

No. 21-1276

In the
Supreme Court of the United States

RAM MEHTA AND NEENA MEHTA,
Petitioners,

v.

WESTROCK CO. AND ITS OFFICIALS; SMURFIT-STONE
CONTAINER CORPORATION AND ITS OFFICIAL;
ROCK-TENN COMPANY AND ITS OFFICIALS,
Respondents.

**On Petition for Writ of Certiorari to the
Supreme Court of Delaware**

**RESPONDENTS' BRIEF IN OPPOSITION
TO PETITION FOR WRIT OF CERTIORARI**

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COUNTERSTATEMENT OF
QUESTION PRESENTED

1. Does the Court have jurisdiction to review the Delaware Supreme Court's decision affirming the Court of Chancery's dismissal of a complaint under settled Delaware law, where no federal or Constitutional questions are at issue?

**PARTIES TO THE PROCEEDINGS AND
RULE 29.6 DISCLOSURE STATEMENT**

Petitioners are Ram and Neena Mehta (the “Mehtas” or “Petitioners”), former common stockholders of Smurfit Stone Container Corporation (“Smurfit-Stone”).

Respondents are WestRock Company (“WestRock”), Smurfit-Stone, and Rock-Tenn Company (“Rock-Tenn”). Smurfit-Stone no longer exists due to a series of intervening mergers, and instead is now known as WestRock CP, LLC. WestRock CP, LLC is not and never was a party to this action. Rock-Tenn Company also no longer exists due to an intervening merger, and is now known as WestRock RKT, LLC. WestRock RKT, LLC is not and never was a party to this action.

Petitioners named John Stakel, a Senior Vice President and Treasurer at WestRock, as a defendant in their Complaint¹ and in their Notice of Appeal to the Delaware Supreme Court. However, Petitioners’ Petition for Writ of Certiorari (the “Petition” or “Pet. __”) does not name Mr. Stakel in the caption nor in the parties to the proceedings section of their Petition. *See* Pet. at ii. Accordingly, Mr. Stakel is not a respondent in this action.

¹ References to the “Complaint” refer to the Mehtas’ Petition for Fraud and Embezzlement of Money by WestRock Company Officials, Smurfit-Stone Container Officials, RockTenn Officials, and Mr. John Stakel (Current Sr. Vice President and Treasury, WestRock Co.) Against the Petitioner and the Claimant, filed in the Delaware Court of Chancery on June 18, 2020 and docketed June 22, 2020.

Petitioners also list unnamed “officials” of WestRock Company, Smurfit-Stone Container Corporation and Rock-Tenn Company as respondents in this action. Petitioners do not list any of these “officials” by name in the caption or in the parties to the proceeding section of their Petition, nor in any of their filings in Delaware. Accordingly, the unnamed “officials” are not proper respondents in this action.

Pursuant to Supreme Court Rule 29.6, Respondents Smurfit-Stone (now WestRock CP, LLC) and Rock-Tenn (now WestRock RKT, LLC) were converted through a series of transactions into wholly owned subsidiaries of WestRock, a public company. WestRock certifies that it has no parent corporation and no publicly held corporation owns 10% or more of its stock.

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On September 20, 2021, the Delaware Supreme Court issued an order affirming the Court of Chancery’s dismissal of the Mehtas’ Complaint. Pet. App. 1a; *see also Mehta v. Westrock Co.*, 263 A.3d 422, 2021 WL 4272906 (Del. 2021) (TABLE), *reargument denied* (Oct. 22, 2021). On October 22, 2021, the Delaware Supreme Court issued a summary denial of Petitioners’ motion for reargument. Pet. App. 8a.

The Delaware Court of Chancery issued an oral ruling dismissing Petitioners’ complaint on February 9, 2021. Resp. App. 1. The accompanying order is available at *Mehta v. Westrock Co.*, 2021 WL 465521, at *1 (Del. Ch. Feb. 9, 2021); *see also* Pet. App. 6a.

JURISDICTION

As explained further below, the Court does not have jurisdiction over this case. Petitioner claims that this Court has jurisdiction under 28 U.S.C. § 1257(a). However, Petitioner does not challenge the validity of “a treaty or statute of the United States” nor is the validity of a Delaware statute challenged as “repugnant to the Constitution, treaties, or laws of the United States,” nor do Petitioners identify any dispute regarding a “title, right, privilege, or immunity [] specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.” This case involves settled matters of Delaware state law, and thus the final arbiter of this action is and was the Delaware Supreme Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Respondents deny that any federal constitutional or statutory provisions are involved. Likewise, Petitioners have not asserted that any federal constitutional or statutory provisions are involved.

INTRODUCTION

The Mehtas seek review of the Delaware Supreme Court’s affirmance of the Delaware Court of Chancery’s dismissal of state law claims, primarily sounding in tort. In June 2020, the Mehtas filed their Complaint *pro se* in the Court of Chancery based on the mistaken belief that they were entitled to more than they received in a 2010 bankruptcy restructuring of Smurfit Stone, an entity in which they previously held common stock. *See* Pet. at 3-4. As part of that bankruptcy, stockholders of “old” Smurfit-Stone received their pro rata share of stock in “new” Smurfit-Stone, which the Mehtas acknowledge they received. *See id.* at 8. The Mehtas, however, believe that they also received additional shares of “escrow stock” because escrow positions were established with The Depository Trust Company in the event former Smurfit-Stone stockholders were entitled to receive additional payments in the bankruptcy. *See id.* at 10, 11, 14-18. According to the Mehtas’ calculations, this “escrow stock” entitled them to their share of *billions of dollars* they believe were left-over from the bankruptcy. *Id.*

The Court of Chancery determined that the Mehtas’ Complaint was fundamentally flawed for a variety of reasons under settled Delaware law. The Mehtas

appealed only four of those reasons to the Delaware Supreme Court. The Delaware Supreme Court affirmed the Court of Chancery’s dismissal. *See id.* at 2-41. The Mehtas now seek redress from this Court through their Petition. But the Mehtas’ Petition does not implicate any valid basis for invoking this Court’s jurisdiction. Thus, this Court does not have jurisdiction to review the Court of Chancery’s dismissal of the Mehtas’ Complaint, nor the Delaware Supreme Court’s affirmance of that decision.

STATEMENT

On June 18, 2020, the Mehtas filed their Complaint in the Delaware Court of Chancery seeking approximately \$1.3 million they believe they were owed for their “escrow stock.”² *See Pet.* at 3-4, 8. Although the Complaint did not assert any counts for relief and lacked the formalities of a typical pleading, the Vice Chancellor found those mistakes “understandable and forgivable given that these are *pro se* plaintiffs,” and used “its discretion to look to the underlying substance of the *pro se* pleading to ensure that a *pro se* plaintiff gets a full and fair hearing.” *Resp. App.* 7, 10. Accordingly, the Court of Chancery construed the Complaint as attempting to assert claims for

² In their Complaint, the Mehtas alleged they suffered \$1,333,442.88 in direct damages, and also sought punitive damages. *Resp. App.* 21. In their opening brief to the Delaware Supreme Court, the Mehtas also attempted to argue they suffered an additional \$1,271,833.53 in “unclaimed damages.” *See Pet.* at 1, 28-29. Now, through their Petition, they argue that they suffered \$2,606,725.84 in direct damages (approximately \$1,500 more), plus punitive and “opportunity cost” damages. *Id.* at 1.

embezzlement, conversion, common law fraud and equitable fraud—all of which are Delaware state law claims, primarily sounding in tort. *Id.* at 9-12.

The Mehtas served WestRock (only) on August 10, 2020. See Appellees' Answering Brief in *Mehta v. WestRock Co.*, No. 54, 2021 (Del. June 14, 2021) (Dkt. 14) (“AB”) at 11. All named defendants (Respondents and Mr. Stakel) moved to dismiss on August 21, 2020, and the parties fully briefed the motion. *Id.* at 12.

On February 8, 2021, after oral argument on the motion to dismiss, the court granted the motion in a ruling issued from the bench. Resp. App. 17. The court began by explaining that it did not have subject matter jurisdiction to hear the dispute given that it was a court of limited jurisdiction with the power to grant equitable relief. *Id.* at 7-9. Because the Mehtas' Complaint sought monetary and punitive damages, the Complaint had to be dismissed. *Id.* at 8-10.

The court also dismissed the claims under Court of Chancery Rule 12(b)(6) for failure to state a claim. As the court explained, embezzlement is a criminal charge, not a civil cause of action much less an equitable one. *Id.* at 9. Further, even if the court construed the Complaint as asserting a claim for conversion, that would fail because under Delaware law, generally, to state a claim for conversion, the item converted cannot be money. *Id.* And, whether interpreted as a claim for common law fraud or equitable fraud, the Mehtas had not properly alleged any of the elements of either claim. *Id.* at 9-12.

The court also explained that even if the Mehtas' Complaint did not suffer from those fatal deficiencies, the Complaint "would face other insurmountable obstacles" including the fact that the Mehtas were bound by releases in two settlement agreements and a Delaware Bankruptcy Court confirmation order, all of which barred their claims. *Id.* at 12-16. Further, to the extent the Mehtas complained that Respondents and Mr. Stakel had failed to comply with the operative bankruptcy plan, the Delaware Bankruptcy Court had exclusive jurisdiction over the claim. *Id.* at 16-17.

After the court's ruling, the Mehtas asked that the court reconsider its ruling. *Id.* at 17-18. The court considered the request to be a motion for reargument, which it denied. *Id.* at 18-20.

On February 22, 2021, the Mehtas filed a notice of appeal with the Delaware Supreme Court, raising four arguments. First, the Mehtas claimed that the Vice Chancellor improperly ruled from the bench. Pet. at 2-3, 31. Second, they claimed that the Court of Chancery misinterpreted the facts as alleged in the Complaint related to the availability of additional funds to distribute to stockholders after the Smurfit-Stone bankruptcy. *Id.* at 3-4. Third, the Mehtas claimed that the Court of Chancery had subject matter jurisdiction over their claims because their claims involve "equity." *Id.* at 4-5. And finally, the Mehtas claimed that the court construed a settlement agreement it had entered with Rock-Tenn in 2014 (one of three releases applicable to their claims) too broadly, and relatedly, that the release was obtained through

duress. *Id.* at 5-7. The Mehtas did not appeal on any other grounds.

On September 20, 2021, the Delaware Supreme Court issued an order affirming the Court of Chancery's decision on the basis of its February 8, 2021 bench ruling. Pet. App. 4-5a. The Delaware Supreme Court further explained that “[t]he fact that the court ruled from the bench does not suggest that the court rules in a ‘prejudicial manner,’ as the Mehtas suggest on appeal, but rather that the court was well prepared by the time of the hearing on the motion to dismiss.” Pet. App. 5a.

On March 18, 2022, the Mehtas filed their Petition in this Court seeking review of the Delaware courts' decisions. The Mehtas' copied and pasted into the Petition the opening and replies briefs and motion for reargument they filed in the Delaware Supreme Court. The Petition includes no new or independent argument, nor does it make any meaningful attempt to explain why this Court has jurisdiction to review the Delaware courts' decisions or why certiorari is appropriate.

REASONS FOR DENYING THE PETITION

I. THE DELAWARE SUPREME COURT IS AND WAS THE FINAL ARBITER OF THE MEHTAS' CLAIMS.

A. *This Court Has No Jurisdiction Over Pure State Law Claims*

The Mehtas have not even attempted to assert a basis for invoking this Court's jurisdiction. Although this Court will liberally construe *pro se* pleadings, it is

well established that *pro se* litigants are not excused from compliance with procedural rules. *See McNeil v. United States*, 508 U.S. 106, 113 (1993) (noting that this Court has “never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel”).

This Court’s jurisdiction to review state-court decisions is set forth in 28 U.S.C. §1257. In relevant part, that statute grants the Court jurisdiction to review a state court decision addressing a challenge to the validity of a treaty or statute under the United States Constitution or involving the assertion of a right or privilege under the United States Constitution. 28 U.S.C. §1257(a). It is essential to this Court’s jurisdiction that a federal question “ha[ve] been both raised and decided in the state court below.” *Illinois v. Gates*, 462 U.S. 213, 218 (1983). Petitioners bear the burden of showing that a federal question was in fact properly raised and decided. *See Gorman v. Washington Univ.*, 316 U.S. 98, 101 (1942).

The Mehtas attempted to assert state law claims for embezzlement,³ conversion, fraud, and equitable fraud.

³ Embezzlement is not a civil cause of action in Delaware. It is a criminal charge that must be brought by the State. Resp. App. 9; *see also* 11 Del. C. § 841; *e.g.*, *Maddox v. CitiMortgage, Inc.*, 2014 WL 1155312, at *1 (Del. Super. Feb. 28, 2014) (noting the court’s prior dismissal of a complaint because “embezzlement, identity theft and forgery are criminal charges, not civil causes of action”), *aff’d*, 93 A.3d 654 (Del. 2014); *see also* *Hamilton v. Reed*, 29 Fed. Appx. 202, 204 (6th Cir. 2002) (holding that there is no private cause of action for criminal offenses).

These claims do not involve a challenge to the validity of any treaty or statute under the Constitution, nor do they involve the assertion of a right or privilege under the Constitution. Indeed, the Mehtas made no attempt in their Petition (let alone in the Delaware proceedings) to argue otherwise. There being no federal question for this Court to consider, this Court lacks jurisdiction over the dispute.

B. *The Court Lacks Jurisdiction to Determine Whether Delaware Judges May Issue Bench Rulings*

Likewise, the Mehtas' argument that the Court of Chancery erred by ruling from the bench is not reviewable by this Court as it is simply an attack on Delaware state court procedures and the Vice Chancellor's judicial preferences. Bench rulings are common in the Delaware Court of Chancery, particularly given the volume of issues that are decided by that court, and the Delaware Supreme Court has affirmed bench rulings on myriad occasions, explaining that a judge may issue an oral ruling so long as "it states with specificity its determinations and conclusions[.]" *Schoenbeck v. Schoenbeck*, 705 A.2d 245 (Del. 1998); *see also Masons v. State*, 972 A.2d 312, 2009 WL 1227845, at *1 (Del. 2009) (TABLE) ("The transcript of Masons' trial, in conjunction with the Family Court's summary order dated October 22, 2008, is sufficient as a matter of law for this Court to perform its appellate function."); *see also* Joel Edan Friedlander, *Performing Equity: Why Court of Chancery Transcript Rulings Are Law*, U. PENN. & INST. L. ECON. Rsch. Paper No. 20-58 at 2, (2021) (explaining that "[l]awyers

practicing in the Delaware Court of Chancery or advising Delaware corporations about Delaware corporate law read, inquire about, cite, and disseminate transcript rulings, which are also known as bench rulings”). Indeed, in affirming the Court of Chancery’s decision, the Delaware Supreme Court noted that “[t]he fact that the court ruled from the bench does not suggest that the court rules in a ‘prejudicial manner,’ as the Mehtas suggest on appeal, but rather that the court was well prepared by the time of the hearing on the motion to dismiss.” Pet. App. 5a.

Further, to the extent the Mehtas’ argument that the Vice Chancellor should not have ruled from the bench could be construed as a federal due process challenge, that argument was never presented to or decided by the Delaware Supreme Court. In fact, this argument was never presented to the Court of Chancery at all. *See* AB at 14-15. Because the issue was never properly raised or decided under federal law, the Mehtas cannot establish jurisdiction. *See Cardinale v. Louisiana*, 394 U.S. 437, 438 (1969) (holding that the U.S. Supreme Court is without jurisdiction “unless a federal question was raised and decided in the state court below. If both of these do not appear on the record, the appellate jurisdiction fails.”) (internal citations omitted).

And of course, there is no right to oral argument and the Vice Chancellor could have issued a decision on the briefs alone. *Greene v. WCI Holdings Corp.*, 136 F.3d 313, 315-16 (2d Cir. 1998); *Mann v. Conlin*, 22 F.3d 100, 103 (6th Cir. 1994); *LaBoy v. Zuley*, 749 F. Supp. 184, 185 (N.D. Ill. 1990). Instead, the Vice

Chancellor took great pains to give the Mehtas a fair hearing, and interpreted their Complaint broadly, excused their procedural misgivings, and gave a thorough and well-reasoned decision on the record. *See* Resp. App. 7, 10.

* * *

The Mehtas also fail to satisfy any criteria for this Court’s review. As Supreme Court Rule 10 make clear, “[r]eview on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons.” In determining whether to accept an appeal, the Court considers whether (U.S. Sup. Ct. R. 10):

- (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power;
- (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
- (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be,

settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

The Mehtas do not even attempt to satisfy a single one of these criteria. Accordingly, Respondents respectfully request that certiorari be denied.

CONCLUSION

For the foregoing reasons, certiorari should be denied.

Respectfully submitted,

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