

OCT 09 2020

OFFICE OF THE CLERK

No. 20-657

**IN THE
SUPREME COURT OF THE UNITED STATES**

**TONY C. THOMAS, for the Estate of Thalia Dukes,
Plaintiff – Appellant**

V.

**LAWRENCE S. CRAIGE,
Defendant – Appellee**

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

Tony C. Thomas
820 South 10th Street
Wilmington, NC 28401
(224) 610-9794

QUESTIONS PRESENTED

This Court has yet to resolve the question lying at the core of this appeal, which has produced a split amongst this country's federal judiciary: whether the rights preserved by the Eighth and Fourteenth Amendments to the United States Constitution attaches to the **Rooker-Feldman** doctrine where the defendant (not the clerk of court) authored a document announcing a hearing date in the State Court, adding the words, **"or when the Judge is available."** While Petitioner waited for a date certain from the judge, defendant, in the absence of Petitioner, convinced the judge to dismiss the matter, nullifying the jury trial that was scheduled. North Carolina Supreme Court refused get involved.

The essential issue raised is whether the ***Rooker-Feldman*** doctrine can bar a federal suit where the Plaintiff was denied the opportunity to present his case in state court. Moreover, the ***Rooker-Feldman*** jurisdictional bar is a *narrow one*, and was applied too broadly in this case.

Defendant was appointed guardian of the Estate of Plaintiff's mother (Thalia Dukes). Her bank account was more than adequate to satisfy her bills at the nursing home. Nevertheless, defendant placed a document in front of petitioner asking his permission to sell the many properties owned by his mother and to waive his right to complain.

Petitioner refused to sign the document, thus, refusing to waive any of his rights. See **App. 4**. Petitioner then filed a petition in the state courts requesting an order transferring his mother to petitioner's home at 820 South 10th Street Wilmington, NC., from Department of Social Services (DSS). A representative was dispatched to inspect the home. In the meantime, after being notified of the transfer request, Defendant filed a petition in state court requesting permission to sell all the properties. His request was granted.

Petitioner moved this dispute to the Federal System. Defendant invoked The Rooker-Feldman doctrine that strip federal district and bankruptcy courts of their subject matter jurisdiction over suits that can be characterized as appeals or reconsideration of state court judgments. However, application of the Rooker-Feldman doctrine is subject to limitations, especially, as here, where petitioner presented an *independent* claim, albeit one that denies a legal conclusion that the state court afforded due process in a case where Defendant **(alone)** knew of the date certain for the evidentiary hearing. If the Rooker-Feldman doctrine attaches under these circumstances, vital finality interest protected by the Due Process Clause will be undermined. The opinions of the courts below raises an important question of federal law that should be settled by this court.

PARTIES TO THE PROCEEDING

Petitioner is Tony C. Thomas, a citizen of the United States of America.

Respondent is Lawrence S. Craige, a citizen of the United States of America.

DIRECTLY RELATED PROCEEDINGS

Petitioner is Tony C. Thomas, a citizen of the United States of America. Defendant is Lawrence S. Craige.

Petitioner commenced a law suit against Defendant on July 13, 2015, in New Hanover County Superior Court. File Number 18 CVS 3803. Defendant was appointed guardian of the estate of petitioner's mother, claiming that defendant violated petitioner's Eighth Amendment and Fourteenth Amendment rights in selling the property against petitioner's expressed will.

TABLE OF CONTENTS

QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii,iii
DIRECTLY RELATED PROCEEDINGS	iii
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES	v
OPINIONS BELOW	1
STATEMENT OF JURISDICTION	1
CONSTITUTIONAL AND STATUTORY AUTHORITY INVOLVED	1,2
STATEMENT OF THE CASE	2,3,4
REASONS FOR GRANTING THE PETITION	4
I. INTRODUCTION	4,5
II. THE ORIGIN AND LIMITATIONS OF THE ROOKER-FELDMAN DOCTRINE.	5,6
CONCLUSION	7
VERIFICATION STATEMENT	8
CERTIFICATE OF SERVICE	9

APPENDIX

United States Court Of Appeals For The Fourth Circuit__ App. 1

United States District Court Eastern District Of North Carolina
_____ App. 2

Supreme Court of North Carolina_____ App. 3

Waiver of Notice And Consent To Sale_____ App. 4

Notice Of Hearing _____ App.5

North Carolina Court Of Appeals _____ App.6

TABLE OF AUTHORITIES

Cases-

Exxon Mobil Corp. v. Saudi Basic Industries Corp

544 U.S. 280 (2005)_____ 6,

Rooker-Feldman v. Trust Co.

263 U.S. 413 (1923) and 460 U.S. 462 (1983)_____ i,i,4,5,6

28 USCA section 1254_____ 1.

U.S. Const. amendments Eight & Fourteenth_____ i,iii,1,2,6,

OPINIONS BELOW

The opinion of the New Hanover County Superior Court in docket number (18 CVS 3803 -18 CVS 003803) was issued on May 6, 2019, and is unpublished. The opinion of the Supreme Court of North Carolina in docket number 256P19-1, was issued August 14, 2019, and is unpublished. **App.3.** The opinion of the United States District Court (Eastern District of North Carolina) in docket number 7:19CV-181-FL was issued April 7, 2020, and is unpublished. **App.2.** The opinion of the United States Court of Appeals for the Fourth Circuit in docket number 20-1457, was issued August 24, 2020, and is unpublished. **App.1.**

STATEMENT OF JURISDICTION

This Court's jurisdiction is drawn from 28 U.S.C. section 1254, which provides that cases in the court of appeals may be reviewed by the Supreme Court by writ of certiorari regarding any civil or criminal case.

STATUTORY AND CONSTITUTIONAL AUTHORITY INVOLVED

The Fifth Amendment to the United States Constitution states:

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.** (emphasis added).

STATEMENT OF THE CASE

Petitioner's mother (Thalia Dukes) was adjudicated incompetent and placed in the custody of Department of Social Services (DSS). Defendant was appointed Guardian of the Estate of (Dukes). He then presented a document to petitioner requesting his signature to sell her property and to waive his rights of inheritance, and to waive his right to complain. Petitioner refused to waive any of his rights and did not sign the document. Thereafter, petitioner filed a document with the clerk of New Hanover County Superior Court, requesting an order transferring his mother (Ms. Dukes) from Department of Social Services to petitioner's three bed room house, where he lived alone.

DSS dispatched an inspector to the home. In the meantime, Defendant was notified of the transfer request, he then filed a petition to sell (Dukes') many properties. A judge granted his request.

In the Matter of the Estate of Thalia Dukes, Incompetent, petitioner filed a civil rights law suit against Defendant in the New Hanover County Superior Court on July 13, 2015 (No. 18 CV 003803), ***Jury trial requested.*** After receiving respondent's Answer to the civil rights complaint, the Court Administrator moved the case forward to jury trial. Defendant, acting as a Clerk of Court, ***authored*** a document entitled **"NOTICE OF HEARING"** ..."on the 6th day of May, 2019, at 10.00 a.m., or as soon thereafter as the Court can hear it". **App. 5.** While petitioner waited for a ***date certain*** of the hearing, Defendant, went before a judge requesting dismissal of the civil rights complaint without affording petitioner the opportunity of presenting his case. The judge granted defendant's request.

Petitioner went to the Clerk's office to file an appeal to the Appellate Court. He was told that "no appeal would be filed." Petitioner then sent the original and two copies of his appeal to the Court of Appeals of North Carolina. Daniel M. Horne, Jr., Clerk, responded by assuring petitioner that unless the trial court clerk sends the appeal to him, by Rule he cannot file the notice of appeal. **App. 6.**

Petitioner then filed with the Supreme Court of North Carolina requesting the Court to ***“ASSUME JURISDICTION”*** since the trial court Clerk refused to honor petitioner’s NOTICE OF APPEAL. The North Carolina Supreme Court refused to get involved. **App.3** .

Petitioner then filed a civil rights law suit in the United States District Court for the Eastern District of North Carolina, complaining, among other things, that his due process rights were violated. However the Court agreed with Defendant, dismissing petitioner’s complaint based upon this Court’s ruling in the ***Rooker-Feldman***, doctrine case.

Petitioner appealed the dismissal to the United States Court for the Fourth Circuit, presenting an ***“independent claim”***, namely, that petitioner was denied a hearing in the state courts and the state’s highest refused to remedy the situation.

REASONS FOR GRANTING THE PETITION

Petitioner now seeks further review in this Court and offers the following reasons why a writ of certiorari is warranted.

1. INTRODUCTION

In the history of this Court’s jurisprudence regarding the ***Rooker-Feldman*** doctrine, there has never been a definitive answer to the many **Limitations** associated with the doctrine. As in this case, the

doctrine was used arbitrarily, since the litmus test that a federal court must apply is whether the relief requested in the federal action would effectively reverse the state court decision. Petitioner's "independent claim" is, and was, that he was denied a hearing in the courts and below.

II. THE ORIGIN AND PROTECTIONS OF THE ROOKER-FELDMAN DOCTRINE.

Rooker-Feldman doctrine is a legal principle that a federal court do not have jurisdiction to review decisions of state courts or claims inextricably intertwined with an earlier state-court judgment. The doctrine gets its name from two United States Supreme Court cases; Rooker v. Fidelity Trust Co., 263 U.S. 413 (U.S. 1923) and D.C. Court of Appeals v. Feldman, 460 U.S. 462 (U.S. 1983). The first case held that the power to hear appeals from state court judgments is exclusively held by the United States Supreme Court. The United States Supreme Court held in the second case that federal district courts do not have jurisdiction to hear challenges to **certain** state-court decisions. For example, as in this case, the Rooker-Feldman doctrine is inapplicable when the alleged injury is distinct from the judgment. For instance, it is inapplicable when the federal claim alleges a prior injury that a state

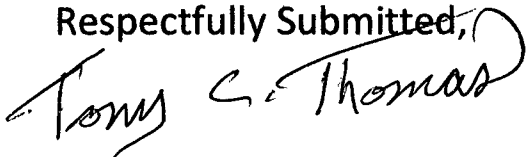
court failed to remedy. See **App.3**, where the North Carolina Supreme didn't want to get involved. Finally, application of the **Rooker-Feldman** doctrine is subject to limitations. In **Exxon Mobil Corp v. Saudi Basic Indus. Corp.**, the Supreme Court cautioned that "**Rooker-Feldman** does not otherwise override or supplant preclusion doctrine or augment the circumscribed doctrines that allow federal courts to stay or dismiss proceedings in deference to state-court actions." The Court also states that "[i]f a federal plaintiff present[s] some independent claim, albeit one that denies a legal conclusion that a state court has reached in a case to which he was a party . . . , then there is jurisdiction." **Exxon Mobil Corp. v. Saudi Basic Indus. Corp.**, 544 U.S. 280, 292 (2005) (section 1257).

More recently, the Supreme Court concluded that the inferior federal courts had been applying Rooker-Feldman too broadly. Petitioner's federal suit did not seek – indeed could not have sought – to re-litigate claims decided by a state court, because petitioner is still waiting for a "**date certain**" for the hearing to take place so that all parties may have an opportunity to present their cases in a manner guaranteed by the Due Process Clause of the United States Constitution.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully Submitted,

A handwritten signature in black ink that reads "Tony C. Thomas". The signature is written in a cursive, flowing style.

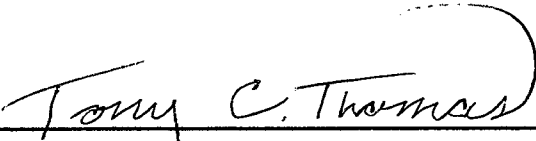
Tony C. Thomas, Petitioner
820 South 10th Street
Wilmington, NC 28401
(224) 610- 9794

VERIFICATION

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

By my signature below, I, Tony C. Thomas, hereby affirm, under penalty of lying to authorities, that the foregoing statements were made to the best of my knowledge, information and belief; that the allegations contained in this petition for a writ of certiorari represent accurately his petition.


TONY C. THOMAS, pro se.

November 5, 2020