

No. 21-1076

In the
Supreme Court of the United States

SIVAGNANAM THAMILSELVAN,

Petitioner,

v.

VIJAYALAKSHMI THAMILSELVAN,

Respondent.

On Petition for a Writ of Certiorari
to the Court of Appeals of Michigan

PETITION FOR REHEARING

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REQUESTS FOR REHEARING ON DENIAL OF WRIT OF CERTIORARI

A. STATEMENT OF THE CASE

Petitioner's request for rehearing writ of certiorari is certainly not frivolous. Originally this case was filed by petitioner's Michigan attorney Todd Kaluzny (P55534). Attorney realized that he cannot expect justice from the Michigan courts even though the United States law favoring petitioner and advised petitioner to take the case to the Federal Court. SCOTUS Case Law strongly supported that Thamilselvan parties divorce action should be held only in Madras, India, because the parties are belongs to Hindu Religion and domiciled in Madras. India.

To encourage respondents divorce action in the state of Michigan, Michigan Courts elected their independent power to turn down/overrule all the SCOTUS case law, Michigan and United States case law that supported petitioner's appeal to move the parties divorce action to the family court of Madras, India. In other words to deny petitioner's appeal in mind, Michigan courts acted like:

A common person who sets his own law by turning down the law of the state or country.

Following SCOTUS case law strongly supported petitioner case.

1. SCOTUS case law listed in Section-C1 states that a government can neither restrict a resident's right to practice their religion nor

force a resident to practice someone else's religion → Michigan Courts violated

2. SCOTUS case law listed in Section-B states that domicile determination is prerequisite for divorce jurisdiction → Michigan Courts violated
3. SCOTUS case law listed in Section-C3 states that international orders/judgments must be enforced on the grounds of comity → Michigan Courts violated.

The above Michigan Court ruling is obviously a discrimination against the petitioner who is an Indian and Hindu by religion and this type of Michigan court action/ruling was never seen in the history of SCOTUS/United States case law in the past 100 years. The petitioner's case was Unique/highly significant when compared to divorce cases ruled by the SCOTUS (see cases listed in section-B). The above statements are the compelling reasons, placing the petitioner case in top 1% of the cases received by the SCOTUS. Therefore petitioner's request for rehearing of writ of certiorari must be granted.

If this honorable Supreme Court denied petitioner's request for rehearing, then this Hon'ble SCOTUS certify that, their case law/precedents reported in this petition that strongly supported petitioner's case, can be overruled by the United States courts in the present and in the future.

B. WHY SCOTUS HESITATING TO GRANT CERTIORARI TO PETITIONER'S DIVORCE CASE, WHEN SCOTUS HISTORICALLY GRANTED CERTIORARI TO MANY DIVORCE CASES.

Historically SCOTUS granted writ of certiorari to many divorce cases. Please see the following divorce cases that were granted certiorari, ruled on domicile.

Andrews v. Andrews, 188 U.S. 14, 23 S.Ct. 237 (1903); *Streitwolf v Streitwolf*, 181 U.S. 179, 182-83 (1901); *Davis v. Davis*, 305 U.S. 32, 59 S.Ct. 3 (1938); *Williams v. North Carolina*, 325 U.S. 226 (1945); *Bell v. Bell*, 181 U.S. 175, 21 S.Ct. 551 (1901); *Andrews v. Andrews*, 188 U.S. 14, 23 S.Ct. 237 (1903); *Haddock v. Haddock*, 201 U.S. 562, 26 S.Ct. 525 (1906); *Atherton v. Atherton*, 181 U.S. 155, 161-72 (1901); *Sherrer v. Sherrer*, 334 U.S. 343, 68 S.Ct. 1087 (1948); *Sosna v. Iowa*, 419 U.S. 393, 95 S.Ct. 553 (1975); *Coe v. Coe*, 334 U.S. 378, 68 S.Ct. 1094 (1948).

Now this honorable Supreme Court might ask the question. How significant the petitioner's divorce case when compared to above divorce cases that was granted certiorari by SCOTUS. Indeed, petitioner's case was highly significant when compared to above divorce cases that were granted certiorari. By careful reading of the above divorce cases that was granted certiorari, the lower courts FOLLOWED THE LAW to rule the parties divorce cases. This honorable court corrected only the conflicts existed in applying those law on divorce action between the parties. Whereas in the petitioner's divorce case, the MCOA, to hold respondent's divorce action in Michigan, TURNED DOWN THE LAW (SCOTUS case law, Michigan case

law and, United States Case law) that supported petitioner's appeal to dismiss the respondents divorce proceedings and forward respondent to file her divorce proceedings in the family court of Madras, India.

Petitioner believe that this hon'ble SCOTUS will not encourage Michigan courts to grant no-fault divorce to respondent, when Michigan courts does not have jurisdiction over both the parties. This will affect all the above historic SCOTUS case law that ordered lower courts to follow jurisdictional requirements (domicile) to grant divorce decree.

C. COMPELLING REASONS TO GRANT REHEARING OF WRIT OF CERTIORARI PURSUANT TO SCOTUS RULE 10(c).

This Hon'ble SCOTUS under Rule 10, states that writ of certiorari will be granted only for compelling reasons as defined under rule 10, subrules a, b, and c. Petitioner's divorce case meets the requirements for SCOTUS rule 10(c).

Rule 10(c) that states:

A state court has decided important federal question in a way that conflicts with relevant decisions of United States Federal Supreme Court.

Petitioner attests that the MCOA opinion on the petitioner's appeal was strongly conflicts with the following three important federal questions under Rule 10(c).

1. Whether MCOA's Opinion violated First Amendment rights of the Constitution of the United States.

State courts can neither restrict a resident's right to practice/free exercise of their religion nor force a resident to practice someone else's religion. Doing so is in violation of the First Amendment made applicable to the states by the Fourteenth Amendment. Following SCOTUS case law supports the above statements: *Wisconsin v. Yoder*, 406 U.S. 205 (1972); *Church of the Lukumi-Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520 (1993), and *Sherbert v. Verner*, 374 U.S. 398 (1963).

Petitioner's attorney Todd Kaluzny clearly stated in the appeal brief that, in accordance with long-held cultural traditions, the parties were married pursuant to the customs and legal requirements of the Hindu Marriage Act which is applicable to all Indian citizens of the Hindu faith; as Indian citizens, the parties remain bound by it. Because the Indian law is structured around the precepts of the Hindu religion, and therefore has a profound cultural basis, it provides a more appropriate legal setting to resolve the parties' legal dispute and divorce. Therefore respondent's case should be forwarded to Madras India for her divorce proceedings and not in Michigan.

Michigan State Courts decision on petitioner's appeal is conflicts with the above Federal Supreme Court's Case law on First Amendment rights to free exercise of religion. Respondent's attorneys, Trial Court, MCOA, and MSC discriminatively prohibited the petitioner's request to follow/free exercise of his Hindu Religion to file for his divorce under Hindu

Law. These Michigan Courts encouraged respondent to skip Hindu Religion/law and intentionally/forcefully move forward respondent to follow American no-fault divorce in the state of Michigan—Meaning the Michigan Courts denied the petitioner's case independently by turned down the First amendment rights of free exercise of Hindu religion, and by overruled above SCOTUS case law/precedents.

If the SCOTUS did not grant certiorari to the petitioner, and if the SCOTUS allowing Michigan courts to violate petitioner's first amendment rights to free exercise of his Hindu Religion, then from this case forward, *i.e.* any cases in the present and in the future, the United States Courts can rule the divorce case independently on their own by completely turn down the above SCOTUS Case Law that ordered to “follow First Amendment rights to free exercise of religion” By supporting Michigan Courts violation, the SCOTUS certify that this petition of petitioner's request for rehearing the writ of certiorari” can be cited by United States Court as a proof.

2. Whether MCOA Overruled SCOTUS/ United States Courts Precedents/Case Law That Supported Petitioner's Domicile/Subject Matter Jurisdiction Was in Madras, India.

SCOTUS in *Williams v. North Carolina*, 325 U.S. 226 (1945), states that

Art. IV, § 1 of the Constitution states “under our system of law, judicial power to grant a divorce — jurisdiction, strictly speaking — is founded on domicil.

The SCOTUS in *Andrews v. Andrews*, 188 U.S. 14, 23 S.Ct. 237 (1903), states that

[t]he principle of international law and the general of our own requiring the residence for divorce to be *anima menendi*, such residence must at least partake of the character of permanency. If a party goes to a jurisdiction other than that of his domicil for the purpose of procuring a divorce, and has residence there for that purpose only, such residence is not bonafide, and does not confer upon the courts of that state or country jurisdiction over the marriage relations and any decree they may assume to make would be void as to the other party.

The SCOTUS strongly states that

[J]urisdiction over the subject matter depended upon domicil, and without such domicil there was no authority to decree a divorce, *Andrew v. Andrew Supra*.

BLACK'S LAW DICTIONARY (9th ed. 2009) defined "domicile" as

[t]he place at which a person has been physically present and that the person regards as home; a person's true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere. Thus, A person thus may have more than one residence at a time but only one domicile.

The above SCOTUS precedent clearly supports that the Thamislevan's party in the instant case, the

domicile for divorce is Madras, India (has primary residence in Madras, India and the Madras is matrimonial domicile too), and not in Michigan. Therefore Michigan Courts does not have jurisdiction to hear the divorce case of Thamilselvan party.

Respondent's attorneys, Trial Court, MCOA, and MSC completely turned down the law of the states (cases listed in section-D2) and law of the federal courts (cases listed in section-B) that supported the domicile of the parties are in Madras, India, the place where the divorce action to be held. Instead, independently ruled that the party's secondary home in Michigan is domicile for the Thamilselvan party to hold jurisdiction in Michigan.

Michigan Trial Court conducted the Deposition testimony in the Presence of Michigan Court Reporter and in the Presence of both the parties Michigan attorneys. During the Deposition testimony respondent told that the resident/ house in Madras, India is her house, which clearly authorizes the respondent's domicile is in Madras, India, even though respondent works and lives in the Michigan States. This Madras resident is also a party's matrimonial domicile.

The arrangement of deposition testimony by the Michigan Trial Court is not a fun Play. The testimony on domicile determination recorded by the court reporter, during the deposition testimony must be used to decide the jurisdiction for the parties divorce action. But the trial court and MCOA completely ignored the deposition testimony on domicile and independently ruled that the secondary house of the parties in Michigan is considered as a domicile to grant divorce. Petitioner attests that the above SCOTUS caselaw on domicile that supported petitioner was overruled

by this Michigan courts, and so petitioner's requests to grant a writ of certiorari cannot be denied.

If the SCOTUS did not grant certiorari to the petitioner, and if this Michigan ruling on "secondary house is the domicile" was allowed to stand by the SCOTUS, then from this case forward, *i.e.* any cases in the present and in the future, the United States Courts need not follow the Art. IV, § 1 of the Constitution that states domicile is prerequisite for divorce jurisdiction, further historic SCOTUS case law that supported determination of domicile is "not withstanding." anymore and by supporting Michigan Courts' violation, the SCOTUS certify that this petition of petitioner's request for rehearing the writ of certiorari can be cited by United States Court as a proof.

3. Whether MCOA Overruled SCOTUS/ United States Case Law That Supported Petitioner's Antisuit Injunction That Can Be Enforced on the Grounds of Comity

The SCOTUS in *Hilton v. Guyot*, 159 U.S. 113; 16 S.Ct. 139; 40 L.Ed 95 (1895) stated that

foreign/international judgments and orders should be accorded comity and enforceable in this country if that orders/judgment meets the factors as defined by the SCOTUS in *Hilton*, which includes (1) whether the basic rudiments of due process were followed, (2) whether the parties were present in court, and (3) whether a hearing on the merits was held. Since then, *Hilton* was followed historically in the United States.

Respondent's attorneys, Trial Court, MCOA, and MSC completely turned down/overruled the *Hilton v. Guyot* that supported petitioner's enforcement of Indian Antisuit injunction (cases listed in section-D3).

If the SCOTUS did not grant certiorari to the petitioner, and if Michigan Court's overruling on *Hilton v Guyot* was allowed to stand by the SCOTUS, then from this case forward, *i.e.* any cases in the present and in the future, the United States Courts need not follow *Hilton* to enforce international judgments and orders that was followed SCOTUS/*Hilton*'s Comity rules. By supporting Michigan Court's violation, the SCOTUS certify that this petition of petitioner's request for rehearing the writ of certiorari can be cited by United States Court as a proof.

D. WHETHER CASE LAW OF SCOTUS/MICHIGAN STATE/OTHER UNITED STATE COURTS SUPPORTING FACT-STATEMENTS OF PETITIONER OR THE FACT-STATEMENTS OF RESPONDENT

Petitioner is now bringing the following analysis to the attention of SCOTUS.

1. First amendment of the United States Constitution

Petitioner's fact-Statement: Petitioner wanted to follow his Hindu religious Law for his divorce. The First Amendment of the United States Constitution supports the petitioner's right to freedom of religion and freedom of expression from government interference.

Are there any SCOTUS caselaw on First Amendment rights supports petitioner's fact-statement?

Yes. Please see the SCOTUS case law in section-C1.

Respondent's fact-statement: Even though respondent signed an agreement to follow the Hindu religious law for her divorce action, she can violate the first amendment of the United State Constitution, and file divorce action under American No-fault divorce.

Are there any United States case law supports respondents above fact-statement?

No. None of the case law are available in the United States of America.

2. Domicile

Petitioner's fact-statement: both the parties are domiciled in Madras India, and so the jurisdiction to file the divorce petition is Family Court of Madras, India and not Michigan.

Are there any SCOTUS caselaw on domicile supports petitioner's fact statement?

Yes. Please see all the SCOTUS case law listed in section-B and the following United States case law

- *Domicil*, 25 AM.JUR.2d, § 4, pp. 7-8
- 6A Dunnell, Dig. (3d ed.) § 2816
- BLACK'S LAW DICTIONARY, P.1473 (4th ed, 1968)
- *Davidner v. Davidner*, 304 Minn. 491, -- 32 N.W.2d 5 (1975)
- *Dupuy v. Wurtz*, 53 N.Y. 556 (N.Y. 1873)
- *Hodgson v. De Beauchesne*, 12 Moore P.C. Cases, 283, 328 (1858)

- *In re Estate of Smith*, 242 Minn. 85, 64 N.W.2d 129 (1954)
- *In re Riley's Will*, 266 N.Y.S. 209, 148 Misc. 588 N.Y. Surr. Ct. (1933)
- *Julson v. Julson*, 255 Iowa 301, 122 N.W.2d 329 (1963)
- *Leader v. Leader* 251 N.W.2d 288, 290, 73 Mich.App. 276, 28 (1977)
- *Lusk v. Belote*, 22 Minn. 468 (1876)
- *Matter of Harkness*, 183 App. Div. 396 (N.Y. App. Div. (1918)
- *Munro v. Munro*, 7 Cl. & Fin. 842, 7 ER 1288 (1840)
- *Reaume & Sillway, Inc. v. Tetzlaff*, 315 Mich. 95, 23 N.W.2d 219 (1946)
- *Berger v Berger*, 277 Mich.App. 700, 702; 747 N.W.2d 336 (2008)
- *Matter of Riley*, 148 Misc. 588 (N.Y. Surr. Ct. 1933) 266 N.Y.S. 209 Decided Jul 27, 1933

Respondent's fact-statement: Respondent is pointing out her secondary house in Michigan and states that she is domiciled in the state of Michigan, and therefore she can file her divorce petition in the state of Michigan.

Are there any United States case law supports respondents above fact statement?

No. None of the case law are available in the United States of America.

3. Comity

Petitioner's fact-statement: Antisuit injunction was issued by the High Court of Madras, that is directing plaintiff to file her divorce petition in the Family Court of Madras, India is enforceable in the State of Michigan under international comity.

Are there any SCOTUS caselaw on comity supports petitioner's fact statement?

Yes. Please see the following case law.

- *Hilton v. Guyot*, 159 US 113; 16 S Ct 139; 40 Led 95 (1895)
- *Bang v Park*, 116 Mich App 34, 38-39; 321 N.W.2d 831 (1982)
- *Dart v. Dart*, 224 Mich.App. 146 (1997)
- *Dart v. Dart*, 597 N.W.2d 82 459 Mich. 573 (1999)
- *Gaudreau v Kelly*, 298 Mich.App. 148; 826 NW2d 164 (2012)
- *Grove v Grove*, 2 Mich.App. 25, 33; 138 N.W.2d 537 (1965)

Respondent's fact-statement: Indian antisuit injunction cannot be enforceable in the State of Michigan under international comity.

Are there any United States case law supports respondents above fact statement?

No. None of the case law are available in the United States of America.

In the absence of case law support, trial court, MCOA and MSC encouraging respondent to file her

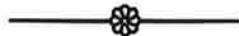
complaint for divorce in the state of Michigan. Petitioner was racially discriminated by the Michigan Courts because he is an Indian.

E. LOWER COURTS SHOULD NOT OVERRULE SCOTUS/UNITED STATES COURT'S PRECEDENTS

The SCOTUS in *Bosse v. Oklahoma*, 137 S.Ct. 1, 196 L.Ed. 2d 1 (2016); *James v. City of Boise*, 577 U.S. 306, 136 S.Ct. 685, 193 L.Ed. 2d 694 (2016) affirm that if state courts were permitted to disregard this Court's rulings on federal law, the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable. Based on the above statement, the lower courts ruling will be vacated if they overruled SCOTUS/United States Court's precedents.

Based on the above discussion, the MCOA's opinion can be dismissed on any one of the reasons or all of the reasons stated below:

1. Violation of first amendment rights to free exercise of religion.
2. Lack of subject matter jurisdiction/lack of domicile in the state of Michigan.
3. On the grounds of comity.



CONCLUSION

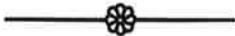
For the foregoing reasons, Petitioner respectfully requests that this Court grant rehearing of his writ of certiorari.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Thamilselvan".

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APRIL 12, 2022



RULE 44 CERTIFICATE

I, SIVAGNANAM THAMILSELVAN, petitioner pro se, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the following is true and correct:

1. This petition for rehearing is presented in good faith and not for delay.
2. The grounds of this petition are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.



S. Thamilselvan
Signature

Executed on April 12, 2022

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CERTIFICATE OF WORD COUNT

No. 21-1076

Sivagnanam Thamilselvan,

Petitioner,

v.

Vijayalakshmi Thamilselvan,

Respondent.

STATE OF MASSACHUSETTS)
COUNTY OF NORFOLK) SS.:

Being duly sworn, I depose and say:

1. That I am over the age of 18 years and am not a party to this action. I am an employee of the Supreme Court Press, the preparer of the document, with mailing address at 1089 Commonwealth Avenue, Suite 283, Boston, MA 02215.
2. That, as required by Supreme Court Rule 33.1(h), I certify that the SIVAGNANAM THAMILSELVAN PETITION FOR REHEARING contains 2995 words, including the parts of the brief that are required or exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.



Chan Sekhar

G Chan Sekhar

April 12, 2022

CERTIFICATE OF SERVICE

No. 21-1076

Sivagnanam Thamilselvan

Petitioner,

v.

Vijayalakshmi Thamilselvan

Respondent.

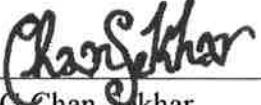
STATE OF MASSACHUSETTS)
COUNTY OF NORFOLK) SS.:

Being duly sworn, I depose and say under penalty of perjury:

1. That I am over the age of 18 years and am not a party to this action. I am an employee of the Supreme Court Press, the preparer of the document, with mailing address at 1089 Commonwealth Avenue, Suite 283, Boston, MA 02215.

2. On the undersigned date, I served the parties in the above captioned matter with the SIVAGNANAM THAMILSELVAN PETITION FOR REHEARING, by mailing three (3) true and correct copies of the same by Fedex 2-Day, prepaid for delivery to the following address.

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April 12, 2022

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