

No.: 20-980

In The
Supreme Court of the United States

Veena Sharma (Petitioner)

v.

Santander Bank (Respondent)

On Petition for A Writ of Certiorari to the
U.S. Court of Appeals for the First Circuit

REPLY-BRIEF

by

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PETITIONER'S REPLY TO BRIEFS OF RESPONDENT

JURISDICTIONAL STATEMENT

I thank the honorable Supreme Court for accepting my Writ of Certiorari.

STATUTORY PROVISIONS AND RULES INVOLVED

1. Supreme Court Rule 10 (a):

The Petitioner has met all the conditions, as required by law, for granting a Writ of Certiorari. Respondent should not question the wisdom of honorable Supreme Court of The United States of America.

2. 28U.S.C. 1915 (e) (2):

I have paid a fee of \$300 as required by the rules of honorable Supreme Court. I have explained in my complain, why my Petition is neither malicious nor frivolous.

STATEMENT OF THE CASE

A. The State Court Action

The Respondent is misleading and/or lying that the Essex Superior Court Case (1877CV01631) in Massachusetts has any relationship with my case (20-980) in the honorable Superior Court of the United States. The case in Essex Superior Court was against Andover Gardens Condominium Association for wrong doing against an elderly minority women of Protected Class in Massachusetts.

B. Procedural History of the Present Action

The Decision of the District Court as well as First Circuit Court was issued without any Summons. Rules were not followed including Statute of Limitations for bank fraud (10-years).

C The District Court Memorandum and Order

Attorney Patrick S. Tracey and honorable judge of the District Court conspired to harm an elderly minority women of Protected Class in Massachusetts.

D. The Court of Appeal's Judgement

The judges in District Court as well as the Appeal's Court for the First Circuit did not apply the **STATUTE OF LIMITATIONS PROVISIONS (10-YEARS) AS REQUIRED BY LAW.**

REASONS FOR DENYING CERTIORARI

A. There are no Compelling Reasons to Grant A Petition for Writ of Certiorari

The honorable Supreme Court of the United States need to correct erroneous decisions of lower courts as the District Court as well as the Appeals Court wrongly interpreted Statute of Limitations, Sua Sponte discretionary powers, and Doctrine of Res Judicata. **I HUMBLY REQUEST THE HONORABLE SUPREME COURT OF THE UNITED STATES OF AMERICA TO PROVIDE DIRCTIONS TO LOWER COURTS TO INTERPRET THE LAW CORRECTLY**

B. The Court of Appeals Did not Err in Affirming the District Court's Dismissal of The Action Without Issuing Summons to Santander

The *SUA SPONTE* decision by any court for cases, such as this case, where Respondent has committed crimes of this magnitude by defrauding an elderly women of protected class are not the rules even though judges have discretionary powers. The Sua Sponte dismissal for failure to state a claim stands no solid grounds. The Respondent has pointed to no published case permitting dismissal of a complaint on the basis of Sua Sponte motion. Such dismissals are erroneous unless the parties have been afforded notice and an opportunity to amend the complaint or otherwise respond. Please refer to the following cases:

1. Futera Dev. of P.R., Inc. v. Estado Libre Asociado de P.R., 144 F.3d 7, 13-14 (1ST Cir. 1998)
2. Chute v. Walker, 281 F.3d 314, 319 (1st Cir. 2002)
3. Gonzalez v. United States, 257F.3d 31, 37 (1st Cir. 2001)
4. Sharma v. Cnty. Mortg., LLC (19-P-1028): June 23, 2020

In Chute, the United States Court of Appeals for the First Circuit went on to say that Sua Sponte dismissal without prior notice, such as in this case, might be affirmed only if it's crystal clear that the Petitioner can not prevail and amending the complaint will be futile. In order to obtain affirmance in such cases, the judge must show that the allegations are beyond all hopes of redemption.

THE DISMISSAL OF THE COMPLAINT BY PETITIONER WAS BASED NOT ON THE ALLEGATIONS, WHICH OF COURSE MUST BE TAKEN

**TRUE FOR THE PURPOSE OF ANY SUCH PETITION, BUT APPARENTLY
BASED ON FACTS RECITED IN JUDGES'S DECISION, WHICH MAY OR
~~MAY NOT HAVE BEEN TAKEN FROM FINDINGS MADE IN OTHER~~
CASES OF FRAUD BY A BANK AND/OR BANK EMPLOYEE.**

**"THE ORDER DISMISSING THE COMPLAINT/PETITION WAS AN ERROR
AND JUDGEMENT THEREFORE MUST BE REVERSED"**

**C. The District Court Properly Dismissed the Action for Failure to State
a Claim**

1. The Statute of Limitations Bars Sharma's Claim

Bank Fraud Statute punishes those who knowingly execute a scheme to defraud an investor by means of false or fraudulent pretenses, representations or promises. In 1989 under FIRREA, added the following to bank fraud statute:

"If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisonment not more than 30 years or both."

Other changes implemented under FIRREA:

- a. Made Bank Fraud a RICO predicate act.
- b. Extend the Statute of Limitations for all financial institution crimes to TEN years.
- c. Lengthened sentences to up to TEN years, which terms were tripled the following year under the 1990 Crime Control Act.

The decision by the Second Circuit will have serious implications for those charged with financial fraud. This case establishes that the 10-year Statute of Limitations set forth in 3293 (2) applies to prosecutions of individuals where the affected financial institution was also a co-conspirator to the fraud. This ruling signals to individuals that their conduct "affected a financial institution" under section 3293 (2), thereby triggering an extraordinary long 10- year Statute of Limitations.

A provision of FIRREA, 18 U.S.C. § 3293 (2), establishes that the Statute of Limitations for various offences is extended to 10-years in cases where the conduct

at issue "affects a financial institution," and permits the Department of Justice (DOJ) to bring both civil and criminal cases under the Statute.

The Bogucki Decision serves as a strong reminder of FIRREA's reach that financial institutions are liable under 10-year Statute of Limitations for criminal and civil prosecution for actions of their employees.

Following cases are relevant to the Statute of Limitations:

103 Stat. 501 (1989); 18 U.S.C. § 3293

Id.: 104 Stat. 4861 (1990)

103 Stat. 500 amending 18 U.S.C. § 1341, 18 U.S.C. § 1343

18 U.S.C. 1344

United States v. Heinz, No. 13-3119, 2005, 790 F.3d 365 (2nd Cir. 2015)

United States v. Bogucki, 18-cr-00021-CRB-1, 2018 WL 3219460, at *4 (July 2, 2018)

2. The Doctrine of *Res Judicata* Bars Sharma's Claims

The Respondent is misleading and/or lying to the honorable Supreme Court as the case in Essex Superior Court of Massachusetts was not against Santander Bank.

3. Sharma Failed to Establish a Private Right of Action Under U.S.C. 656

Please refer to explanation in C1 of this reply brief.

D. Sharma Failed to Prove Fraud with Particularity

The Santander Bank conspired and gave my money to a third party without my consent/knowledge. **IS THIS NOT A FRAUD?**

E. The Court of Appeals Could Have Affirmed the Dismissal of the Action because it was Frivolous

As explained earlier in this Reply-Brief, the District Court and Appeals Court did not follow laws correctly including the Statute of Limitations Law for Bank Fraud (10-Years).

CONCLUSIONS

1. The Respondent, in it's brief in opposition, has questioned the wisdom of granting Petitioner's Petition of Writ of Certiorari by the honorable Supreme Court. It shows that the Respondent has no respect to the honorable Supreme Court and/or understanding of the laws of Supreme Court.
2. In table of cited authorities, the Respondent has listed 27 cases. However only five cases (Nos.: 1,2,10,12, and 13) are related to banks/financial institutions. None of these five cases involve a fraud created by an employee of the bank/financial institution.
3. **STATUE OF LIMITATIONS: THE LAW IS VERY CLEAR THAT STATUE OF LIMITATIONS IN CASES OF A FRAUD/CRIME CREATED BY A BANK EMPLOYEE IS TEN YEARS.**
4. **SUA SPONTE DECISIONS: THE LAW IS VERY CLEAR, THAT SUA SPONTE DECISIONS AGAINST THE PETITIONER, BY HONORABLE COURTS WAS AND ERROR.**
5. **RES JUDICATA: THE RESPONDENT (SANTANDER BANK) IS MISLEADING THE HONORABLE COURTS REGARDING RES JUDICATA FOR MY PETITION AS THE CASE IN HONORABLE ESSEX SUPERIOR COURT OF MASSACHUSETTS WAS NOT RELATED TO SANTANDER BANK.**

"BASED ON ABOVE MENTIONED FACTS, AS EXPLAINED IN REPLY-BRIEF, I REQUEST THE HONORABLE SUPREME COURT TO REVERSE THE DECISION OF HONORABLE APPEALS COURT OF THE FIRST CIRCUIT. THANK YOU."

Respectfully submitted

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March 11, 2021

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF ESSEX

On this 11 day of MAR, 20 21, before me, JOSEPH FC BARBANA, the undersigned notary public, personally appeared VEENA SHARMA, proved to me through satisfactory evidence of identification, which were MA DRIVER'S LIC to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

[Signature]
Notary Public's Signature

Exp. FEB. 25, 2022