13/58)

Therefore, the questions presented are:

Does federal district courts on a motion/rule 60(b), (1); (2); (3); (4); (5); (6), and (d) (1), (3) prohibited from reversing its Judgment which is predicated on State Court's Void Judgment Respondent procured against Petitioner by, Fraud upon the Court, Unauthorized Practice of Law (MCL 600.916; MCL 450.681)?

Does federal district courts on a motion/rule 60(b), (1); (2); (3); (4); (5); (6), and (d) (1), (3) prohibited from reversing its Judgment which is predicated on Respondent stolen Petitioner Real-estate properties without state court Judgment, which violated Petitioner's/ Appellant's constitutional rights pursuant to the Fourteenth Amendment which is an unconstitutional deprivation of Petitioner's/ Appellant's Fourteenth Amendment to the United States Constitution not to be deprived of Life, Liberty, or Property without due process of law and to enjoy the equal protection of the laws of the State of Michigan passed by the legislature Act MCL 211.78, MCL 600.916 and MCL 450.681?

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OPINIONS BELOW

The opinion of the United States court of appeals Sixth Circuit is printed and appears at Appendix A: to the petition and was, NOT RECOMMENDED FOR FULL-TEXT PUBLICATION File Name: . The ORDER Case No. 19-1495 of the United States District Court printed and appears at Appendix B: to the petition and has been designated for publication. And the United States Court of appeals denial of Timely En Banc Panel Rehearing is printed and appears at Appendix C. Fourth Circuit's

JURISDICTION

The date on which the United States Court of Appeals decided my case, was on October 8, 2019. Further a timely petition for rehearing was denied by the United States Court of Appeals on the January 7, 2020. The 150th day is Friday June 5, 2020, pursuant to Covid 19 order and the 60 days correction letter on June 15 2020. As such Petitioner mail his petition on Friday August 14, 2020. The order denying rehearing appears at Appendix C. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1), or any other relevant laws.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Fourteenth Amendment
2. 42 U.SA. §1983 to Civil Rights Acts of 1866
3. Michigan foreclosure law General Property Tax Act, P.A. 206 of 1893, amended (MCL 211.1 et seq.) ("GPTA") and MCL 211.78a-l.
4. (MCL 600.916 and MCL 450.681),
5. Penal Code Act 328 of 1931 Section 750.217(c)

SETTLED STATEMENT OF THE CASE

For the past decade, Plaintiff has been entrapped in the civil division, in the Berrien County Circuit Court, in the Michigan Court of Appeals, and in the Federal Courts, fighting against hostile, Berrien County Government and its Treasurer Bret Witskowski, to receive his monetary relief for his real properties they have unconstitutionally stolen and defrauded him of, sold some and demolished other properties; which destroyed Plaintiff's and his family's livelihood without due process of law. Additionally, the-harm/damage done to Plaintiff cause him to lose all his properties, hardship of pain and suffering and is the proximate cause of, son Matthew's untimely death. As one of their tactics is to keep Plaintiff from receiving monetary relief for his properties; Berrien County Government and its Treasurer Bret Witskowski, in concert with State

Court's Judges engaged in Unauthorized Practice of Law {UPL} fail to notice Plaintiff, then introduce Oral Contract with Plaintiff and breached it, defrauded Plaintiff of liberty and property in violation of the 14th Amendment, and his constitutional rights, due process of law.

[F]irst, the Michigan foreclosure law General Property Tax Act, P.A. 206 of 1893, amended (MCL 211.1 et seq.) ("GPTA") mandates that, the circuit court's hearing in the tax year of 2010 scheduled to be held, on March 01, 2010, before the circuit court judge by a licensed attorney (MCL 600.916 and MCL 450.681), followed by a final redemption period ending on March 31st of that year, It was later amended to "a circuit court hearing in February, MCL 211.78a-l.

[S]econd, On March 01, 2010 Trial Judge Butzbaugh aided and abetted Non-Lawyer Treasurer Witkowski to do Unauthorized Practice of Law{UPL} to procure advisory non-binding authority Judgment on August 18, 2010 without notice to Plaintiff, which [all courts] to date have relied on the non-binding authoritative Judgment". The same advisory non-binding authority Judgment violates Plaintiff's constitutional rights per the 14th amendment; cause Trial Judge Butzbaugh, to lack jurisdiction of the subject matter and the parties, committed "fraud upon the court", when he granted Non-Lawyer Witkowski privileges to do [UPL], to procure the "Judgment", and lacked the inherent power to enter "judgment" August 18, 2010 in violation of Plaintiff's constitutional rights, which

would "void any judgment"; as State Court's actions violated: MCL 211.78a-l; MCL 600.916; MCL 450.681, (MCR 2.003 (B) (C) and (Michigan Code of Judicial Conduct, Canons 1-8); 42 U.S.C. §1983; Fourteen Amendment Section I; Civil Right Act of 1866 and U.S. Supreme Court's precedence Rowland v. Calif. Men's Colony, 506 U.S. 194, 201-203(1993).

[T]hird, Trial Judge Dewane and 'Berrien County Government and its Treasurer Bret Witskowski wittingly suppressed the "Oral Contracts" material evidence between the parties, then, corruptly relied on Trial Judge Butzbaugh's advisory non-binding authority, which violated Plaintiff's constitutional rights. Trial Judge Dewane, Trial Judge Wiley and Trial Judge Donohue opinions, judgments and orders are all predicated on Trial Judge Butzbaugh's advisory non-binding authority cause their opinions, judgments and orders to be non-binding authorities advisory opinions, advisory judgments and advisory orders.

[F]ourth, Core issue, years later Non-Lawyer Witskowski confessed in deposition that, Trial Judge Butzbaugh aided and abetted him in doing unauthorized practice of law. Trial Judge Butzbaugh granted Non-Lawyer Witskowski the Judgment arisen from the same UPL, confirmed that Judge Butzbaugh's Judgment is non-binding authority judgment.

16 Q. So explain to me what law would permit you to conduct
17 a foreclosure proceeding when you're not an attorney?
25 **A. And the judge gave me the privilege of the opportunity**
1 **to represent the county.**

2 Q. As an attorney?
3 **A. I answered your question.**
4 Q. Okay.

[F]ifth, Plaintiff filed Appeal by right, in the 'Michigan Appellate Court, within the 21 day time line, per his due process rights pursuant to 14th amendment, and MCOA Order was predicated on Trial Judge Butzbaugh's advisory non-binding authority judgment, which violated Plaintiff's constitutional Rights pursuant to the fourteen amendment, Exhibit I. Plaintiff filed delayed applications for leaves to appeals, and MCOA Orders were predicated on Trial Judge Butzbaugh's advisory non-binding authority judgment, which violated Plaintiff's constitutional rights pursuant to the fourteen amendment.

[S]ixth, Plaintiff has been before the Sixth Circuit federal Court, and the Federal District Court's on Originating Case No. 1:14-cv-01279 four times. First; was on Case No.16:-cv-1207 which Sixth Circuit. "**VACATE** the district court's order and **REMAND** the case for further proceedings". The second and third were Case Nos.18:-cv-1121/1128, Plaintiff now argues that Case No.18:-cv-1121 is an non-binding authority void judgment, because the District Court's judgment, entered on January 12, 2018, denied Plaintiff, and fact that, 'Berrien County Government and its Treasurer Bret Witskowski' Motion for Summary Judgment, affirmed by Sixth Court is also an advisory non-binding authorities void judgments; as both courts relied on State Court's [advisory non-binding

authoritative void judgments and Orders. Fourth on Rule 60 motion Case No.19:-cv-1495.

Now, it requires this, 'Your Honorable United States Supreme Court's Action', to grant Appellant relief and restore his constitutional rights. As, Judgments and Orders which both Federal District Court and Sixth Circuit Federal Court, relied on are advisories non-binding authoritative void State Court's Judgments and Orders. As such, moots judicial comity or full faith and credit, as matter of logic, reasoning and law, as Appellant's constitutional rights and civil rights pursuant to the Fourteenth amendment is violated.

On March 01, 2010 when Trial Judge Butzbaugh aided and abetted Non-Lawyer Treasurer Witkowski to do Unauthorized Practice of Law {UPL} to procure "advisory non-binding authoritative Judgment" on August 18, 2010 without notice to Plaintiff, Trial Judge Butzbaugh committed "fraud upon the court", which deprived and defrauded Plaintiff of liberty and property in violation of his constitutional rights pursuant to the fourteenth Amendment. The fact that [all courts] to date have relied on Judge Butzbaugh's "advisory non-binding authoritative Judgment" utterly ignoring constitutional requirements of due process of law is all too reminiscent of a perspective where facts do not matter but alternative facts do, where the constitution does not matter and where the rule of law is set aside and replaced by the rule of subjective, fact-free decision-making.

Plaintiff, cannot receive monetary relief for his properties which, Berrien County Government and its Treasurer Bret Witskowski unconstitutionally defrauded him of because of wrongly imposed unconstitutional State of Michigan Judges' advisory non-binding authoritative Judgments and Orders. Plaintiff's constitutional and civil rights have been violated by Appellees and public officials under color of law and thus, "such actions cannot be allowed to stand in a nation of laws, not men; in a nation that cares about the constitution and the rule of law".

REASONS FOR GRANTING THE WRIT

I. The Sixth Circuit and the District Court Refused to enforce this Court's precedents and respect laws passed by Michigan State Legislature: *General Property Tax Act, P.A. 206 of 1893, amended (MCL 211.1 et seq.) ("GPTA"); (MCL 600.916 and MCL 450.681) and Violated Barnaby's Civil Rights Pursuant to the Fourteenth Amendment.*

The issue raises a serious question about the legality of a law passed by the legislature. As the Michigan foreclosure law General Property Tax Act, P.A. 206 of 1893, amended (MCL 211.1 et seq.) ("GPTA") mandates that, the circuit court's hearing in the tax year of 2010 scheduled to be held, on March 01, 2010, before the circuit court judge by a licensed attorney (MCL 600.916 and MCL 450.681), followed by a final redemption period ending on March 31st of that year, It was later amended to "a circuit court hearing in February, MCL 211.78a-l

Again, the issue raise is at the core of Michigan's law and its judicial system itself, because Michigan law (MCL 600.916 and MCL 450.681) [prohibits]

Unauthorized Practice of Law. The legal principle here is very important to Michigan law as, on March 01, 2010, Judge Butzbaugh aided and abetted Non-Lawyer Treasurer Witkowski to do Unauthorized Practice of Law to procure "non-binding authority Judgment" against Barnaby(without notice to Barnaby) caused Fraud upon the Court; and on September 25, 2017 Appellee Treasurer Bret Witkowski confessed in sworn deposition that, Judge Butzbaugh gave him, Non-Lawyer Witkowski privileges to do UPL, to procure the "non-binding authority Judgment" against Barnaby; which they both wittingly concealed it and contravened Michigan Laws, GPTA, and Penal code 750.217(c), (MCL 600.916 and MCL 450.681) and caused "fraud upon the Court". Which is also an unconstitutional deprivation of Barnaby's Fourteenth Amendment to the United States Constitution not to be deprived of Life, Liberty, or Property without due process of law and to enjoy the equal protection of the laws of the State of Michigan passed by the legislature.

The United States Supreme Court's on April 6, 2020, Case No. 19A1016, Application For Stay enforcing its precedent and respecting laws passed by Wisconsin State Legislature and its precedent in the case, REPUBLICAN NATIONAL COMMITTEE, ET AL. v. DEMOCRATIC NATIONAL COMMITTEE, ET AL. PER CURIAM. The Core issue was,

> The application for stay presented to JUSTICE KAVANAUGH and by him referred to the Court is granted. The District Court's order granting a

preliminary injunction is stayed to the extent it requires the State to count absentee ballots postmarked after April 7, 2020.

Wisconsin has decided to proceed with the elections scheduled for Tuesday, April 7. The wisdom of that decision is not the question before the Court. The question before the Court is a narrow, technical question about the absentee ballot process. In this Court, all agree that the dead line for the municipal clerks to receive absentee ballots has been extended from Tuesday, April 7, to Monday, April 13. That extension, which is not challenged in this Court, has afforded Wisconsin voters several extra days in which to mail their absentee ballots. The sole question before the Court is whether absentee ballots now must be mailed and postmarked by Election Day, Tuesday, April 7, as state law would necessarily require, or instead may be mailed and postmarked after Election Day, so long as they are received by Monday, April 13....

Therefore, subject to any further alterations that the State may make to state law, in order to be counted in this election a voter's absentee ballot must be either (i) postmarked by election day, April 7, 2020, and received by April 13, 2020, at 4:00 p.m., or (ii) hand-delivered as provided under state law by April 7, 2020, at 8:00 p.m.....

The stay is granted pending final disposition of the appeal by the United States Court of Appeals for the Seventh Circuit and the timely filing and disposition of a petition for a writ of certiorari. Should the petition for a writ of certiorari be denied, this stay shall terminate automatically. In the event the petition for a writ of certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court.

It is so ordered.

The Writ should be granted and the court should enforce both the laws of the State of Michigan passed by the legislature GPTA, Penal code 750.217(c) (MCL 600.916 and MCL 450.681), that the Defendants Opinions, Orders and Judgments are advisory in nature and non-binding as only the State Bar Of Michigan has the power to grant licenses to practice law according to Michigan's Legislature and the

United States Supreme Court's precedent (Rowland v. Calif. Men's Colony, 506 U.S. 194, 201-203 (1993)), as Defendants' Opinions, Orders, Judgments are non-binding authorities; as such, Plaintiff is entitled to have Defendants' non-binding authorities Judgments and Orders declare as such; in keeping with the United States Supreme Court's precedent (Rowland v. Calif. Men's Colony, 506 U.S. 194, 201-203 (1993)),and State of Michigan laws passed by Legislature (MCL 600.916; MCL 450.681).

a. The Sixth Circuit and the District Court Refuses to respect and Follow Void Judgments and Orders Precedents from Michigan Supreme Court which adhere to this Court's Precedents.

The Sixth Circuit and the District Court Decisions conflicts with Michigan Supreme Court decision or other decisions of this Court Void Judgments and Orders Precedents. Their decision is clearly wrong, is causing material injustice to Barnaby. This case is legal principle that is very important to Michigan law.

> "void" judgment, as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus here, by). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, [any disgruntled litigant may reopen old wound and once more probe its depths. And it is then as though trial and adjudication had never been. Fritts v. Krugh, Supreme Court of Michigan, 92 N.W.2d 604, 354 Mich. 97 (10/13/58)

II. The Sixth Circuit and the District Court Refuses to Follow *the Precedents of this Court and Violated Barnaby's Civil Rights Pursuant the Fourteenth Amendment*

The undeniable truth is that, Mr. Barnaby's constitutional rights has been violated by The Sixth Circuit and the District Court decisions pursuant to the Fourteenth Amendment. Which are predicated on Judge Butzbaugh who acted outside the scope of his judicial jurisdiction aided and abetted hostile, Berrien County Government and its Treasurer Bret Witskowski, to do UPL and did not notice Barnaby so he could be present to defend his constitutional rights, deprives him of Due Process; which renders their Opinion, Orders and Judgments non-binding authorities, as only the 'State Bar Of Michigan' has the authority to grant hostile, Berrien County Government and its Treasurer Bret Witskowski, licenses to practice law according to laws passed by Michigan's Legislature and the United States Supreme Court's precedent, MCL 600.916; MCL 450.681 and Rowland v. Calif. Men's Colony, 506 U.S. 194, 201-203 (1993).

a. The Sixth Circuit and the District Court Refuses to Follow Void Judgments and Orders Precedents from this Court

Response to the Court's Findings on, Rule 60 (b) (4) (5) (6)

The Appellate Court in addressing "Rule 60 (b) (4) the judgment is void"; "Rule 60 (b) (5); the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable. And "Rule 60 (b) (6) any other reason that justifies relief." The court concluded that, " Barnaby's arguments are more

properly characterized as a claim under subrule (b)(4) because he maintains that the state court judgments-and presumably, by extension, the federal court judgment-are void based on fraud allegedly committed during the state court foreclosure proceeding..."

Appellant avers that, the Appellate Court's legal conclusion of law relative to Rule 60 (b) (4) (5) (6), is moot and is of Precedent-Setting Error of Exceptional Public Importance, as follow. First, it is [not an allegation] that, the state court's orders and judgments relative to Appellant's federal Claim are void but it is a matter of both settled fact and settled law, that Appellant's, unchallenged Rule 60 Motion articulated that state judges: (1). lack jurisdiction over the parties (2) lack jurisdiction over the subject matter, (3) lack inherent power to enter particular order or judgment, (4), Judgments-orders procured by fraud/fraud-upon-the-court, void both state court and federal court orders and judgments.

As such, the Sixth Circuit Order directly conflicts with our United States Supreme Court and the Sixth Circuit court's precedent listed below:

> Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const Amend. 5. Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985). Milliken v. Meyer, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940).... or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court.

A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere. Pennoyer v. Neff, 95 U.S. 714, 732-733 (1878)." [World-Wide Volkwagen Corp. v. Woodson, 444 U.S. 286 (1980)] (Exhibits A1-A22) (Exhibits B1- A7)

A void judgment does not create any binding obligation. Kalb v. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 L ed 370; *Ex parte Rowland* (1882) 104 U.S. 604, 26 L.Ed.
Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. *Earle v McVeigh*, 91 US 503, 23 L Ed 398.

The sixth Circuit, "A void judgment is no judgment at all and is without legal effect." (Jordon v. Gilligan, 500 F.2d 701, 710 (6th Cir. 1974) "a court must vacate any judgment entered in excess of its jurisdiction." (Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645 (1st Cir. 1972). See also, Caperton v Massey, US; 129 S Ct 2252; 173 L Ed 2d 1208 (2009.

It overlooks and misapprehends the exceptional public importance, "...subrule (b)(4) because he maintains that the state court judgments-and presumably, by extension, the federal court judgment-are void based on fraud allegedly committed during the state court foreclosure proceeding..." directly conflicts with United States Supreme Court's precedents, "Fraud upon the court" makes void the orders and judgments of that court..."

It is indisputable Appellees' procured state court's judgments and orders by unauthorized practice of law to procure foreclosure judgment March 01, 2010 and other misconducts. Appellees wittingly brought it from the state court and place them in the federal court record, "destroys the validity" of federal court's orders and judgments favorable to Appellees. (RE: 125, Exhibits A-O). "Vallely v.

Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S.Ct. 116 (1920). "Fraud destroys the validity of everything into which it enters," Nudd v. Burrows (1875), 91 US 426, 23 Led 286,290; particularly when "a judge himself is a party to the fraud," Sixth Circuit order is not just moot and inaccurate it directly conflicts with our United States Supreme Court's precedence that, "Fraud destroys the validity of everything into which it enters," this needs the attention of the entire court as it is of exceptional public importance.

Response to the Court's Findings on, Rule 60 (d)

Sixth Circuit Order, is inaccurate, moot, and directly conflicts with our United States Supreme Court's precedent. The court's inaccurate legal conclusion is that, "Barnaby's allegations of fraud are not directed at the district court proceeding involving his federal lawsuit. Rather he is challenging fraud that allegedly occurred during the prior state court proceedings." Barnaby's contention are twofold. First issue, Appellees procured state court's orders and judgment by fraud and fraud upon the state court is not an allegation it is a matter of settled undisputed fact. Secondly, Barnaby's Unchallenged Rule 60 Motion contention is that, Appellees wittingly took state court fraud to the federal court and tainted the judicial machinery of federal court too; Barnaby claims fraud in district court proceedings too. See direct quote below.

E. Attorney Jeffery R. Holmstrom, 'Fraud upon the Federal Court'.

Attorney Holmstrom, wittingly collected the material of the state court case, void judgments; Judge Butzbaugh, Judge Dewane, Attorney Howard and Attorney Elliott fraud upon on the court; Witkowski's criminal and fraudulent conducts, and knowingly filed them in the Federal Court, (Dkt# 125, and Exhibits A-O). He tainted the judicial machinery of the court, to grant Defendants'and deny Plaintiff's 'Motion for Summary Judgment', Attorney Holmstrom's actions resulted in 'Fraud upon the Federal Court'. (Rule 60. (d), (3)). Attorney Holmstrom's, "Fraud upon the Court" caused District Court's judgment, entered on January 12, 2018 affirmed by Appellate Court, which relied on the State Court's [void judgments] made [void] the District Court's judgment, affirmed by Appellate Court. (Exhibit A3) and (Exhibits A19). **(Please see (Re 175.)**

"Fraud upon the court" makes void the orders and judgments of that court. The U.S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, cannot be made valid by any judge, nor does it gain validity by the passage of time. The order is void ab initio. Vallely v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S.Ct. 116 (1920). "Fraud destroys the validity of everything into which it enters," Nudd v. Burrows (1875), 91 US 426,23 Led 286,290; particularly when "a judge himself is a party to the fraud," Cone v. Harris (Okl. 1924), 230 P. 721, 723. Windsor v. McVeigh (1876), 93 US 276, 23 Led 914, 918.Judge Anne McDonnell relies on N.J.S.A. 59D3-2(b) which states "A public employee is not liable for legislative or judicial action or inaction, or administrative action or inaction of a legislative or judicial nature".

"A void judgment is no judgment at all and is without legal effect." (Jordon v. Gilligan, 500 F.2d 701, 710 (6th Cir. 1974) "a court must vacate any judgment entered in excess of its jurisdiction." (Lubben v. Selective Service System Local Bd. No. 27, 453 F.2d 645 (1st Cir. 1972). (See (Re 175.)

Barnaby's lawsuit and Rule 60 Unchallenged Motion, is in lockstep with the United States Supreme Court, that, "Fraud destroys the validity of everything into which it enters," Nudd v. Burrows (1875), 91 US 426,23 Led 286,290, as the lower Court legal conclusion is inaccurate, misleading, moot and directly conflicts with

our United States Supreme precedents: Vallely v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S.Ct. 116 (1920). "Fraud destroys the validity of everything into which it enters," Nudd v. Burrows (1875), 91 US 426,23 Led 286,290; particularly when "a judge himself is a party to the fraud," Cone v. Harris (Okl. 1924), 230 P. 721, 723. Windsor v. McVeigh (1876), 93 US 276, 23 Led 914, 918.Judge Anne McDonnell relies on N.J.S.A. 59D3-2(b). And settled United States Supreme precedents.

Sixth Circuit's inaccurate legal conclusion, "Barnaby's allegations of fraud are not directed at the district court proceeding involving his federal lawsuit. Rather he is challenging fraud that allegedly occurred during the prior state court proceedings." Appellant is from Georgia the peach state; if we place a spoiled peach in a container of freshly picked peaches, the spoiled peach will contaminate or spoil the entire container of peaches. A spoiled peach is equivalent to void judgment procured by fraud and fraud upon the court contaminates any court, it enters whether federal or state court. U.S. Supreme Court, "Fraud destroys the validity of everything into which it enters," Please see (RE: 125, Exhibits A-O).

Response to the Court's Findings on, Recusal

Finally, the Court concludes that, Barnaby is not entitled to relief under Rule 60 (b) or (d) on ground that, "...alleged disqualification and failure of certain state judges to recuse themselves from the proceedings" is moot. On account of district

unfounded..." is **inaccurate** should be stricken from the record. Furthermore Barnaby's Claims are unchallenged settled facts. The Judges own actions and Appellee Witkowski confessions to UPL without notice to Barnaby bears witness in his deposition that, Judge Butzbaugh was not a neutral Judge, Judge Butzbaugh gave Witkowski privilege to do [unauthorized practice of law] in court and to impersonate Attorney Mc Kinley Elliott (P34337) and deprived Barnaby of property without due process and equal protection of law 14th amendments; Caperton v. A.T. Massey Coal Co., 129 S. Ct. 2252, 2259 (2009). Judge Butzbaugh gave privilege to Witkowski, to do [unauthorized practice of law], without notice to Barnaby so he could be present to defend his right and wittingly covered it up warrants his recusal, Void the judgment, all other Judgment predicated on this judgment are also Void inclusive of these lower Court judgments before this Court, as such this Court should grant Writ, reverse lower Court's judgments and Orders and grant Appellant relief.

CONCLUSION

For these reasons, Petitioner-Appellant-Plaintiff, respectfully requests that his petition for certiorari be granted.

Respectfully Submitted

Dated: October 13, 2020

Owen W. Barnaby, In Pro Se.

court's, vague order without how, when or where on the record it and the sixth circuit considered and rejected Appellant's motion, (RE 180).

The issues of state court judges recusal is not an allegation but a matter of **settled fact and law**. As such, 'Petition for Writ' and reversal of the lower court's order with full damage, is warranted. Appellees conspired with Judge Butzbaugh, Attorney Elliott-(P34337) Judge Dewane, Attorney Howard-(P57635), to perpetrate Fraud-upon-the-court and to defraud Appellant during state court's foreclosure proceeding, to procure orders and judgments which are void. Appellees had Attorney Elliott-(P34337) draft distorted document RE 175-A3; and gave it to [Nonlawyer] Treasurer Witkowski for unauthorized [p]ractice of law and impersonation, UPL in court before Judge Butzbaugh, on March 01, 2010. Judge Butzgaugh entered the judgment on August 18, 2010, falsified the court record on July 06, 2012 with distorted order that, he entered judgment on March 01, 2010, to defraud Appellant. (RE 175- A1, A3, A4, A17, and A18-A22). See (MCL 600.916; MCL 450.681) Rowland v. Calif. Men's Colony, 506 U.S. 194, 201-203(1993).

The same cause state judges to: (1). lack jurisdiction over the parties (2) lack jurisdiction over the subject matter, (3) lack inherent power to enter particular order or judgment, (4), and or the Judgments-orders were either relied-on or procured by fraud/fraud-upon-the-court. The court's account of the fact, "Barnaby's conclusory assertions that the judges conspired with the defendants are