

Case No. 20-7631

ORIGINAL

Supreme Court, U.S.
FILED

MAR 29 2021

OFFICE OF THE CLERK

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

BRADFIELD THOMPSON } Petitioner
SUBSTITUTING AS }
ADMINISTRATOR FOR }
JO ANNE THOMPSON, }
V. }
JP MORGAN CHASE }
BANK, N.A., KEVIN }
B. CULLINANE, MARK A. }
SCAFINE, SC PROPERTIES } Respondent

ON PETITION FOR A WRIT OF
CERTIORARI TO THE STATE OF
CALIFORNIA FIRST APPELLATE

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In Pro Se

QUESTIONS PRESENTED

1. Can a party prevail at court through misconduct and extrinsic fraud preventing his adversary from presenting an issue at trial.
2. Is extrinsic fraud a basis for setting aside or annulling a judgement or decree.

LIST OF PARTIES

The names of all parties appears in the caption of the case on the cover page.

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PETITION FOR A WRIT OF CERTIORARI

Bradfield Thompson administrator of the estate of mother Jo Anne Thompson respectfully petition the Court for a writ of certiorari to review the ruling after judgment of the San Mateo California Superior Court.

OPINIONS

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

 Reported at _____; or
 has been designated for publication but not yet reported; or,
 X is unpublished.

The opinion of the trial state court to review the merits appears at Appendix C to the petition and is

 Reported at _____; or
 has been designated for publication but not yet reported; or,
 X is unpublished.

JURISDICTION

The date on which the highest state court decided case was September 14, 2020.

A copy of that decision appears in Appendix A.

X A timely petition for rehearing was thereafter denied on the following date:

October 15, 2020, and a copy of the order denying rehearing appears at Appendix B.

X A timely petition for review at the State Supreme Court was thereafter denied on the following date:

December 30, 2020, and a copy of the order denying rehearing appears at Appendix E.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 1 of the Fourteenth Amendment to the U.S. Constitution provides:

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.

INTRODUCTION AND STATEMENT OF THE CASE

In 2014 my mother filed suit against her home lender CIV 536879 (Appendix document #6).

In March 2017 my mother, the plaintiff in this case passed away.

In October 2017, I suffered a stroke myself.

In April 2018 I began the probate process as sole heir, beneficiary, named Will administrator, to be named administrator and take over her suit (Appendix document #7).

I motioned to continue a scheduled hearing to dismiss the suit (as explained in the California Supreme Court Petition for Review Appendix document #8).

Continuation of the hearing was granted.

Chase bank's attorney emailed, Walter Cook, an attorney who sat in at a case hearing with me, but could not substitute in as attorney for me, asking him status. Part of the exchange appears in defendant opposition page to motion to set aside the case dismissal dated February 27, 2019, (Appendix document #9 in Exhibit B within) (much and most of the email pages of the exchange was excluded by Chase bank).

Without standing, a request for the full email exchange and the preceding exchange referenced in it, to show Walter making clear he was not, and could not substitute in as attorney was not possible.

In the one included page of the email exchange, (provided by defense council in Exhibit B Walter Cook states I am still "in rehab".

While trying to accomplish completion of the probate to proceed with taking case over as plaintiff from hospital, I was

not able to attend the continued hearing as, still in rehab for the stroke, I was not up to or able to attend. Chase bank obtained the dismissal.

I Service of notice of thusly won dismissal of case sent to my deceased mothers mailing address

With an appeal or a motion for reconsideration possible;

Chase bank, with knowledge of my condition in the email exchange with the attorney Walter Cook (as stated in appendix document #17, the California Superior Court Petition to review page 8 line 9), it is a safe estimation he knew I was in a state that would cause neglect by me, and with filings clearly showing knowledge my mother was deceased (see appendix document #9, exhibit B within it), his service in Appendix document #10 shows service to my deceased mother's mailing address and service to the attorney Walter Cook, omitting serving me at the mailing address on my pro se motion to continue the dismissal hearing in April 2018.

II Appointed as Probate Administrator

I was appointed Probate administrator with letters of administration in January 2019 (Appendix Document #11).

III Obtaining service of notice of dismissal sent to my deceased mothers mailing address

My mothers mailing service is a private mailing service. I obtained access in January 2019 through appointment as administrator of her estate. I found defendants service of the case dismissal there (Appendix document # 13).

IV Motion to set aside the default dismissal

When I won probate court approval to act as administrator I straight away motioned to set aside the dismissal obtained (Appendix document # 12).

In January 2019 I filed to set aside the default motion to dismiss my mothers suit under CCP 473.

From the motion to reconsider set aside of the default dismissal dated June 12, 2019 it says page 8 line 9:

“At the time of the continued hearing, not well, from a skilled nursing hospital recovering from the stroke, using public transportation, I was struggling to get the probate court documents it wanted to approve my appointment as administrator and to give me letters of administration.”

Addendum document #9 is the opposition to my motion with email with attorney Walter Cook who was not connected with the suit.

V THE SUPERIOR COURTS RULING AND THE SUBJECT OF THIS REQUEST FOR CERTIORARI;

(Document #1 Appendix D is Superior Court Ruling on motion to set aside dismissal) “Non-party BRADFIELD THOMPSON’s Motion To Set Aside Default Dismissal is DENIED. Mr. Thompson, having failed to bring a motion to continue this action as deceased Plaintiff JO ANNE THOMPSON’s personal representative or successor in interest pursuant to Code Civ. Proc. §377.31 has no standing to bring the instant motion. Moreover the motion is untimely pursuant to Code Civ. Proc. § 473(b), and the court has no jurisdiction to consider it. Manson, Iver & York v. Black (2009) 176 Cal.App.4th 36.”

VI I then motioned for reconsideration to set aside the default dismissal under CCP 473b

I then motioned for reconsideration under CCP 473 b which gives a longer time frame with which to file and ability to set aside a dismissal when extrinsic fraud is involved. (Appendix document # 13) The motion was denied with the same ruling, Appendix document #1 Appendix C.

VII Motion for standing

I then motioned to gain standing in the case under CCP 377.32. Appendix document #14. The judge denied saying the case had been dismissed. (From opening Brief appeals Addendum document #16 page 9-10 [with transcript excerpts from case reporters transcript on Appeal Addendum document #15])

Page 5 Line 6

THE COURT: RIGHT. WELL, BECAUSE THE ACTION WAS DISMISSED. . . .

(Page 5 Line 26) THE COURT: RIGHT. THERE'S NOTHING I CAN DO NOW BECAUSE

THE ACTION WAS ALREADY DISMISSED. . . .

VIII Continuation of Extrinsic fraud by Chase bank in Appellate Court attempt to overturn thusly won default dismissal

I appealed to California First Appellate Addendum document #16.

Chase bank states (Appendix document # 17)in their reply to the appeal of the superior court denial of the set aside in California first Appellate, (where United States v. Throckmorton, 98 U.S. 61 (1878) was cited Appendix document

#2), dated June 4, 2020, page 8, last paragraph: “The Superior Court observed that “Walter C. Cook specially appeared [at the September 8, 2017 hearing] on behalf of non-party/direct beneficiary of the deceased Jo Anne Thompson.” (Id.) “

And on page 9 last paragraph Chase bank repeats this:

“Walter Cook—counsel for Plaintiff’s putative successor-in-interest, Appellant “

IX First Appellate Ruling

The First Appellant dismissal Ruling appears in Appendix document 1 Appendix A on following the continuation of extrinsic fraud in the answer/reply by Chase bank to the appeal.

REASONS FOR GRANTING THE PETITION

In recent years foreclosure abuse by mortgage lenders has made headlines and caused states attorneys generals across the country to act. If this abuse extends to the ability to commit extrinsic fraud with impunity with the death of the mortgage holder plaintiff it threatens the reputation of the entire american judicial system.

CONCLUSION

At California First Appellate United States v. Throckmorton was cited.

United States v. Throckmorton, 98 U.S. 61 (1878)

Farris v. Burton, No. 16-3272 (10th Cir. Apr. 25, 2017)

In United States v. Throckmorton, 98 U.S. 61, 65-66 (1878), the Supreme Court recognized that res judicata does not apply when the party sought to be barred was prevented by his adversary's fraud or misconduct from presenting an issue at trial.

Bryan v. Bryan et al, 220 S.C. 164 (S.C. 1951)

In United States v. Throckmorton, 98 U.S. 61, on page 68, 25 L.Ed. 93, Mr. Justice Miller said: "* * * We think these decisions establish the doctrine on which we decide the present case; namely, that the acts for which a court of equity will on account of fraud set aside or annul a judgment or decree, between the same

Tamimi v. Tamimi, 38 A.D.2d 197 (N.Y. App. Div. 1972)

In United States v. Throckmorton, 98 U.S. 61, 25 L.Ed. 93 the rule is stated that a party against whom a judgment has been rendered may be granted relief on the grounds of fraud provided the fraud practiced upon him prevented him from presenting all of his case to the court, but that a judgment will not be set aside on the grounds of perjured testimony or for any other matter that was presented and considered in the judgment under attack.

The petition for a writ of certiorari should be granted.

Respectfully submitted.

BRADFIELD THOMPSON

A handwritten signature in black ink, appearing to read "Bradfield Thompson", is written over a horizontal line.