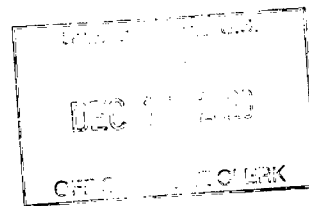


No. 20-844

ORIGINAL

In The
Supreme Court of the United States



BARBARA MURRAY,

Petitioner,

v.

ELIZABETH A. FRY as the Executrix of the Estate
of Fry, James E. and The Estate of James E. Fry
(Correct name The Estate of James W. Fry),

Respondents.

**On Petition For Writ Of Certiorari
To Connecticut Supreme Court**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the Seventh Amendment to the U.S. Constitution require a jury trial in a civil eviction case, which is based on equity to an elderly petitioner who is scheduled to be evicted 12/28/2020 in the middle of a national health crisis, under a false factual finding that she did not pay rent, when in fact she did pay rent and the judicial officer and the appellate courts of Connecticut refuse to acknowledge the false factual finding which is the basis of an eviction scheduled for 12/28/2020?

2. Does the Due Process Clause of the Fourteenth Amendment require Connecticut court judges to issue factually correct judicial findings, or thereafter to correct a false factual finding and mitigate damage by either the trial court judge or appellate when material mistakes of fact occur?

3. Does a judge who refuses to acknowledge lack of subject matter jurisdiction, no actual injury, non-existent parties, witness perjury, falsified complaint facts to initiate legal proceedings and refusal of the Connecticut Appellate Courts to address known issues violate the petitioners Fourteenth Amendment Due Process and Equal Protection Clauses?

PARTIES TO THE PROCEEDING

All parties listed in the caption and Angelo Labbruzzo. The second letter in Mr. Labbruzzo's name is an "a" and has been so his entire life. Margaret A. Gaskill, Jennifer B. Fry, Victoria A. Mattoon represented by Abram J. Heisler at 16 River Street, Second Floor, Norwalk, CT 06850 were improperly substituted as plaintiff or intervening plaintiff.

RELATED PROCEEDINGS BELOW

Connecticut Supreme Court

The Estate of James E. Fry et al. v. Angelo P. Lobbruzzo et al., SC 190420 (Conn.) – Defendants Petition for Certification to Appeal denied. No written opinion or redress given by the Court despite notice of issues.

Connecticut Appeals Court

The Estate of James E. Fry et al. v. Angelo P. Lobbruzzo et al., 43479 (Conn. Court of Appeals) – Defendants denied stay of execution of eviction pending appeal. Appeal is fully briefed and waiting on oral arguments to be scheduled. Brief is focused lack of subject matter jurisdiction, and procedural violations substituting parties outside the fact that rent was actually paid and a false factual finding was issued.

RELATED PROCEEDINGS BELOW – Continued

The Estate of James E. Fry et al. v. Angelo P. Lobbuzzo et al., 44432

(Conn. Court of Appeals) – JUST FILED appeal to address the refusal of the Trial Court to apply the CDC Moratorium of Eviction which Mr. Labbruzzo and Ms. Murray had lawfully applied for with the Court. If past history is the best prediction of a Court's action; the Appellate Court will once again deny Ms. Murray's request for a stay of the writ of execution of the eviction scheduled for December 28, 2020 as it did TWICE in case 43479 above.

Connecticut Trial Court Housing Session at Norwalk

The Estate of James E. Fry et al. Angelo P. Lobbuzzo et al., NWH-CV19-6004840-S, Order denied 12/8/2020 to address lack of subject matter jurisdiction with no written justification. Order denying CDC Declaration to protect elderly petitioner 12/1/2020. Execution for Possession [Eviction" issued 10/28/2020. Order granting motion terminate stay of execution of summary process [eviction] issued 11/27/2019.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDING.....	ii
RELATED PROCEEDINGS BELOW.....	ii
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES	vii
PRELIMINARY STATEMENT.....	1
INTRODUCTION	1
OPINIONS BELOW	2
STATEMENT OF JURISDICTION.....	4
CONSTITUTIONAL AND STATUTORY PROVI- SIONS INVOLVED	4
STATEMENT OF THE CASE.....	5
REASONS FOR GRANTING THE APPLICA- TION.....	10
CONCLUSION	13

APPENDICES

Connecticut Supreme Court, Order on Petition for Certification to Appeal, Filed September 29, 2020	App. 1
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TABLE OF CONTENTS—Continued

	Page
Superior Court, Housing Session at Norwalk, Order Denying Motion to Reargue Filed De- cember 8, 2020.....	App. 3
Connecticut Appellate Court, Order Denying Relief – Denying Stay of Writ of Execution to Evict Filed February 19, 2020	App. 5
Superior Court, Housing Session at Norwalk, July 3, 2019 Order Denying Dismissal Over Lack of Subject Matter Jurisdiction Because Plaintiff Does Not Exist.....	App. 7

TABLE OF AUTHORITIES

	Page
CONSTITUTIONAL PROVISIONS	
Amendment VII of the United States Constitu- tion.....	4, 12
Amendment XIV, Section 1 of the United States Constitution	4, 11

PRELIMINARY STATEMENT

Constitutional rights and the rule of law do not exist in fact if there is no actual functioning mechanism to enforce those rights and the written rule of law. There has evolved a de facto two-tiered justice system in the United States where unread motions [Judges/law clerks only looking at Docket Sheets] receive rubber stamped denials of redress by trial and appellate state courts. Only the elite, due to wealth or public stature can enforce their Constitutional rights in the broken state judicial systems.

Herein is an extreme example of how broken the judicial branch is in the State of Connecticut. ***Broken state court judicial systems burden the Supreme Court of the United States with unnecessary cases that should have been resolved at the state level.***



INTRODUCTION

An elderly lady who in fact paid her rent is to be evicted December 28, 2020, in the middle of a medical crisis pandemic in an equity housing action where a single judge with no jury, gave “*credibility*” to a landlord whose perjury contradicted herself on the stand, gave “standing” to an entity who does not exist, refused to require the landlord to fix high radon levels, denied a motion with no factual finding that required the Court to dismiss for lack of subject matter jurisdiction or state on the record what subject matter jurisdiction the Court has.

All three courts denied a stay of execution on writ of eviction pending appeal despite the great likelihood that Ms. Murray will be successful on appeal that the housing court lacked subject matter jurisdiction because the original plaintiff and defendant do not actually exist.

Thus, the petitioner having exhausted all other ways to mediate the damage over being evicted in a case where the court has no subject matter jurisdiction seeks redress with United States Supreme Court. This case should never had to be filed and is an example of the broken judicial branches in the states where case law has given Judges full judicial immunity to run amuck and violate the rule of law without fear of reprimand.

OPINIONS BELOW

The Connecticut Supreme Court is a single page denial of certification, without a factual finding and therefore believed to be unpublished. It is SC 190420, The Estate of James E. Fry et al. v. Angelo P. Lobbruzzo et al. See Appendix 1.

The Connecticut Court of Appeals denied a stay of the execution of the eviction, TWICE. That case is fully briefed and ready to be heard for oral arguments. It is AC 43479, The Estate of James E. Fry et al. v. Angelo P. Lobbruzzo et al. The landlord is pushing for eviction to gain leverage over damages owed to the petitioner

before the oral arguments take place, thus using the wrongful threatened eviction as leverage to settle.

A newly filed case addressing the refusal the trial court to apply the CDC Eviction Moratorium has been filed with the Connecticut Court of Appeals. Only notice of appeal has been completed. Where the Court of Appeals denied the stay of execution of the eviction twice in the original appeal; it is reasonable that the Court of Appeals will also deny relief again on this issue. The case number is AC 44432. Ms. Murray has taken all steps possible to get a stay of the eviction currently scheduled for December 28, 2020.

The trial Court is case NWHCV186004840S Housing Session at Norwalk in Connecticut, the Estate of James E. Fry, and Elizabeth A. Fry as the Executrix of the Estate of James E. Fry v. Angelo P. Lobbuzzo et al. Original Judgement issued 10/01/2019. Execution for possession issued Summary Process issued 10/28/2020. Motion to Reargue application of CDC Moratorium application See Appendix 3.

The petitioner exercised extreme measures to mitigate being evicted without subject matter jurisdiction even after she was denied redress by the Connecticut Supreme Court TO AVOID HAVING to file this Petition for Certiorari.



STATEMENT OF JURISDICTION

The date on which Connecticut Supreme Court decided to deny redress to prevent harm of unjust eviction is 9/29/2020. See Appendix 1. On March 19, 2020 the Supreme Court issued an order that extending all deadlines to file a petition for Writ of Certiorari in all cases to 150 days from the date of the lower court judgment. 150 days from 9/29/2020 is February 26, 2021. This petition being filed in December 2020 is well ahead of the 150 days in which to file.

Jurisdiction is invoked under 28 U.S.C. § 1257(a).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment VII of the United States Constitution

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment XIV, Section 1 of the United States Constitution

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.

◆

STATEMENT OF THE CASE

In retaliation for disclosing to the probate judge of Estate James W. Fry that Executrix Elizabeth Fry was withholding good faith offers to purchase 5 Shelia Lane from the Court; Defendant Elizabeth Fry committed fraud alleging non-payment of rent for the month of April 2019 from the Petitioner and her life partner. A breach of contract was necessary to get around a “mutual agreement” clause that required both landlord and renter were required to agree to terminate the contract drafted by Executrix Elizabeth Fry.¹

¹ The will of James W. Fry is written with specific provisions that Executrix Elizabeth Fry does not have to disclose to the Court the finances of the estate. Had James W. Fry devised his estate to be in a trust; Elizabeth Fry would have obligation to disclose what she has done with the substantial rental payments, none she has not used to improve the real estate at 5 Shelia Lane. The probate court allowed the Estate to continue for nearly two decades where the Executrix Fry unlawfully converted 5 Shelia Lane into a de facto income producing trust without any fiduciary disclosure to any authority. Further, Executrix Fry continued a collateral scheme inducing multiple families to rent 5 Shelia Lane with promises that they would be able to purchase the property of which the families in good faith, would make substantive improvement to the property. Ms. Murray and her partner Angelo

On June 18, 2019 Executrix Elizabeth Fry filed a complaint in action NWH-CV19-6004840-S. She and her co-plaintiff was The Estate of James *E.* Fry et al. versus Angelo *L*obbruzzo et al. There is no Estate of James *E.* Fry. The correct name is the Estate of James *W.* Fry. Further, Elizabeth Fry sued Angelo *L*obbruzzo who does not exist. The name is Angelo *L*abbruzzo.

Attorney Mark Katz raised the issue that non-existent entity does not have standing and therefore, the Court did not have subject matter jurisdiction in a motion to dismiss dated July 3, 2020. See NWHCV186004840S This issue is raised in appeal that is perfected awaiting oral arguments in AC 43479. Defendant Elizabeth Fry attorney Abram Heisler failed to address the issue in his brief filed 8/7/2020. Mr. Katz's brief on behalf of Angelo *L*abbruzzo and Barbara Murray addressed the issued filed 2/4/2020.

Yet, despite likely to win on appeal elderly Petitioner Barbara Murray, who due to her age is susceptible to reinfection of Covid-19 faces eviction on December 28, 2020 because neither the Court of Appeals or the Supreme Court of Connecticut would grant a stay of execution of the eviction order signed by the Trial Court.

Labbruzzo are the latest victim of Executrix Elizabeth Fry's scheme. The only improvements to the aging property are from insurance proceeds. None of the rent was used to fix the high radon levels, the rodents problem, the brown well water, or other issues that made the home non-habitable under Conn. Statute. The trial court refused to address these issues though they were raised.

BUT THAT ISN'T THE ONLY ISSUE THAT DEPRIVES THE TRIAL COURT OF SUBJECT MATTER JURISDICTION; THERE IS NO ACTUAL INJURY IN FACT.

Defendant Fry had to have an alleged breach of contract (non-payment) to initiate the housing court to escape the clause in the written agreement that it could only be terminated by both Landlord and renter. Thus, Defendant Fry falsified INJURY in the complaint filed June 18, 2020. She falsely stated that April 2019 rent was not paid knowing full well it was paid in fact by Petitioner Barbara Murray in a check signed by Angelo Labruzzo.

Defendant Fry perjured herself at the September 26, 2019 hearing giving conflicting testimony. At one point, Defendant Fry testified all rent was paid and then after coaching from her then attorney, testified a total of \$11,700 was owed by Mr. Labruzzo and Ms. Murray. Zero rent was owed by Mr. Labruzzo and Ms. Murray at the September 26, 2019 hearing.

BECAUSE THERE WAS NO TESTIMONY other than the allegation April 2019 rent was not paid in the complaint; the trial court judge MADE-UP FACTS not in existence, that cannot be found in the trial transcript that petitioner Ms. Murray hadn't paid rent for

the months of April, May, and June 2019 to total \$11,700.²

Elderly Ms. Murray brought all 55 cashed rent checks with her to the September 26, 2019 and testified that all rent was paid. Mr. Katz felt no need to enter the checks into the record because Ms. Murray's testimony was solid and consistent; Defendant Fry's testimony was unambiguously contradictory. The Trial Court stated it was "confused" in the trial transcript, then made a false factual finding that April, May, and June 2019 rent was not paid and that the inconsistent testimony of Defendant Elizabeth Fry was "credible" and that Ms. Murray's testimony was not credible.

Ms. Murray felt the Court of Appeals denied her stay of execution of eviction on the false factual finding that rent was not paid on April, May, and June of 2019. Thus, trying to mitigate the damage of being evicted before the Court of Appeals finalized its ruling; she sought review with the Connecticut Supreme Court supplying that Court copies of the canceled checks showing that rent was paid and the trial court issued a false factual finding without subject matter jurisdiction and without injury. She was summarily denied relief without a factual finding. It was at this point she believed that nobody was reading the pleadings but summarily relying on docket sheets limited bylines.

December 28, 2020 is the scheduled date for elderly Ms. Murray to be evicted from her home in the

² Elizabeth Fry actually testified that May 19, 2019 was paid.

middle of a pandemic. This eviction is based on grotesque errors of law where there is no actual injury, and no standing of a Plaintiff who doesn't actually exist. She has been denied all relief in the Connecticut Appellate Courts because she honestly believes that none of the judges or law clerks actually read pleadings anymore, instead deciding whether to grant relief based on an excerpt on online docket records because surely, had the Conn. Appellate Courts read her pleadings she would have been granted relief.

The Trial Court has been fully noticed that it issued a false factual finding that rent was not paid for the months of April, May, and June 2019. The Trial Court refuses to acknowledge that there is no injury, and thus no standing despite being noticed. Ms. Murray has a due process and equal protection right to have a correct factual finding in any judicial proceedings against her. The Trial Court having the canceled checks filed in the record still refuses to acknowledge that the Trial Court judge simply made-up facts that May and June 2019 rent was not paid to come up with the total of \$11,700 that was testified to after the attorney coached Defendant Fry.

Making up facts not in existence and not in trial testimony simply because the Judge claims he is "confused" in the trial transcript is also a due process and equal protection violation. Ms. Murray cannot sue the trial court judge for making up facts not in existence because judicially created case law protects judicial misconduct. Further, the failure of the appellate courts to address these issues upon notice given that there

was no stay of execution of the eviction in place; this too is a due process and equal protection violation.



REASONS FOR GRANTING THE PETITION

In the past twenty-five years there has been an increase of sanctioned juryless proceedings called probate court, family court, housing court, domestic violence courts where a single judge's opinion is the law and the facts. Great injustices have come out of these Courts with no accountability or redress where the appellate courts give great deference to the single trial court judge.³ Many of the people harmed in these Courts believe that if they had been granted a jury instead of a single all-powerful judge; the injustices would not be as great and poorly functioning judges would be outed by juries to the community ultimately leading to the judge's removal.

As the juryless state administrative courts have increased, so has the burden on the federal court to address the injustice taking place in these administrative courts. The founders never intended for federal courts to be gatekeepers to address the abject lawlessness

³ The Connecticut Bar Association declined to hold the original attorney accountable for falsifying the complaint that April 2019 rent wasn't paid. There is zero accountability within the legal system. Either you are part of the legal club, or you are not. That is the two-tiered justice in place currently. Any errors are assumed to be made in "good faith" no matter how badly it harms individuals who are not wealthy, who are not prominent in social stature, or who are not a member of the legal club.

that is taking place in today's state courts. The duty to discipline and regulate the state courts is that of the appellate state courts. The appellate state courts have clearly abrogated that duty to discipline and regulate in this action with regards to the scheduled December 28, 2020 writ of eviction to be actually executed.

Here, a state housing trial court has *departed so far from the accepted and usual course of judicial proceedings as to deny Elderly Petitioner Ms. Murray her due process and equal protection guaranteed under the Fourteenth Amendment*. The Fourteenth Amendment guarantees that only cases with subject matter jurisdiction can be brought against Ms. Murray; yet, even with the supervision of the Connecticut Supreme Court Ms. Murray is being evicted, in a pandemic, in a case that there is no subject matter jurisdiction for multiple reasons.

Further, the trial court simply made-up facts not in the trial transcript that May and June 2019 rent was not paid when testimony was explicit from Defendant Fry that May 2019 was paid. Making up facts not existent is repugnant to the Due Process and Equal Protection Clause of the Fourteenth Amendment.

The facts from this housing court case are simple, unlike most messy litigious family court and domestic violence proceedings making it ideal vehicle to address the lawlessness in the state courts. *This allows for sweeping exercise of the Supreme Court of the United States supervisory power over all these out of control, single judge state court proceedings that are*

unnecessarily burdening the federal courts where citizens are seeking redress for the injustice that is normal taking place. The United States Supreme Court must start requiring the state appellate courts to address the lawlessness taking place in the state juryless trial courts instead of the appellate courts burdening the federal courts.

Last, the Seventh Amendment clearly says that equity cases are to be heard by a jury. An equity court is defined by the law dictionary as one that handled lawsuits requesting remedies other than damages such as writs. Here, a writ of execution [eviction] is the harm that Ms. Murray is trying to mitigate. Thus, the original authors of the Constitution knew that a single judge deciding equity cases would more likely deny fundamental rights to litigants, than a jury composed of one's peers.

Exactly like Clarence E. Gideon stated in his petition that the Sixth Amendment guaranteed him the right to assistance of counsel in a criminal prosecution; Elderly Ms. Murray asserts the Seventh Amendment guarantees that she is entitled to a jury of her peers where she is threatened with a writ of execution of eviction. Had she been granted a jury then all the issues of standing would have been addressed by the jury instead of ignored by a judge, who for whatever reason failed to enforce the rule of law.



CONCLUSION

Part of the anger at the Supreme Court refusing to exercise original jurisdiction over *Texas v. Pennsylvania et al.*, No. 220155 arises of watching 25 years of “*the fix is in*” in these state equity single judge cases. The people no longer trust that justice will be done at any level in the state and federal judicial systems. For the foregoing reasons, the petition for a writ of certiorari should be granted to unilaterally address these injustices taking place, known but ignored by state appellate courts.

Respectfully submitted,

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