

No. 21-173

Supreme Court, U.S.
FILED

JUL 30 2021

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
MARILYN TILLMAN-CONERLY -- PETITIONER

V.

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT,
AND LAVERNE WATSON-- RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

MARILYN TILLMAN-CONERLY

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SACRAMENTO, CALIFORNIA 95835-1929

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1.) Whether the Ninth Circuit Court abused its discretion by finding and deciding that the District Court did not abuse its discretion by dismissing Plaintiff's/Appellant's/Petitioner's/Tillman-Conerly's for failure to effect timely service of summons and complaint on Defendants/Appellees/ Respondents when Petitioner's Process Server followed the necessary alternative service procedure instructed by Defendants'/Appellees'/ Respondents' office of general counsel gave because of the Covid 19 pandemic (Corona Virus) which caused Defendants'/Appellees'/Respondents' agency to be closed without a date that they would be reopened?**
- 2.) Whether Petitioner's Process Server did-effect timely serve of summons and complaint on Defendants/Appellees/Respondents when the Process Server followed the necessary alternative service procedure instructed by Defendants'/Appellee's/Respondent's office of general counsel gave because of the uncontrollable covid 19 pandemic (Corona Virus) which caused defendants' agency to be closed without a date that they would be reopened?**
- 3.) Whether Plaintiff/Appellant/Petitioner did show good cause for failure to serve Plaintiff/Appellee/Respondent by Plaintiff's/Appellant's/Petitioner's Process Server not following the previous usual procedure, Plaintiff's/ Appellee's/Petitioner's Process Server did-effect timely serve of summons and**

complaint on defendants when the Process Server followed the necessary alternative service procedure instructed by defendants' office of general counsel gave because of the uncontrollable covid 19 pandemic (Corona Virus) which caused defendants' agency to be closed without a date they would be reopened?

4.) Whether the Ninth Circuit Court abused its discretion by finding and deciding that the District Court did abuse its discretion by rejecting Plaintiff's/Appellant's/Tillman-Conerly's contention that the District Court was biased against her whereby that District Court found as being meritless, and the District was well aware of the affect that the Corona Virus had on the service process of the Judicial System?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI
OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 2, 2021.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

KNICK v. Scott, Township of Pa.

STATUTES AND RULES

14th Amendment of the U.S. Constitution

5TH Amendment of the U.S. Constitution

42 U.S.C. Section 1983

5 C.F.R. Section 8741

STATEMENT OF THE CASE

I received a letter on January 31, 2019, that was dated December 10, 2018 from Laverne Watson OPM Legal Administrative Specialist (SEE ENCLOSURE A). The erroneous letter incorrectly informed me that I received a refund of my Civil Service Retirement Deduction for a period of service that ended before March 1, 1991. It stated that I must **redeposit \$25,955.00** to cover the service. It further stated that if **did not redeposit \$25,955.00** my monthly annuity will decrease from \$3,247.00 down to \$3,132.00 each month. I disagree that I received the refund. I contacted Laverne Watson. I called her and left a recorded detailed message of my disagreement and asked that she return my call. Laverne Watson returned my call on February 13, 2019 about 11:50am. I informed her that I disagree with her accusation and asked her to send me a copy of proof that I received the alleged refund. She said that she would mail the proof to me and that it will take about 3 days for her to get the case.

On February 25, 2019 and February 26, 2029 about 8:13am I called Laverne Watson again and her recording came on. I left a message asking her to send me documentation **proving** that I actually received the alleged refund.

On February 27, 2019 about 6:30am my time, I called her and left a message on her phone recorder, informing her that the documents that she sent **did not show proof** that I actually received the alleged refund. On February 27, 2019 Laverne Watson returned my phone call. I then informed her that she **did not provide the proof that I requested**. It was proof that I requested a refund (SEE ENCLOSURES B, C, D, and E).

On April 2, 2020 at 11:31 a.m. Appellant spoke with OPM employee Mary Joe about the status of my correcting my backpay and monthly retirement annuity. Mary Joe responded "I will do an escalation to have a Supervisor call you back."

On May 8, 2020 Appellant filed this suit within the United States Eastern District Court of Sacramento

California, against OPM and Laverne Watson, for Civil Rights Violations under the United States Constitution 14th Amendment, 5 C.F.R. 8741 and due Appellant's not having the funds to pay for her Court Filing Fees, her father stepped up-to the counter and gave the payment to the Court Clerk.

On July 13, 2020 Appellant moved the Court to stay, service time due to Defendant's changes because of the Corona affecting service at usual place.

On July 15, 2020 Magistrate Judge K.J.N. denied Motion to Stay, but instead issued Order that Plaintiff/ Appellant have until 8/31/2020 to serve Defendants.

On July 22, 2020 Appellant's had Defendants Professional Process Server went to the Place to serve both defendants; however, due to the Corona Virus, Defendants were to be served in an alternative manner (see Exhibit D).

On August 18, 2020 Appellant's Professional Server served both Defendants in the manner provided by Defendants.

On August 18 or 19, 2020 District Court Clerk Hung, H. indicated by PACER that Plaintiff's Summons upon "USA" defendant "Summons Returned Executed as to USA" "[Wed 8/19 8:59 AM and "SUMMONS RETURNED EXECUTED by Marilyn Tillman-Conerly. United States Office of Personnel Management served on 8/11/2020; Laverne Watson served on 8/11/2020. (Huang, H)."

On October 7, 2020 Magistrate Judge K.J.N. signed an "ORDER TO SHOW CAUSE" which alleged that Plaintiff/Appellant failed to serve defendants "pursuant to FRCP 4."

On October 13, 2020 Plaintiff/Appellant Declined Jurisdiction of United States Magistrate Judge Kendall J. Newman.

On October 13, 2020 Plaintiff/Appellant filed a Motion for Default Judgment in the District Court.

On October 22, 2020 Plaintiff/Appellant filed in the District Court a Notice of Change of Phone.

On October 21, 2020 Plaintiff/Appellant filed in the District Court Proof of Service Copies

(Corrected Copy) of PLAINTIFF RESUBMIT PROOF OF SERVICE AS A RESPONSE FOR ORDER TO SHOW CAUSE."

On November 13, 2020 Magistrate Judge Kendall J. Newman signed his "**FINDINGS AND RECOMMENDATIONS TO DISMISS AND TO DENY MOTION FOR DEFAULT JUDGMENT.**"

On December 02, 2020 Plaintiff/Appellant filed in the District Court Plaintiffs' **OBJECTIONS TO MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATIONS**".

On December 17, 2020 District Court Judge Troy L. Nunley Adopting Magistrate Judge Kendall J. Newman's Findings and Recommendations.

On December 18, 2020 Judgment of District Court Judge Troy L. Nunley signed on 12/17/2020.

On December 23, 2020 Plaintiff/Appellant Filed a NOTICE OF APPEAL to the United States of Court of Appeals for the Ninth Circuit Court.

"On December 28, 2020 Appeal Processed to USCA Mon 12/28/ 12:33 PM."

On "Monday, January 04, 2021 ... USAC CASE NUMBER 20-17502 for 16 Notice of Appeal filed by Marilyn Tillman-Conerly. (Coll, A)."

On January 05, 2021 Appellants' Fees was received by USCA for the amount of "\$505 for this Case at Hand.

On July 2, 2021, United States Court Of Appeals Form The Ninth Circuit Court Of Appeals held that the "district court did not abuse its discretion by dismissing Tillman-Conerly's action because Tillman-Conerly failed to effect timely and proper service of the summons and complaint on defendants and did not show good cause for failure, despite being given notice and an opportunity to do so," and "We reject as meritless Tillman-Conerly's contention that the district court was biased against her. **AFFIRMED.**"

Petitioner's (Appendix C) ((Appellant's Informal Opening Brief with its Exhibits A, B, C, D, E, and F)) are to be incorporated herein this Petition.

NOW COMES PETITIONER Marilyn Tillman-Conerly to respectfully petition this Higher Court in dispute of the lower courts' findings, holdings, and decisions.

REASONS FOR GRANTING THE PETITION

Petitioner Marilyn Tillman Conerly do respectfully petition this United States Supreme Court for resolution of my long-sought settlement of deprivation of my income due to me for my thirty-six (36) years of Postal Service to reach retirement status. I only want what is honestly and lawfully right that I receive. After my diligent and long seeking that-which I do desperately need to retire peacefully, and question why me? , I resort to legal means to attempt to right the wrongs and harm already done to me. Now, considering the proof and explanations that I have provided throughout this journey, I pray that we can put this hardship and struggle to rest. I, Petitioner, seek this level for judicial redress with respect, honesty, and humbleness, at the same time I am considering the rulings that has come forth that involved critical decisions made under the umbrella of the United States of America Constitution. I do keep in mind the Godly Gift of being a Citizen of this Great Country, Therefore, I do not take for granite the work of the officers and Staff involved. Thank You!

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Marilyn Tillman-Conerly

Date: July 30, 2021