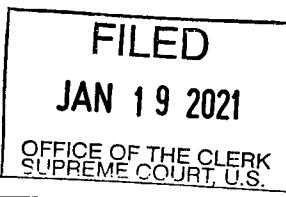


No. 20-6219



In the
Supreme Court of the United States

SASCHA LYNCH,

Petitioner / Plaintiff,

v.

ALLEN Y. CHAO, ET AL.

Respondents / Defendants.

On Petition for Writ Of Certiorari to the
California Court Of Appeal,
Second Appellate District, Division 3

PETITION FOR REHEARING

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In Pro Per

February 1, 2021

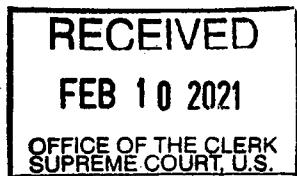


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Abbreviation Guide:

App- Appendix to Petition for Writ of Certiorari
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Cert- Petition for Writ of Certiorari

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PREAMBLE

In 1954, petitioner was born and raised in Buffalo, New York, and learned how to persevere through extreme harsh winters, melting summers and that people who look like her were not welcomed on the west side of the city. This resolve and dedication to overcoming adversities, is why petitioner persists in seeking justice before a fair tribunal to hold accountable those responsible for her personal injury of cancer caused by respondents' willful misconduct and all the fallout that comes with it and to be given a 14th Amendment Due Process and Equal Protection opportunity to be heard before a jury. After filing a fee waiver requesting to make installments payments, she reached out to the United States Supreme Court ("Sup. Ct.") clerk personnel to arrange payment of the \$300.00 docket fee pursuant to Sup. Ct. Rule 38(a), seeking paid consideration for her writ of certiorari. [RA-1-4]. The money was a Christmas gift and there are no other available resources. The rehearing docket fee is being paid with that money.¹

In an effort to believe fair and impartial justice was given to her, she has not in any proceedings presented up until now her African American nationality, her economically challenged or pro se status (a triple threat in judicial courts), which seems to be grounds upon which justice is denied either overtly or covertly. There is even an element of age discrimination in play as there was no reason whatsoever for the appellate court to mention the year of her birth in its Opinion, whatever relevance was meant to be taken at that time. [App-6].

PETITION FOR REHEARING

Petitioner Sascha Lynch ("S. Lynch") humbly and respectfully petitions this case before the nine-member Court for rehearing of the Court's order

¹ On January 26, 2021, the Court Clerk returned the docket fee money order and extended time so petitioner can cure other deficiencies in her Petition for Rehearing filed January 19, 2021. [RA-43].

denying her petition for a writ of certiorari filed October 29, 2020. Pursuant to Sup. Ct. R. 44.2, S. Lynch respectfully petitions this Court for an order (1) granting rehearing, (2) vacating the January 11, 2021 order denying certiorari [RA Exhibit], and (3) redisposing of this case by granting the petition for a writ of certiorari, vacating the judgment of the state and federal court, and remanding to the California Second Appellate District for further consideration in the trial court in order for Allen Y. Chao, PhD., Monsanto Company, Searle Pharmaceuticals, Inc., Searle Laboratories, G.D. Searle LLC. G. D. Searle & Co., Pharmacia Corporation, AmerisourceBergen Corporation, Pfizer, Inc. and McKesson Corporation to answer S. Lynch's First Amended Complaint with the equitable estoppel component.

GROUND FOR REHEARING

1. On November 9, 2020, the Court granted certiorari in *Willie Earl Carr, et al. v. Andrew M. Saul*, No. 19-1442 and *John J. Davis, et al v. Andrew M. Saul*, No. 20-105 -- which addresses raising an issue or challenge "for the first time" before a district court instead of an agency as a **forfeiture of a right** and the impact thereof. The equivalent in the case at bar is failing to raise the challenge at the trial court level but raising it at the appellate court level in a reply brief. A right is a preserved right no matter the judicial branch it is before. The Court's decision to grant certiorari in *Carr* and *Davis* and answer the questions presented in these consolidated cases is an intervening circumstance of a substantial or controlling effect. Respondent Saul's Brief for the Respondent argues: "No procedural principle is more familiar to this Court than that a constitutional right may be forfeited in criminal as well as civil cases by the failure to make timely assertion of the right. *Yakus v. United States*, 321 U.S. 414, 445 (1944)."

2. On February 27, 2020, S. Lynch raised a "new argument" challenge of equitable estoppel defense for the first time in her Reply Brief

[RA 5-34], which is inextricably linked to her statute of limitations defense litigated in the trial court. On June 8, 2020, more than *3 (three) months after* the reply was filed, the California Court of Appeals Second Appellate District, Division Three did not address S. Lynch's equitable estoppel new argument in its response, essentially treating it as forfeited "forgoing any opportunity to litigate the claims that are at issue." Both sides have not briefed the issue, but the court apparently deemed it forfeited. Even if certain claims are deemed forfeited, the court should have reviewed the equitable estoppel new argument on the merits. *Singleton v. Wulff*, 428 U.S. 106, 121 (1976).

3. The Petition for Rehearing filed June 22, 2020, asked the court again to rule on the state law statute of equitable estoppel pursuant to California Evidence Code Section 623. [cert. petition, 7; App-29; RA-20, 42]. S. Lynch's did not fail to preserve her argument [App-29; RA-13-18]; and the court did not fail to forfeit it. [RA-42]. The appellate court mentions "collateral estoppel" not "equitable estoppel." [App-15]. The request was denied June 24, 2020 with no mention whatsoever from the court that the argument had been presented before it. [App-2]. Forfeiture was raised as background information under Section E in her writ petition as it related to an inadequate appellate record (cert. petition, 6-7).

4. This tribunal determined that if a claim is properly before the court, it may consider any number of new arguments or theories underlying that claim -- despite the court considering the issue forfeited. The Court also distinguished between bringing a new "claim" before the court, which is not allowed absent an exception, and bringing a new "argument" before the court, which is allowed. *Kamen v. Kemper Financial Services*, 500 U.S 90, 99-100 & n.5 (1991). It has been reported a reply brief filed before this Court in *Facebook, Inc. v. Noah Duguid*, et al. Case No. 19-511 (November 16, 2020), introduced a "new argument" for the first time and that the matter, argued December 8, 2020 is currently pending. Another recent case before this Court

addressing forfeiture of an issue by “failing to raise [it] in the appellate division or the Court of Appeal,” and “not adequately developed in an appellate brief” is considered forfeited in *Arthur Gregory Lange v. State of California* - Case No. 20-18 (September 23, 2020). Yet as of this date, the matter is pending before the Court.

5. Now that *Carr* and *Davis* are scheduled for oral argument March 3, 2021 regarding raising an issue “for the first time” absent being raised before the lower judicial body and being forfeited, S. Lynch is asking this court to give the same consideration of a party raising a new argument “for the first time” in her reply brief as demonstrated in all the aforementioned cases. The question S. Lynch presents before the appellate court, as well as here, is whether due process been satisfied or violated in the case at bar due to a determination of forfeiture of a preserved new argument?

6. A decision in another case with a related argument presented by S. Lynch and filed after her petition was docketed where, “its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented,” is based on a 28 U.S.C. § 455(a) violation [RA-35], and the impact of a judge’s relationship with a law firm, she brings to this Court’s attention *U.S. Sec. & Exch, Comm’n v. Collector’s Coffee, Inc.*, 19 Civ. 4255 (VM) (GWG) (S.D.N.Y. Dec. 9, 2020).

This civil matter exemplifies the disparity between the Haves and the Have Nots. Access to economic resources (\$46,121,649.68) plays such an integral role in how justice is dispensed. It was noted in the case “no specific examples of such rulings” demonstrating bias towards the petitioner as a party in litigation before the court and yet his request was granted. [RA-40]. The issue was a relationship between the judge presiding over the matter and his relationship to a law firm that had “not appeared in this case as an attorney or party.” [RA-36]. However, when a valid argument is made of

“judicial bias and / or collusion with defense counsel” Lady Justice oftentimes takes a peek and easily tilts the scales ever more away from pro se litigants in favor of the weight of currency. (cert. petition, question presented, 8-11).

S. Lynch asks this Court in addition to that outlined in the conclusion portion of this petition to consider and grant her request for vacatur of the federal district court’s decision based on its long-standing ruling in *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950).

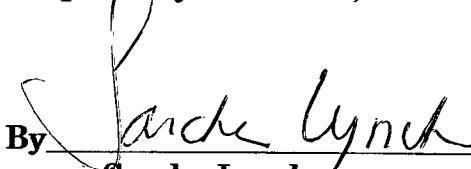
CONCLUSION

For the foregoing reasons, S. Lynch humbly and respectfully request this Court recall and vacate the order summarily denying the cert petition and the cert petition be granted in all respects, together with such other and further relief as may be just under the circumstances.

DATED: February 1, 2021

Respectfully submitted,

By


Sascha Lynch