

NO.20-8017

IN THE SUPREME COURT OF THE UNITED STATES

SUBRINA BRENHAM, ET AL PETITIONER

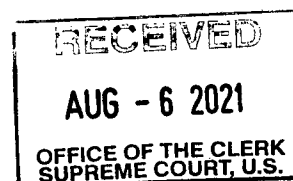
V.

JOSEPH KEMP, ET AL RESPONDENT

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES SUPREME COURT**

PETITION FOR REHEARING

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

CASE NO. 20-8017

SUBRINA BRENHAM

PETITIONER,

V.

JOSEPH KEMP, ET AL

DEFENDANTS.

ON JUNE 28, 2021, the Petitioner, Subrina Brenham's petition for a Writ of Certiorari was denied.

PETITIONER MOTION FOR REHEARING OF WRIT OF CERTIORARI

Pursuant to Rule 44 of this Court, I Subrina Brenham pro-se hereby respectfully petitions the rehearing of this case before a full Nine-Member Court.

This case involves a challenge of a decision rendered by The Court of Appeals for the Fifth District Dallas, Texas in 2019. (Herein after called The Fifth Circuit Court) The Fifth Circuit Court reversed the decision made by the Dallas Civil Court ruling in favor of the defendant, Kemp. I appealed this decision to the Texas Supreme Court. The Texas Supreme Court confirmed the decision of the Fifth Circuit Court. Next, I filed my petition seeking to obtain a Writ of Certiorari from the United States Supreme Court. My petition for a writ of Certiorari was denied on June 28, 2021.

First, I appealed the Fifth Circuit Court decision and the Texas Supreme Court decision because one of the judges who rendered the Fifth Circuit Court decision, Judge Barbara Rosenberg was one of Dallas County attorneys representing the City of Dallas, and the Defendant Kemp when

I filed a Court case to obtain a TRO in 2015. I was attempting prevent the City of Dallas for providing the financing using tax payer money to Defendant/Kemp's to enabled Kemp to purchase the strip mall located in the Highland Hills Community. I had in 2015 two businesses located in the strip mall location for 13 years.

Second, when I discovered that Barbara Rosenberg was one of the judges who rendered the Decision in my Fifth Circuit Court 2018/2019 case I was especially upset, when I learned she had not recused herself. Judge Barbara Elaine Rosenberg and I have known each other personally for several years and our relationship was often in conflict i. e., where Judge Barbara Rosenberg was representing as a lawyer, legal counsel for the City of Dallas. One example, happened on May 27, 2015, when I was the candidate for the Dallas City Council for District 8. I lose the election. After, I lose the election I filed a complaint alleging that there were instances of election fraud. As a result of my allegation of election fraud a hearing was held and attorney, Barbara Rosenberg was the attorney who represented the City of Dallas during the hearing. Attorney Rosenberg was the Attorney who cross examined me during the election fraud hearing. We, Judge Barbara Rosenberg, and I have had years of a contentious personal and business relationship.

Third, in addition, Judge Barbara Rosenberg was also a legal counsel and the attorney for defendant Joseph Kemp in my January 5, 2015 TRO (DC-15-00066) hearing or proceeding. More importantly, Judge Rosenberg, once she read the caption, that defendant Kemp was the appellant, she should have recused herself from Kemp's appeal of my civil court case based on her obvious conflict of interest. First, Judge Rosenberg represented defendant Kemp in my 2015 TRO proceeding where Judge Rosenberg was one of the attorneys representing the City

of Dallas and where Kemp was an agent in this hearing. Second, also in my August 8, 2016, civil case, Judge Rosenberg represented the City of Dallas and Defendant Kemp (DC-16-09551) when I first commenced this same civil court case (which is the subject of this Appeal). In my initial filing of my civil court case, the City of Dallas was a defendant and Joseph Kemp was a defendant appeared and answered. I later removed the City of Dallas from my lawsuit.

When I discovered in October 2019 that Judge Barbara Rosenberg was one of the judges who rendered the decision the 2018/ 2019 appeal case filed by Defendant Kemp, I became very upset and I immediately filed a complaint with The Texas Judiciary Committee to document her conflict of interest. The Texas Judiciary Committee monitors the conduct of Judges.

When I realized that Judge Barbara Elaine Rosenberg had not recused herself from the 2018 appeal case filed by Defendant/Kemp, as she should have and as provided by Rule 16 (1) and 16 (2) of the Texas Rules of Appellate Procedure and Article 5-Sec 11 of the Texas Constitution, when she was fully aware of who I was and our previous adverse relationship, conflict of interest, where she as attorney had represented the City of Dallas, Texas and the defendant Kemp in a proceeding where the parties were identical, the same property was in issue and the parties relationships were in conflict.. In addition, also Judge Barbara Roseburg knew/knows me personally, by name and sight because Judge Barbara Rosenberg sometimes attended the Dallas County Democratic meeting where I was a precinct chair for area 3070 and she was precinct chair for another area.

In addition, I am filing and seeking a rehearing of my petition for a writ of certiorari because I believe the records documents the extreme bias “acts” and are a blatant examples of Judge Rosenberg abuse of her judicial discretion.

One blatant example of these abuse “acts” examples are when Judge Barbara Rosenberg failed or to challenge Defendant, Kemp’s filing of an appeal in this case. The lower Court trial transcript documents that the defendant/Kemp’s attorney did not preserve any evidence, preserve any errors during the trial of my case. In fact, Ms. Ward, defendant Kemp’s attorney only made three 3 objections during the trial. Two specific objections were made for hearsay, see, page 32 and 33 of transcript and one specific objection was made by Ms. Ward, see page 46 of the transcript where Ms. Ward made an objection was made concerning my testimonial evidence where I testified that Mr. Kemp demolition of the strip mall had been red tagged by the City of Dallas. There was no ruling by the Court regarding this objection. A review of the Appeal record documents the appeal filed by Defendant/Kemp’s Appellate attorney’s appeal to the Fifth Circuit Court filed and presented in 2018 completely new arguments, to wit, defendant appeal argument are as follows(1) there is no evidence to support the District Court finding of constructive eviction, (2) there is no Evidence of a Valid Land Lord Tenant Relationship when the Plaintiffs abandoned the Premises and (3) there is not evidence that the Plaintiff voluntarily abandoned the premises, these arguments which of course, were not preserved errors during the trial and these arguments are not in the record. See my testimony on pages 17-49 of the transcript where no objections to my testimony where I listed the many acts of constructive eviction.

In my opinion, for the Fifth Circuit Court, to accept these arguments on appeal was especially represents the first blatant example of “acts” which denied me my right to due process as guaranteed by the 14th Amendment of the United States Constitution.

Generally, preserving error in the pleadings and during the trial is always done if an attorney may have to appeal the trial court’s decision. Next, that in order to preserve an error for appeal, one must make an objection and obtain a ruling from the trial court.

As a general rule, an argument not first preserved in the trial court is not a proper basis for an appeal. Properly, preserving an issue for an appeal requires a party to make timely and specific objections and seek a ruling. See, Singleton v. Wuff 428 U. S. 106, 120 (1976). Generally, the following steps must be used for an attorney within a trial for the preservation of error. State the specific ground for the complaint. State a specific ground for the objection must be stated or must be apparent from the context of the objection. See, Ford Motor Co., v Miles, 967 S. W 2d (Tex. 1988). In addition, the complaint raised on appeal must be the same as that presented to the trial court. See, Pfeffer v. Southern Texas Laborer Pension Trust Fun, 699. S. S. 2d 691 Tex .App . Houston (1st Dist) 1984 writ ref’d n.r. e. Additionally, an objection must be overruled in order to preserve the error for review. Perez v. Baker Packers, 694, S.W. 2d 138, 141 (Tex. App.) Houston 14th District (1985. None of objections preservation of error act occurred during the trial of my case were done by the Defendant/Kemp’s attorney, Ms Ward during the trial of my case.

It is my contention that the fact that where the Fifth Circuit Court’s decision was rendered in my case where errors were not preserved in the record could only happen and could only be

accepted by the Fifth Circuit Court to render an adverse decision could only happen where a judge, such as Judge Barbara Rosenberg, was biased and abused her judicial discretion. My case is an example of this conduct. I believe the fact that an appeal was filed and a decision was rendered by the Fifth Circuit Court where there were no errors preserved in the record and a completely new argument was presented to the court which the court relied on to issue a decision to reverse the lower court's decision only resulted where the Judge Barbara Rosenberg was biased and based on her allegiance to Defendant/Kemp and confirms her conflict of interest. I believe the facts show that in my case this decision resulted and was primarily based on acts that prove that Judge Rosenberg's decision was tainted documents an example of Judge Barbara Rosenberg bias, abuse of her judicial discretion and conflict of interest.

Acts where Judge Rosenberg abused her judicial discretion because her allegiance was more to her former client, the defendant/Kemp. The defendant/Kemp who she represented as his lawyer, his attorney, when she was attorney Barbara Rosenberg, as legal counsel for the City of Dallas, and defendant/Kemp in the initial proceedings when I filed a TRO against Defendant Kemp in January, 2015. The Fifth Circuit Court decisions documents and is a perfect example of a blatant record which documents how my 14th Amendment right to due process and my United States Constitutional right to due process was denied by the Fifth Circuit Court.

My need for rehearing is very pressing because my case involves, the former lawyer for defendant, Kemp who was represented the defendant Kemp when I filed a TRO a proceeding that involved the same parties, the same property a continuing conflict which four (4) years later found defendant/Kemp's former attorney now serving as a Judge i. e. Judge Barbara Rosenberg in my case where she rendered a decision which reverse the trial court decision

rendered in my favor and then render an adverse appeal decision in favor of the Defendant Kemp in my/this case The Fifth Circuit. Judge Rosenberg conflict of interest was still intact.

The record and Texas Appellate Procedure Rules and Texas Constitution provide Where Judge Rosenberg was counsel a former lawyer for the Defendant Kemp in this same case disqualifies her as a judge from rendering a decision in this Texas case. See, Johnson v. Johnson, 89 SW 1102 (Ct.App 1905). See Turner v. Chandler, 304 SW2nd.687 Tex. App. 1957.

Clearly, a denial of a granting of a Writ of Certiorari in my/ this case will result in a denial of my due process rights and me obtaining any justice ever.

In addition, the Fifth Circuit Court of Texas will remain of record as a Court Decision where an Appellate Court did not follow the Texas Appellate Court Rules or the Texas Constitution and additionally , ignored the following in its review of my case,(1) failure of defendant, Kemp's trial attorney to file any affirmative defenses during the trial (2) failure of Defendant Kemp's trial attorney to preserve in the record any alleged the errors and obtaining a ruling from the trial court regarding those errors i.e., records errors by making the prerequisite objections, (3) where the facts show that a disqualified judge was allowed to render the final appeal decision in my case.

More importantly, the denial of my right to due process is documented by a long list or other wrongful determinations made by Fifth Circuit of Appeals Dallas, Texas in my case.

Finally, if I do not obtain a rehearing, it will only further bolster and support the long held belief of my community, a historical and a proven record , that a member of my community, i.e.,

the African American community in Dallas, Texas cannot expect The Court of Appeals Fifth Circuit Dallas, Texas to follow the Texas Rules of the Appellate Court or the Texas Constitution. That the Fifth Circuit Court of Appeals Dallas, Texas and Texas Supreme Court will ignore that fact that when a judge should be disqualified the judge will not be disqualified and additionally, the judge will be allowed to render a decision based on her apparent and obvious bias, conflict of interest and in a further abuse of her judicial discretion and where the judge Barbara Rosenberg was the attorney and counsel for the defendant, Kemp i. e., in the same case as the attorney who was involved in the initial litigation of my case i. e., as an attorney, Barbara Rosenberg representing the defendant Kemp and the City of Dallas and furthermore, another equally damaging fact where the record documents there were no errors preserved in the record for the defendant Kemp to even file an appeal in the Fifth Circuit Court of Appeals, Dallas, Texas.

For the foregoing reasons, my petition for rehearing should be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Subrina Lynn Brenham". The signature is written in black ink and is positioned above the printed name.

SUBRINA LYNN BRENHAM, PETITIONER, PRO SE

July 18, 2021