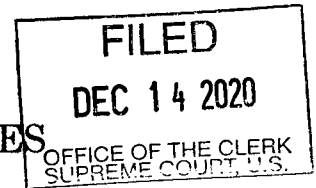


20-6689

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



MATTHEW J. KWONG ET AL - PETITIONER

VS.

CHESWOLD (TL), LLC, BMO HARRIS BANK, NA - RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO
THE APPELLATE COURT OF THE STATE OF CONNECTICUT

PETITION FOR WRIT OF CERTIORARI

BY

MATTHEW JOHN KWONG
PRO SE

9 BRADLEY LANE
SANDY HOOK, CT 06482

QUESTION PRESENTED

The petitioner, Matthew John Kwong, raises the following issue on appeal to the United States Supreme Court:

Whether the Connecticut Superior Court's *Order of Judgment of Foreclosure by Sale* on September 14, 2018 in favor of the respondent against the petitioner would promulgate, through its established precedent, construction of statutory interpretation inherently repugnant to the principles of a constitutionally designed republic upon which the United States of America was founded, or not?

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

TABLE OF CONTENTS

	Page Number
OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	6
REASONS FOR GRANTING THE WRIT	12
CONCLUSION	16

INDEX TO APPENDICES

APPENDIX A - Appellate Court's *slip opinion*: *Cheswold (TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et Al.*, Appellate No. AC 42221, Appellate Court for the State of Connecticut, released 3/3/20.

APPENDIX B - Trial Court's *Order 407901, Memorandum of Decision, and Order for Judgment of Foreclosure by Sale*: *Cheswold (TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et Al.*, No. DBD-CV-15-6017197-S, Connecticut Superior Court for the Judicial District of Danbury, Docket entries: 154.00, 154.05, & 154.10; respectively (entered 9/14/2018).

APPENDIX C - Connecticut Supreme Court's *Order on Petition for Certification to Appeal*: *Cheswold (TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et Al.*, No. SC 200112, Supreme Court for the State of Connecticut, *Order PSC-200112* (decided 9/15/2020).

APPENDIX D - Cheswold's Notice of Lis Pendens recorded in the Land Records for Newtown, CT: Volume 1062 at p. 1091 -1093.

APPENDIX E - Letter from Greene Law to Sung-Ho Hwang.

APPENDIX F - Petitioner's *Appendix Part II of the Defendant- appellant*: *Cheswold (TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et Al.*, Appellate No. AC 42221, Appellate Court for the State of Connecticut, Brief (filed 5/21/19).

APPENDIX G - Respondent's *Appellee's Brief*: *id.* Brief (filed 6/6/20).

APPENDIX H - Newtown Town Clerk Land Records Spreadsheet.

APPENDIX I - *Motion for Reconsideration En Banc*: *id.* Motion AC 194071 (filed 3/13/20).

APPENDIX J - Letter from Attorney William Whewell.

APPENDIX L - *Application To Honorable Associate Justice Amy Coney Barrett for Stay of Execution*: *Re: Matthew J. Kwong Et Al. v. Cheswold (TL), LLC, BMMO*

Harris Bank, NA, The United States Supreme Court, Application ___A___ (filed 12/2/20).

APPENDIX K - Sequential overview of the case details (docket #: DBD-CV-15-6017197-S) and appellate information (docket #: AC 42221 & SC 200112) as available on 11/10/2020 at www.jud.ct.gov.

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 196 Conn. App. 219 (2020); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Connecticut Superior Court - trial court appears at Appendix B to the petition and is

- ☐ reported at _____; 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. ____ A ____.

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 9/15/2020.
A copy of that decision appears at Appendix C.

☐ 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. ____ A ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE CONSTITUTION OF THE UNITED STATES OF AMERICA¹

ARTICLE I

Section 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform rule of naturalization, and uniform law on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;-
And

¹ *The Constitution of The United States Of America*, Applewood Books, ISBN 978 -1-55709 -105-5,
20 19 18 17 16 15, Manufactured in the USA

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof. ²

ARTICLE I

Section 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto Law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to, or from, one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States and no person holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state. ³

ARTICLE IV

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section 3. New state may be admitted by the Congress into this union; but no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed

² *Id.* at pp. 6 - 8.

³ *Id.* at pp. 8 - 9.

by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Section 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence. ⁴

ARTICLE VI

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges of every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. The Senators and Representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States. ⁵

AMENDMENT XIV (*Ratified July 9, 1868*)

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. ⁶

AMENDMENT XVI (*Ratified February 3, 1913*)

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census of enumeration. ⁷

⁴ *Id.* at pp. 14 - 15.

⁵ *Id.* at pp. 16 - 17.

⁶ *Id.* at p. 22.

⁷ *Id.* at p. 24.

TITLE 28 UNITED STATES CODE § 1257 ⁸

(§ 1257. State courts; certiorari)

- (a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or the laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.
- (b) For the purpose of this section, the term “highest court of a State” includes the District of Columbia Court of Appeals.

(As amended July 29, 1970, Pub.L. 91-358, Title I, § 172(a)(1), 84 Stat. 590; June 27, 1988, Pub. L. 100-352, § 3, 102 Stat. 662.)

TITLE 28 UNITED STATES CODE § 2101(f) ⁹

(§ 2101. Supreme Court; time for appeal or certiorari; docketing; stay)

- (f) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

(As amended May 24, 1949, c. 139, § 106, 63 Stat. 104; Dec. 6, 1983, Pub.L. 98-209, § 10(b), 97 Stat. 1406; June 27, 1988, Pub.L. 100-352, § 5(b), 102 Stat. 663; Oct. 5, 1994, Pub.L. 103-337, Div. A, Title XI, § 924(d)(1)(C), 108 Stat. 2832.)

STATEMENT OF THE CASE

The case now brought before the United Supreme Court derives from a municipal tax lien foreclosure action initiated against the petitioner-defendant, Matthew John Kwong and his fellow co-captioned defendants, Capital One Bank (USA) NA and Portfolio Recovery Associates, LLC, in the Connecticut Superior Court for the Judicial

⁸ *Federal Civil Rules Handbook*, 2007, Baicker-McKee, Janssen, & Corr, © 2006 Thomson/West, at p. 1625.

⁹ *Id.* at pp. 1676 - 1677.

District of Danbury at Danbury, Connecticut by the original plaintiff in the civil action, Cheswold (TL), LLC, BMO Harris Bank, NA (hereinafter referred to as Cheswold).

Following its due filing of a notice of lis pendens on April 6, 2015 with the property land records for the town of Newtown, Connecticut (*see* Appendix D - at p. S235, *et seq.* for Cheswold's Notice of Lis Pendens recorded in Volume 1062 at Page 1091 - 1093 of the Newtown Land Records), Cheswold commenced the civil action of their foreclosure of municipal tax liens, for which they were the sole assignee documented therein, through a summons and complaint filed on April 17, 2015 in the Connecticut Superior Court, appending to its thereby perfected *complaint* the recorded *notice of lis pendens*, which it had filed eleven days earlier with Newtown's Office of the Clerk.¹⁰ Following the petitioner's failure to make a timely appearance and plead a defense for continued ownership of his home, Cheswold procured through default a summary *judgment of foreclosure by sale* on June 29, 2015 in the State's trial court (Hon. Judge Kevin S. Russo).

However with the fortuitous filing of a motion on October 15, 2015 in his behalf by a very well-esteemed attorney from the New Haven, Connecticut metro area, Sung-Ho Hwang in lieu of the petitioner's own previously otherwise in absentia self-representation of his case, to open and vacate the trial court's June 29, 2015 *order for judgment of foreclosure*, the case was reopened on October 19, 2015 (Hon. Judge Dan

¹⁰ See Appendix F - at pp. A227 - A237 for respondents' *Tax Lien Foreclosure Complaint: Cheswold (TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et Al*, Connecticut Superior Court (Judicial District of Danbury), Docket No. DBD-CV-15-6017197-S, *Complaint* (filed 4/17/15).

Shaban).¹¹ Thereafter the petitioner, in intense strategic consultation with his newly acquired counsel and his lent expertise on the matter for what could now be considered to be perfectly 2020 hindsight, presciently filed for personal declaration of bankruptcy on March 9, 2016, for which Attorney Hwang on the petitioner's behalf then filed in the State trial court a sworn affidavit of his client's financial status on March 10, 2020 through which, per order of the United States Bankruptcy Court for the District of Connecticut (Hon. Judge Carla E. Craig), the case subsequently was stayed in retroactivity going forth from March 9, 2016 under the jurisdiction of the federal procedures for bankruptcy invoked thereby, to not again be revisited until March 10, 2017, exactly a year and a day later.

While further progress of his home's foreclosure case under the State's legal process for such civil matters was thus statutorily stayed pending overall reckoning of his newly declared financial insolvency, or possibly his lack thereof, under the federal government's process for such similarly determined legal matters, the Internal Revenue Service's branch of the United States' Department of the Treasury filed their own collateral claims of proprietary federal income tax lien encumbrances attached to those declared assets of the petitioner, exposed therein, in direct correspondence to those of his other creditors who were in likewise fashion implicated by that federal process of bankruptcy adjudication, including but not limited to those of the assigned municipal tax liens held by Cheswold, and those of the court-ordered judgment liens

¹¹ See Appendix E - for respondents' written correspondence with Attorney Hwang on October 16, 2015 concerning Cheswold's explicitly laid out conditions for the payoff required of the petitioner to settle an 'out of court' "Release of Liens" and attached "Lis Pendens to the City for recording on the land records."

held by Capital One Bank and Portfolio Recovery Associates, respectively.¹² However, as of consequence to its title 11 bankruptcy-court action inconveniently running afoul of similarly correspondingly legalistically statutory sections to title 18 of the United States' code of law concerning such actions, the petitioner's case was then hastily and involuntarily dismissed 'without prejudice' on February 21, 2017 by the federal bankruptcy court (Hon. Chief Judge Julie A. Manning)¹³ without any resolution of discharge given towards the still outstanding claims made against him therein,¹⁴ despite provisions for distribution explicitly mandated by the bankruptcy court to be executed by the Office of the United States Trustee otherwise.¹⁵ Amidst such controversy, the petitioner's case was ambiguously returned back to the jurisdiction of the State's trial court.

¹² See Appendix F - at pp. A204 - A213 for IRS' filed *Proof of Claim 10-1* and *Proof of Claim 10-2: In re: Matthew John Kwong, Debtor*, United States Bankruptcy Court (District of Connecticut), Case No. 16-50342 JAM, *Proof of Claim 10-1* (filed 6/21/16) & *Proof of Claim 10-2* (filed 9/13/16); and at pp. A172 - A203 for Cheswold's filed *Proof of Claim 5-1*, *Proof of Claim 5-2*, and *Proof of Claim 5-3: id.*, *Proof of Claim 5-1* (filed 4/18/16), *Proof of Claim 5-2* (filed 6/22/16), & *Proof of Claim 5-3* (filed 6/24/16).

¹³ See Appendix F - at pp. A128 - A143 for the testimonial narrative given by the petitioner in his *Appellant's Brief* submitted on appeal to the U.S. District Court: *In Re: Matthew John Kwong, Debtor*, United States District Court (District of Connecticut), Case No. 3:17-cv-00496-SRU, *Appellant's Brief*, Docket entry 10 (filed 4/25/17); and at pp. A152 - A157 for that district court's (Hon. Chief Judge Stephan R. Underhill) narrative given in adjudication of the petitioner's case before the U.S. District Court on appeal from the bankruptcy court's order dismissing his chapter 13 petition for bankruptcy: *id.*, *Ruling Dismissing Appeal for Lack of Jurisdiction*, Docket entry 9 (entered 4/24/17).

¹⁴ See Appendix F - at pp. A159 - A162 for U.S. Trustee's "Final Report and Account of the administration of the estate pursuant to 11 U.S.C. § 1302(b)(1)": *In re: Matthew John Kwong, Debtor*, United States Bankruptcy Court (District of Connecticut), Case No. 16-50342 JAM, Chapter 13 Standing Trustee's Final Report and Account (submitted January 2018).

¹⁵ See Appendix F - at pp. A144 - A149 for Standing Chapter 13 Trustee Molly T. Whiton's letter of intent sent to the petitioner: *id.*, Letter from Chapter 13 Standing Trustee w/ enclosed Claims Register (dated February 17, 2017). Also see Appendix 6(a) - at p. A6 for bankruptcy court's *Order Granting Trustee's Motion To Dismiss Chapter 13 Case: In re: Matthew John Kwong, Debtor*, United States Bankruptcy Court (District of Connecticut), Case No. 16-50342 JAM, Docket entry 51 (entered 2/21/17); as appended to the petitioner's *Application to the Honorable Associate Justice Amy Coney Barrett for Stay of Execution: Re: Matthew J. Kwong Et Al. v. Cheswold (TL), LLC, BMO Harris Bank, NA, The United States Supreme Court*, Application No. ____A____ (filed 12/2/20) at Appendix 6(a) - at p. A6.

On March 10, 2017, Cheswold filed in the State's trial court a cynically misnomered *notice of discharge of bankruptcy* in the petitioner's bankruptcy case where it had actively coordinated previously, throughout his process of petitioning for chapter 13 status therein, with the petitioner's former bankruptcy attorney, Chris R. Nelson, and his petition's former standing chapter 13 trustee, Molly T. Whiton, to fraudulently induce its dismissal 'without prejudice' (i.e. without any bankruptcy adjudicated discharge to any of his bankruptcy adjusted debt) so as to subsequently accommodate its 'red herring' faux controversy of Potemkin village-like substitution of plaintiffs; i.e. respondents' *motion to substitute party* (filed on July 11, 2017)/*request to amend complaint/amendment* (filed on June 12, 2017)/ granted by the trial court (Hon. Judge Dan Shaban) on July 25, 2017; for which the ostensibly inadvertently happenstance omission of any recorded transfer certified by the Newtown municipal government's tirelessly serving documents officer, Town Clerk Debbie Aurelia Halstead, for previously certified by her reassigned municipal tax liens listed on the newly substituted respondents' amendment to Cheswold's original *complaint* would lead to the timelessly classic Shakespearean *Comedy Of Errors* theatre serendipitously revisited again on April 26, 2018 in the very venue of the petitioner's own proprietarily drawn belvedere at trial:

"The Court: The only issue is whether or not this assignment of mortgage which, by the way, is paper clipped together not stapled together. So the Schedule A is attached with a paper clip not a staple."

"Atty. Gussak: Um, I didn't realize that -- is that a fatal --"

"The Court: No, no, no. (Indiscernible) but I'm just --"

"Atty. Gussak: *Actually* --"

"The Court: I'm noting it for the record that --"

“Atty. Gussak: -- *the town clerk’s bitch and moan if we give them clipped stapled ‘cause* --

“The Court: Was that a legal term?”

“Atty. Gussak: -- *they’ve got to open it up to record it so.*”

“The Court: Was that a legal term you used?”

“Atty. Gussak: No, Your Honor. It’s an observation.”

“The Court: Okay.”

“Atty. Gussak: An off the cuff observation. Which if it offends anybody, I apologize for.”

“The Court: Thank you. Well, the only issue that I need to have briefed is whether or not a fully executed assignment of tax lien assigning it to the substituted plaintiff needs to be recorded on the land records before it can be enforced.”

(Italicized emphasis added.); *Transcript of April 26, 2018* at pp. 45 - 46: *Cheswold*

(TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et AL, Appellate Court for the State of Connecticut, Appellate No. AC 42221, Transcript 4/26/18 (filed 2/22/2019).¹⁶

(“Methinks thou doth protest too much, counsellor!”)

With the agenda for review thus set, the parties set to work briefing the trial court on the issue at hand. To record, or not to record? That was the question. By that point, counsel for the petitioner had undergone its own substitution; Attorney Hwang, who was far too shrewd to be caught representing his client any further, gracefully bowed out, but not before graciously enlisting a replacement, Attorney William J. Whewell, who would take the petitioner to his day of judgment, September 14, 1018 (see Appendix B for the summary of events as documented in the trial court’s (Hon. Judge Douglas C. Mintz) memorandum of decision), and then himself voluntarily

¹⁶ See Appendix 3 - at pp. A-13 - A-14 for pages 21 - 22 of petitioner’s *Brief of the Defendant-appellant: Cheswold (TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et AL*, Appellate Court for the State of Connecticut, Appellate No. AC 42221, Appellant Brief (filed 5/21/19) at pp. 21 - 22; as appended to petitioner’s *Application to the Honorable Associate Justice Amy Coney Barrett for Stay of Execution: Re: Matthew J. Kwong Et AL v. Cheswold (TL), LLC, BMO Harris Bank, NA, The United States Supreme Court*, Application No. ____A____ (filed 12/2/20) at Appendix 3 - at pp. A-13 - A-14.

withdraw when the petitioner filed his own *pro se appearance* appealing that September 14th judgment to the Connecticut Appellate Court.¹⁷ See Appendix A for a broad overview of the case from the perspective of the Appellate Court's (Hon. Judge Trial Referee Joseph H. Pellegrino) opinion.

REASONS FOR GRANTING PETITION

The reason for granting this petition was most succinctly put by the trial court judge himself, the Honorable Douglas C. Mintz, in his September 14th *memorandum of decision*: "The court notes that this outcome, based on the current state of the law and relevant statutes, may result in land records that are unclear; however, this does not change the result that ATCF, which has properly been assigned the tax liens, is foreclosing on an otherwise valid debt incurred by the defendant."¹⁸ Such a statement speaks pointedly to the fundamental dilemma which Judge Mintz felt confronted with by the petitioner's case, despite the peripheral distractions presented by professional counsel, on both sides, which he was required to humor. Putting aside that the above mentioned theatrics occurring on April 26, 2018 between Judge Mintz and the respondents' counsel at trial, Attorney David L. Gussak, as documented in the transcript from which Attorney Gussak's mindlessly irreverent declaration: "Actually the town clerk's bitch and moan if we give them clipped stapled 'cause they've got to open it up to record it so ..." should have been taken at face value for the questionable

¹⁷ Curiously, Attorney Whewell's *appearance* in the petitioner's case has recently resurfaced again with an unexpected letter by him to the petitioner on October 20, 2020, presumably sent in response to the Connecticut Supreme Court's earlier denying the petitioner certification for his case (Appendix C). See Appendix J.

¹⁸ See Appendix B - trial court's *Memorandum of Decision* at p. 6.

presentation of admissible hearsay evidence, given inappropriately in response to Judge Mintz's observations of respondents' clear inconsistencies concerning the presentation of its documentary evidence, which it was in its snide insinuation shifting blame from itself upon others not present and able to defend themselves ("Remember, falsus in uno, falsus in omnibus."), the case law precedent established herein, should the Court refuse the petitioner certiorari, would compromise our nation's further continuance as a constitutional republic, irrespective of whether the inevitable "outcome" resulting "in land records that are unclear" might be by design, or not.

Our nation's founding fathers, in departing from the principles of the Articles of Confederation which had sustained them militarily during the time of war against a monarchy as dominant as that of Great Britain, realized that such a scheme would not be so similarly effective economically in times of peace with that same monarchy. Those circumstances which allowed individual states the ability to underwrite the assumption of debt from foreign creditors during a revolution against their creditors' most prominently feared geopolitical rival simply no longer existed following that revolution's end, and as such the loose confederacy of victorious states had to look to history in reinventing their union into a more cohesive business model for successfully competitive continued debt underwriting. Nowhere is this fact better demonstrated than in the language of the opening clause to Article VI of the United States Constitution:

All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

While the consolidation of the collective debt held by each individual state under one national rubric was economically the most efficient means of floating the nation's overall debt until America could more fully realize the financial emoluments of its newly acquired independence, its governance of those states themselves posed a somewhat different challenge in that such challenge needed to address effectively equitable distribution of the nation's newly acquired assets, i.e. financially unencumbered virgin territory and unprecedentedly uniformly liberated citizenry. Section 9 of Article I speaks to this need from the perspective of the individual states' rights to serve as granters bestowing those assets upon its citizenry on behalf of the nation's collectively underwritten debt, free from the economic inequity previously endured disparately between states which they suffered under the various iterations of former, and sometimes incompatible, British monarchies to whom they all at one time owed the granting of the charters prerequisite to their establishments' founding. Sadly, however, was also the enumerated right for a state to unrestricted "importation" of the chattel assets of enslaved trans-Atlantic-trafficked human beings, regulated only insofar as a proposed constitutionally mandated taxation imposed upon "importation of such persons" of involuntary labor, "prior to the year one thousand eight hundred and eight",¹⁹ up to "but not exceeding ten dollars for each person."

¹⁹ It should be noted that the year 1808 AD was not one randomly chosen by the framers of the Constitution as the year to graciously stop taxation on the importation of African slaves, but rather was the deadline imposed upon them by their former sovereign, His Majesty King George III, who had shrewdly abolished slavery in Great Britain during the Revolutionary War, and who at its conclusion, during the making of the peace, had forewarned his former subjects of his intent to abolish its trade across the Atlantic Ocean through the dint of His Majesty's mighty Royal Navy, thereby setting in place an economically challenging cold war with his former colonies.

In return for such an auspicious prospect of globally enviable grandeur accrued to the states entering into the unprecedentedly revolutionary union bespoken of by the United States Constitution, it required of them strict conformity to principles of uniformity historically associated with the governance of a republic. Specifically, Article IV states this code under which the rule of law would be made uniform throughout the United States:

... Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

... The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

... The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and *nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.*

... The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature , or of the executive (when the legislature cannot be convened) against domestic violence.


(Italicized emphasis added.) (Quotation marks omitted.); which brings the petitioner's case into sharp relief. In view of such fine aspirations for a future nation's clear goal of uniform transparency in its governance, the experience of the petitioner in personally raising the issues of his grievances in no less than seven separate jurisdictions of constitutionally prescribed state and federal design without receiving acknowledgment for any of them should stand in sharp contrast to what the framers of the Constitution envisioned for their future republic, particularly as it relates to "public acts, records, and judicial proceedings" surrounding his case and "the manner

in which such acts, records, and proceedings” were “proved, and the effect thereof” upon his beleaguered person and his dwindling estate.

CONCLUSION

This petition should be granted a writ of certiorari on the grounds that its testimony and that of its associated *Application to the Honorable Associate Justice Amy Coney Barrett for Stay of Execution* filed prior should give the Court pause as to the repugnancy to the Constitution which its grievance bears witness to.

Respectfully submitted,



Matthew J. Kwong
9 Bradley Lane
Sandy Hook, CT 06482
Date: December 14, 2020.