

No. 20-6646

ORIGINAL

The United States Supreme Court

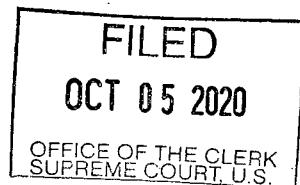
MARICIA CROCE,

Petitioner

v.

LORIN A CROCE,

Respondent



On Petition for a Writ of Certiorari to
the United States Court of Appeals
for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

Marcia Croce, Pro Se
342 Snyder Lane
Blairsville, PA 15717
(814) 410-5829
Email: mcroce@maradnet.com

I. QUESTIONS PRESENTED

1. Whether the Pennsylvania Judicial System erred in depriving the low- income Petitioner of equal process and protection of the laws guaranteed by the 14th Amendment.
2. Whether Pennsylvania Judicial System erred in violating Petitioner's civil rights when no protection to protect those rights were made available during a closed-door hearing.
3. Whether the hearing master and the counsel for respondent under PA Constitution Article 1§26, denied the right of request, when Petitioner requested several times during hearing, for someone to look over the agreement before signing.
4. Whether Hearing Master and Pennsylvania Judicial System failed to acknowledge Petitioner's duress from a life changing hardship made known to Petitioner 12 hours before hearing.

5. Whether Political Bias displayed by the hearing master went against the 14th amendment of the Constitution of the United States as well as the 5th amendment while taking the 9th amendment into consideration in a civil case.

II. LIST OF PARTIES

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Paroly v. Paroly, 876 A.2d 1061 (Pa.super.2005)

Simeone v.Simeone, 581 A.2d 162 (Pa.1990)

Pennsylvania Constitution Statues

Pennsylvania. Constitution Of the Commonwealth of Pennsylvania--1790. Harrisburg: Busch, state printer, 1896.
PA CONST Art. I, § 1.

Pennsylvania. Constitution Of the Commonwealth of Pennsylvania--1790. Harrisburg: Busch, state printer, 1896.
PA CONST Art. I, § 26.

Constitution of the United States

U.S. Const. amend. V, § 1. Equal Protection Under the Laws

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V. OPINIONS DELIVERED IN LOWER COURTS

The precedential opinion that the Supreme Court of Pennsylvania reconsideration issued on June 8, 2020.

The precedential opinion that the Supreme Court of Pennsylvania issued on May 6, 2020.

The precedential opinion that the Superior Court of Pennsylvania reconsideration issued on October 24, 2019.

The precedential opinion that the Superior Court of Pennsylvania issued on August 16, 2019.

The precedential opinion of the Court of Common Pleas of Indiana County issued on January 15, 2019.

VI. JURISDICTION ORDER IN QUESTION

On June 8th 2020, the Supreme Court of Pennsylvania issued a precedential opinion that concludes: The Application for Reconsideration was denied.

VII. STATEMENT OF THE CASE

Petitioner Marcia Croce went to a hearing on November 30th, 2018 in which before this hearing Marcia Croce called the Master, Mr. Simon a few days before, voicing her concerns over the hearing and not having representation of an attorney. The master assured her that it would just be a talk, and nothing had to be decided, that day.

Background which is pertinent to this case from another legal issue: On the evening of November 29th 2018 Petitioner, Marcia Croce checked her email that night and found a disturbing letter sent at 8:12 pm from the Pro Bono lawyer that was handling her house case in which Lorin Croce, respondent, and now ex-husband, had not paid on a business loan, so the bank in which the marital home was put up for collateral for this loan, came after the marital house, in which Petitioner was still living in, and it sold at sheriff sale. Petitioner attempted to work out a deal with bank, in which the bank said they were willing to do. The proposal was sent to the bank, in October, by Mr. Himmelreich, the pro bono lawyer working on this case. Petitioner called several times to Mr. Himmelreich to see what the status was on the proposal and never received an answer back, until the evening of November 29th 2018 in which Petitioner received an email at 8:12 pm stating the bank was not

willing to work a deal and that Petitioner needs to leave her marital home immediately. The next day November 30th at 9 am, was the hearing to talk. Reason of importance: After the court hearing Petitioner discovered that the Pro Bono Lawyer, Mr. Himmelreich and Ms. Tokarsky, respondent's counsel for the ex-husband Lorin Croce had the same mailing address and worked in the same building on the same floor. Petitioner felt as soon as she saw the same address that this was a possible act of collusion to cause petitioner to be under severe duress. A phone call was made to Mr. Simon's office the morning of the hearing leaving a distressed messaged. This was recorded on the answering machine at Hearing Master, Mr. Simon's law firm. Then two calls were place to petitioner's veteran social worker, telling her basically Petitioner cannot deal with this right now.

During this hearing many concerning things were happening in which petitioner addressed in a letter to Judge William Martin only five days after this hearing took place. Please note it would have been sooner had there not been a weekend in between and also another day that the post office was closed. The letter sent was notarized because petitioner at that time wanted to make sure that her concerns were noted immediately and would be verified as such.

In the hearing, and throughout the whole judicial process, Petitioner's constantly made her concerns known in the impossibility of attaining a divorce lawyer and being of low income. This was a great disadvantage, which presented an unequal balance of legal knowledge that existed between Petitioner and Respondent's Counsel. Petitioner had no legal knowledge of her rights or the laws going into this hearing and throughout the judicial system.

Petitioner addressed the fact, to the lower court, that Petitioner during the hearing requested several times to have someone else look over the agreement before Petitioner sign it. To clarify this, it would have been friends who work in business careers, Veteran Social Worker, and Petitioner, herself because Petitioner at that present time was in no mental condition to make decisions at that time of this hearing, given the news that night about Petitioner's home and becoming homeless.

There was a major concern that Petitioner had nothing to protect her civil rights and having burden of proof of Petitioner's side of the story. Having never been in a hearing before Petitioner did not know what to expect and Petitioner was also told this would just be to talk. It needs to be also noted that all court processes up to this point had

someone recording or transcriptions of what was said and done. It never crossed Petitioner's mind as to her civil rights being violated by having no protection in her behalf, to safeguard Petitioner in this hearing. During this time, Petitioner felt she was being manipulated and bullied and Petitioner addressed that concern at the time with both the Master and Respondent's Counsel that they were manipulating and bullying her. There was nothing to record what was happening in that room to protect Petitioners rights from what was happening.

Political bias was brought up. During a disagreement Petitioner had with both the Master and the Respondent's Counsel, the Master brought up a statement something to the affect that this is what he hates about a political figure and his supporters and it was said in an angry outburst. Petitioner has said all along she can't remember the exact wording, but it was familiar to what Petitioner wrote above. Now this is the Master who is overseeing this hearing, and for the record this is public knowledge on Facebook that Petitioner is a supporter of this political figure, and anyone can look that up. This is political bias in a hearing situation and should have never enter this hearing.

Petitioner requested an appeal with the lower courts. Again,

Petitioner being of low income and not being able to retain a lawyer who was willing to take payments or pro bono, left Petitioner forced to represent herself to seek justice. This was with Judge William Martin. On January 15, 2019. Judge Martin ruled on this and let the hearing stand. In the Citations Judge Martin ruled with the following cases: In Re: Estate of Ratony, 277 A.2d 791 (Pa.1971), Paroly v. Paroly, 876 A.2d 1061 (Pa.super.2005), Simeone v.Simeone, 581 A.2d 162 (Pa.1990). Petitioner feels these cases were nowhere near her situation that happen in the Master hearing especially in the time frame of when she reported her concerns about the hearing, but instead feels like the court hearing resembles more McIntyre v McIntyre No. 10470 Of 2011 C.A. (Pa.2013), in which she never waived her rights verbally to not having a lawyer.

Petitioner still feeling legally incapable on her own to represent herself legally appealed to the Superior Court. Petitioner requested a lawyer and was denied and was forced to get justice again by representing herself. The superior court based their decision on lack of a concise statement, in which Petitioner with no background and understandability as to legal protocol was unaware, she had to turn a

concise statement in. Also, superior court ruled on lack of burden of proof in which the fact of the matter is, the court failed to provide protection for the low-income Petitioner, therefore creating an inherently unequal hearing and violating her civil rights. The decision was based on legal protocol of not turning in a concise statement and taking only the Respondent's Counsel and Hearing Master view on what happened in the hearing room that day, who also have no burden of proof and are in the position that what the Hearing Master and the Respondent's Counsel did in that hearing room that day was unethical, which would have dire consequences. In doing so the Superior Court shows a bias in favoring their own and disregarding the words of the Petitioner. Due process in order to show burden of proof was denied to Petitioner. None of the main concerns of civil rights violations, discrimination, collusion, and political bias were address, and no explanation was given, in both the lower and the superior court.

VIII. WRIT OF CERTIORARI SHOULD BE GRANTED

The questions presented in this Writ of Certiorari are clearly deserving of this Court's review. The main question that the United

States Supreme Court must address in this case is, did the financial circumstances of being a low-income person affect the Petitioner due process and equal protection under the law rights, under the 14th Amendment of the Constitution of the United States which governs over all laws? The answer is, yes. Unless proof can be shown otherwise or answers can be defined more specifically by the lower courts and Superior court, that is the answer, yes. The equality of representation of a United States citizen who is forced into a Pro Se position due to the impossibility to retain a lawyer, cannot receive due process and equal protection under the law if representation on the other side of the hearing/court has a law degree, court experiences and abundance of extra resources and manpower to assist them. The United States Supreme court must consider that the low-income Petitioner does not have the mind set or ability to think as a lawyer does, in this case, legal knowledge. The Petitioner lack the understandability as to what is expected of her to follow in the law of legal protocol due to confusing resources and the Petitioner lack the understandability and knowledge of how the hearing and court system procedure worked putting her in a inherently unequal position to fight for her justice. The court is aware

of many people who go to law school and take the bar exam do not pass the bar exam the first time. Therefore, there is a very big gap of inequality in lack of understandable knowledge, lack of experience, and unfairness in understandable resources to a person who has never even gone to law school, been in a court scenario, and does not understand the only resources that are available to them, due to the fact that the resources presented for Pro Se individuals, are presented in lawyer language, in which the Petitioner is not a lawyer, and cannot comprehend and understand what is expected of Petitioner in a court of law. The Petitioner is then forced to represent herself, having no other choice, to get the justice Petitioner deserve, because Petitioner cannot retain a lawyer willing to take the case on, due to financial circumstances and the inability to pay a high retainer fee at one time. The United States Supreme Court must consider the difference between two words here: choice and forced. The petitioner did not choose to represent herself in this case, she was force to do so as the only mean to receive justice. Due to her low-income status at the time, no other means of seeking justice was available. The Petitioner also cannot retain a Pro Bono lawyer, because there is no civil help in divorce with

Petitioner's low- income status.

Additionally, the judicial system failed to put a safeguard in place to protect the due process and civil rights of the Petitioner during a divorce hearing. The petitioner's rights to have means to show burden of proof was violated and that right was taken away from her the moment she step into the hearing and the door was closed. Accordingly, this court should grant allowance of appeal.

- A. A low-income Pro Se person, who has made every effort for legal representation but could not attain an attorney to represent her due to financial circumstances, and is forced into a Pro Se position in order to receive justice, cannot equally represent herself at the same knowledgeable level as an attorney with years of educational background, experiences in cases, knowledge in the legal protocol and has access to legal resources that is not available to the low-income Pro Se person. Equal Protection of the law is violated**

Even in this very case so far you can see the difference of equality exhibited due to lack of knowledge of the legal system and then inequality of the Petitioner representing herself. Pennsylvania Superior Court ruled that the Concise Statement had not been processed on time in which the question that needs to be answered here is: If Petitioner has means to proper legal counsel or even access to legal assistance with a knowledgeable person in the legal field, would a concise statement been process on time? The answer is yes. But, due to

being forced into a Pro Se position to seek her justice in the court of law, the Petitioner failed through lack of knowledge and inability to understand and comprehend what was expected of her to do legally, a Concise Statement was not delivered on time. Therefore, the main ruling was made on legal protocol instead of unethical issues that were brought up by petitioner. It should also be noted that Petitioner did her best to try to retain legal counsel. Letters to the Pennsylvania Superior Court were written in request for legal help and was denied. Petitioner was also more than willing to make payments for legal help, but any legal help that Petitioner tried to get wanted a retainer starting with 2,500 and others wanted more. No low-income person has 2,500 available, many are struggling just to pay bills and stabilize their household. The lower court made a remark that the taxpayers don't owe low-income people access to legal representation. That is true, but the justice system does owe low-income United States Citizens access to equal protection under the United States Constitution, and to the ability to receive justice when justice was not served and an injustice was done to them. In the lower court and the hearing, had Petitioner had legal representation, burden of proof could then be shown by having

someone with her on her side. Without legal representation and access to understandable resources for someone forced into Pro Se position to get that justice, the 14th Amendment of the Constitution “Equal Protection under the Law Clause” was violated.

Brown vs. Board of Education of Topeka was a case in which black and whites had a similar argument in which it was said that even though situation of the schools in which there was segregation of black in white were equal in a tangible sense, it was not equal in a intangible sense thus making it inherently unequal and in violations of the Equal Protection under the law clause of the 14th Amendment. We have the same exact circumstance going on in the judicial system between a low-income unrepresented Pro Se person, who is forced to represent themselves vs the person who has the ability to have legal counsel. There is an intangible difference as mentioned between the two sides in a court room setting, that creates a intangible situation of lack of legal knowledge, lack of experience, and lack of legal resources.

B. Whether civil rights and due process is violated in the fact that in the hearing room there was nothing to protect the legal rights of the Petitioner to show burden of proof, leaving the Petitioner with lack of protection to unethical actions, manipulations, and collusion that occurred in the hearing, and most importantly

requests by petitioner that were ignored by Respondent's Counsel and Hearing Master in taking the agreement to someone to have them look the agreement over

There was no protection in the hearing room for the Petitioner to validate what went on in the hearing room. Because of that failure by the judicial system to guarantee civil rights were protected, when ask by lower courts to present burden of proof, and when ask by the Pennsylvania superior court to present burden of proof, presenting burden of proof was impossible for petitioner to do so. United States Supreme court must look at the situation and see that this was a two against one scenario and in some cases three against one in a room with no one to back up Petitioner's version of what happened, thus leaving her without the right to equal protection under the law.

Petitioner immediately voiced concerns of what went on in the hearing in a notarized letter to President Judge of the lower court, Judge William Martin and sent letter to the hearing master and Respondent's counsel. This was written in a 5-day timeframe and would have been delivered sooner has there not been a weekend in between. United States Supreme court must take into consideration that in a reverse decision three people have a lot to lose here, but at the same time United States Supreme court also must take into consideration the

actions that did happen behind closed doors with no protection for Petitioner. Master and Respondent's Council ignored the request for Petitioner to take agreement to be looked over, and manipulated the hearing to get the result that they wanted. To make it an equal and fair hearing, as well as a safeguard to protect Petitioner, there should have been a protocol mandatory in that hearing room that day, so that the Petitioner had the ability to show burden of proof. United States Supreme court has to consider these three people in protecting their own interest and reputations will have no choice at this time but to downplay the behavior that happened. What happened was unethical manipulations and scare tactics, bullying, ignoring request for someone to look over agreement. None of this is being recorded in this hearing and had there been something in there to validate the hearing, burden of proof would be there for petitioner, or this kind of unethical behavior would not have existed due to the fact that there was something in there to protect the civil rights of petitioner from this happening. When Petitioner kept repeating, she wanted someone to look over the agreement, that would have been recorded. United States Supreme Court needs to ask themselves are they willing to overlook the

unethical actions that took place due to the fact of no burden of proof, and no burden of proof because no protection was put into place to protect the rights of a United States Citizen in a room by herself with three people who sole purpose that day was to get the agreement sign and done no matter what it would take meaning ignoring the request to have someone look the agreement over which was requested many times. Is that not a right of the Petitioner in a hearing, in which keep in mind, was under severe duress, to ask to have someone look the agreement over and still be ignored? Should the master and Respondent's counsel have ignored that request? Answer, no.

C. Whether there was possible collusion between the Respondent's Counsel and a Pro Bono Lawyer (Petitioner lawyer in another case) the night before and within a 12 hour time frame of divorce hearing, to cause the Petitioner to become distress before the hearing by the email she received from the Pro Bono Lawyer the night before, stating that she will lose her home and needs to make arrangement to leave her home immediately.

Then after hearing, Petitioner finding out that the Pro Bono Lawyer and the Respondent's Counsel work in the same building on the same floor side by side.

United States Supreme Court needs to consider timing and the amount of mental duress this would cause a normal person in this type of situation. United States Supreme Court needs to consider what effect

this would have on Petitioners mind-set and level of duress and put themselves into Petitioners shoes. Respondent, Lorin Croce, ex-husband's business, Westmoreland Physician Supply, takes out a loan in which Petitioner and Respondent co-sign their house. Respondent abandons home and Petitioner. At this point of time Petitioner has no access to any correspondents going on about loan. Petitioner is made aware of problems with the loan. Other complications arise that is too long of story but devastating none the less, and house is sold at sheriff sale. Petitioner calls pro Bono lawyer back to discuss matter and also informs Pro Bono lawyer that bank who now owns deed to house said they are willing to try to work a deal out with Petitioner but needs a proposal. Proposal is written. Petitioner calls Pro Bono lawyer a few times to see if he has heard anything, almost a month goes by. On 11/29/2018 Pro Bono Lawyer emails an email at 8:12 at night stating bank will not work with Petitioner and she must make arrangement to leave house immediately. On 11/30/2018 hearing to discuss divorce was scheduled at 9 am. Petitioner could not sleep. That morning Petitioner made a call to master office leaving a distressful call about losing keys and crying on answering machine. Petitioner's also called Veteran

Social worker, Carla Coello twice in which she states she cannot handle everything happening. Petitioner then goes to hearing in which all that was stated above with unethical behavior was taking place. After hearing, and before lower court hearing with Judge Martin, Petitioner is sending out mail, when Petitioner notices that the Pro Bono lawyer and Respondent's counsel work, in the very same building on the same floor. The United States Supreme Court needs to ask themselves with the timing of when proposal was first sent to bank and when the email was sent and the timing of that, could this be possible collusion in order to put pressure on Petitioner to sign an agreement that day? The answer is yes. The reason would be, petitioner would go into this hearing under duress of losing her home and being homeless while also having the duress of a divorce. United States Supreme court must put themselves in Petitioner's position and ask themselves, would being notified of losing your home and being homeless within 12 hours of attending a hearing to talk over divorce, in which you have no legal representation cause you to be under duress and not of stable mindset to make decisions? The answer is yes. This must be looked at and considered possible collusion between Pro Bono lawyer and Respondent

counsel. The timing was no coincidence, this was done on purpose.

D. Political outburst of bias was shown in the hearing by Master, in bringing up political figure in anger and stating this while Petitioner was fighting on an issue in which she was standing her ground. The hearing master angry at the situation then said this is what he did not like about political figure and his supporters in which cause the Petitioner to at first feel shocked at what was just said, and then the rest of the time felt political bias towards her and her beliefs in the hearing room.

Political bias was shown in the hearing. An outburst by the master of his dislike for a political figure and followers was said. Petitioner is a well-known supporter of this person and that can be looked up at any time on Facebook. The master was on Facebook, even at the hearing and did use the internet to check issues out. Even if Master didn't know Petitioner was a supporter of this political figure, political overtone of any type should not be exhibited in a hearing. This was political bias by the master, and this was just another layer of duress and concern for the Petitioner to deal with in the hearing that was not being recorded or Transcribed. Petitioner felt from this point on, political bias played into this hearing when this was brought up in anger by master during a time when Petitioner was fighting against an issue that made both the

master and Respondent counsel upset at the time, because they were having a hard time changing the Petitioner's mind on a issue.

IX. CONCLUSION

In conclusion I ask the United State Supreme Court to look over the Writ of Certiorari and ask themselves the question. Was equal justice being served to Petitioner? If the answer is No, then this is an opportunity for the highest court in the nation to right this wrong of social injustice within the judicial system, which is happening all across our great nation to Americans that cannot attain lawyers. Who are not by choice, but forced to seek out justice, due to their low-income status because many lawyers want high retainers upfront which no low-income person can afford and the Pro Bono system is overburden and does not handle civil cases such as Petitioner's divorce case.

The Pennsylvania Judicial System has lost their way on what is fair and just in this democracy. The Croce vs. Croce case was a cookie cut case in which the judicial system disregarded the Petitioner's rights under the Constitution of the United States from the very beginning in

the hearing. From that point on it was not about justice being served but it became about protecting the judicial system and the lawyers and judges involved. The thought never crossed the mind of the PA judicial system that a low-income person would stand up and fight against this injustice being done to herself. That injustice is, Petitioner being robbed of the 14th Amendment right to Equal Protection under the law and a fair, equal hearing. The judicial process has become not about fairness and justice but has become about he can pay for the best attorney. I would like the United State Supreme Court to understand this injustice is just not happening to just the Petitioner. This has been an issue in the court system for many years now with the rights of low-income people not receiving their justice in the court system, due to an overburden system and lawyers who want high retainers in which no low-income person can afford. This is a national problem which needs to have attention brought to it in order for it to evolve and be corrected. Everyone deserved the American promise of equal access to justice. Even if it is a civil case of divorce. In this case there was no equal access to justice and the Petitioners rights under the Constitution were violated throughout the whole judicial process in the Pennsylvania

court system.

For these reasons, the Writ of Certiorari should be granted.

Respectfully submitted,

Dated: Dec 8th, 2020

Marcia Croce

Marcia Croce
342 Snyder Lane
Blairsville, PA 15717
(814) 410-5829

Counsel for Petitioner
Marcia Croce, Pro Se