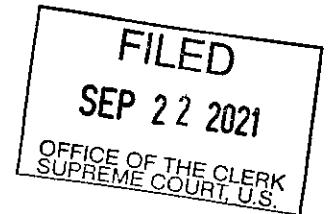


21-461
No.

ORIGINAL

In The
Supreme Court of the United States



CAROL M. KAM, PRO SE,

Petitioner,

v.

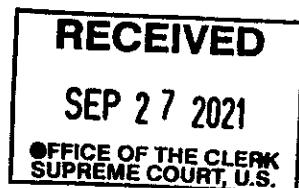
JOHN B. PEYTON JR.,

Respondent.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

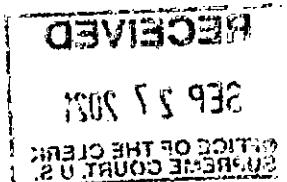
Does the *Rooker-Feldman* Doctrine apply to two incomplete, illegal proposed State Court Rulings produced by a former Associate Judge who failed to obtain a sign-off of his rulings from the Judge of Record within 30 days of their creation, as required by State Law?

Per four Texas Statutes, written at the level a fifth grader can comprehend, the Court is required to have signed off on the Orders. Two of these Statutes require the sign off within 30 days.

After 7 years of "fumbling", in 2020 Texas State Court System finally and formally ruled that the unsigned proposed Peyton Jr. Orders were never final state rulings, are not now final State rulings, and confirmed that they can never be made final State Orders.

The *Rooker Feldman* Doctrine is crystal clear that it can only be applied to **FINAL** State Orders. In fact the 7 year burden of illegal incomplete State Orders placed on me by Peyton Jr. actually represents a violation of my Civil Rights.

The sole issue for this court to consider is "Can the *Rooker Feldman* Doctrine" be applied to two incomplete illegal proposed instruments that are not and cannot be made into FINAL State Orders.



PARTIES TO THE PROCEEDING

All parties to the proceeding are named in the caption of the case as recited on the cover page. There are no government corporate parties requiring a disclosure statement under Supreme Court Rule 29.6.

STATEMENT OF RELATED CASES

1] In the Estate of Robert S Kam Deceased/Justin Kam and Carol Kam v David Kam as Trustee for the Robert S Kam, Trust,/Application to set aside the Order probating the Will for the Determination of heirship and the removal of David Kam as Independent Executor. PR-11-01368-3 Dallas County Probate Court #3. Judgement for the original July 2013 trial was entered by the Associate Judge, Peyton Jr.*, August 9, 2013.

Judgement for the October 16, 2013 rehearing was entered by the Associate Judge Peyton Jr.* on October 16, 2013.

Both of these Orders by the Associate Judge Peyton Jr. remain unsigned by the Court of Record and per Texas law, the "Effective Date" for these two Orders is the date they are signed by the Referring Court. Also, per Texas Law, these Orders, which remain unsigned for more than 30 days, are now expired. [Texas Government Code 54A.214.b, 54A.215, and 54A.217]*

As noted below, the Dallas Appeal court, with three rulings, confirmed that the absence of required court sign off within 30 days, has confirmed that the

STATEMENT OF RELATED CASES – Continued

above are only proposed orders which were never legal instruments, are not legal instruments, and can never be made Final Orders of the Court.

2] *Carol Kam Bill of Review PR-15-02286-3* Dallas County Probate Court #3 Judgement entered Nov. 16, 2015. [To date the Findings of Fact requested from Judge Margaret Jones Johnson** have never been issued by the Court as required by Texas Law. Texas Rules for Civil Procedure Rules 296 and 297].

3] *Carol Kam Bill of Review 05-16-00126-CV.* Court of Appeals Fifth District of Texas at Dallas. Judgement entered December 29, 2016.

4] *Carol Kam Bill of Review 17-0079* Texas Supreme Court. Court denied to review the Appellant's Petition. March 10, 2017.

5] *Carol M Kam v Dallas County/State of Texas* 3:18 CV-00378-G-BK U.S. District Court, Northern District of Texas. Magistrate's Ruling accepted June 12, 2018.

6] *Carol M Kam v John B. Peyton Jr.** 3:18 CV-01447-D U.S. District Court, Northern District of Texas. Magistrate's ruling accepted December 20, 2018.

7] *Carol M Kam v Dallas County/State of Texas* 18-10735 U.S. Court of Appeals for the 5th District. Magistrate's ruling upheld March 8, 2019.

STATEMENT OF RELATED CASES – Continued

8] *Carol M Kam v John B. Peyton Jr.** 18-11657 U.S. Court of Appeals for the 5th District. Magistrate's ruling upheld June 18, 2019.

9] *Carol M Kam v Dallas County/State of Texas* 19-31 Petition for Writ of Certiorari to the U.S. Federal Supreme Court denied Oct. 7, 2019, rehearing denied Nov 25, 2019.

10] *Carol M Kam v John B. Peyton Jr.** 19-479 Petition for Writ of Certiorari to the U.S. Federal Supreme Court denied Nov. 12, 2019, rehearing denied Jan 13, 2020.

11] *Carol M Kam [Appellant] v David J Kam, Trustee for the Robert S Kam Trust, Appellee* 05-19-01293-CV Dallas Appellate Court, Judgement filed April 10, 2020 dismissing the Appeal as the Peyton Jr* proposed Orders, without the Court's signature, are incomplete, illegal, and unappealable.

12] *Carol M Kam [Appellant] v David J Kam, Trustee for the Robert S Kam Trust, Appellee* 05-19-01293-CV Dallas Appellate Court Judgement filed May 12, 2020 Appellee's Motion for rehearing denied. This reaffirmed that the proposed Peyton Jr* Orders are incomplete, illegal, and unappealable.

13] *Carol M Kam [Appellant] v David J Kam, Trustee for the Robert S Kam Trust, Appellee* 05-19-01293-CV Dallas Appellate Court Judgement filed June 9, 2020 dismissing the Appellant's Motion to

STATEMENT OF RELATED CASES – Continued

Rehear the Appeal based on the receipt of a signed order by Judge Margaret Jones Johnson** related to one [not both] of the Peyton Jr*. Orders from 7 years earlier. This confirms that the Peyton Jr.* Proposed Orders can NEVER BE MADE complete, legal or appealable.

14] Kam [Appellant] v Kam Appellee 20-0490
Texas Supreme Court denied the Appellee Petition for Review October 2, 2020.

15] Carol M Kam v Dallas County/State of Texas
3:18 CV-00378-G-BK U.S. District Court, Northern District of Texas. Rehearing denied Nov 18, 2020.

*17] Carol M Kam v John B. Peyton Jr.** 3:18 CV-01447-D U.S. District Court, Northern District of Texas. Rehearing denied Jan 29, 2021.

16] Carol M Kam v Dallas County/State of Texas – 20-11199 U.S. Court of Appeals for the 5th District. This case remains active in the Fifth Circuit Court. The Court has been informed of the misconduct by and complaint on Texas Supreme Court Chief Justice Nathan Hecht *** which is related to this Case.

*18] Carol M Kam v John B. Peyton Jr.** 21-10127 U.S. Court of Appeals for the 5th District. Denied June 23, 2021, Rehearing denied July 20, 2021

This is the case now before this court.

STATEMENT OF RELATED CASES – Continued

* John B Peyton Jr. is a former Associate Judge that has been permanently removed as a Judge by the Texas State Commission on Judicial Conduct as they have deemed him to be incompetent to hold this position.

** Margaret Jones Johnson has been under investigation since Jan 2020 by the Texas State Commission on Judicial Conduct for misconduct related to this case.

*** Texas Supreme Court Chief Justice Nathan Hecht has been under investigation since July 2021 for failure to implement SB 512 passed by the Texas Legislature in May 2015, signed by the Governor in June 2015 and went into effect on Sept 1, 2015. SB 512 requires that the Texas Supreme Court create and post standard Probate Forms, and Wills in order to create “standards” for the Texas legal system, allow families to economically, efficiently, and accurately create wills and use standard Probate Forms without the involvement of attorneys and to facilitate the efficient and accurate processing of wills thru Texas Courts. This Bill was prompted by the Dallas Probate Court misconduct in the case before you, misconduct by Texas Probate Attorneys and courts in Houston and along the Texas-Mexico border. Nathan Hecht failed to implement the law at the request of several Probate Attorneys. *He will be removed.*

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CITATIONS TO THE OPINIONS AND ORDERS BELOW

The decision of the Fifth Circuit Court of Appeals is unpublished. The Petitioner filed for a rehearing which was denied.

The decision by the Fifth District Court in North Texas is published.

STATEMENT OF JURISDICTION

The Fifth Circuit Court of Appeals has denied the Petitioner's request in a final ruling dated July 20, 2021 [Denial of Rehearing]. Jurisdiction in this Court is proper per Title 28 USC, Section 1254 as the Supreme Court has the right to review an Appeal Court Ruling via a Writ of Certiorari

APPLICABLE LAW

The Federal District Court denied the Petitioner's request based solely on the *Rooker-Feldman* Doctrine which disallows any Federal Court review of a valid Final State Court Judgement. The District Court erred in Fact by assuming that the illegal incomplete proposed unsigned Peyton Jr. Orders were Final State Orders. The District Court erred in Law by invoking the *Rooker-Feldman* on a case where there is no Final State Order and the Plaintiff is not asking the Federal Court to reconsider or reevaluate a valid Final State

Order [as none exist on me] *Rooker v. Fidelity Trust Co.*, 263 U.S. 413-415, 44 S. Ct. 149 (1923) "finding no federal jurisdiction to review state court judgments where the state had subject matter over the underlying case. . ." This requires a VALID FINAL State Court Judgement where the state court had proper jurisdiction *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983). This is also based on a VALID FINAL non-Federal court decision.

The case law which defines the Rooker-Feldmen Doctrine is based on undisputed FINAL/VALID state court rulings. The District Court and the Appeal Court also refer to additional Case Law which are based on FINAL VALID State Rulings.

As an Associate Judge, Peyton Jr. was also required to have the Judge of Record sign off on any of his proposed Rulings within 30 days per State Law. John Peyton has never had the Judge of Record sign off on any rulings in my Case and, as of this date, the proposed Orders are incomplete, illegal and not valid legal instruments

The importance of this Case is critical to the Law across this Country.

Without exception, all prior cases related to the *Rooker-Feldman* Doctrine rely on a VALID FINAL State Court Rulings. In this Case we have no Valid FINAL State Court Ruling but essentially only a proposed order by an Associate Judge [who failed to have Jurisdiction], and who failed to have the sign off by the

Judge of Record within 30 days, as required by State Law.

STATEMENT OF THE CASE AND RELEVANT FACTS

The Case is based on Judicial Misconduct by a Peyton Jr. with his effort from July to October, 2013 to cover for the gross incompetence, unethical behavior, and ineptitude of a Dallas Probate Attorney, David Pyke. After my brother passed, in 2011, I exposed the misconduct of Pyke and Pyke then instructed the Trust of my Brother's Trust not to pay my rightful inheritance. This B.S. "Beyond Stupid" action by Pyke prompted the suit to obtain my inheritance.

Prior to the hearings, Dallas Probate Judge Miller, Peyton Jr. and Dallas Probate Attorney, James Fisher cut a deal in an Ex Parte meeting in Miller's Office on July 15, 2013 to cover for Pyke as he royally "screwed up" handling my Brother's estate. Part of the deal was for Peyton Jr. to hold the trial and prepare the Orders but Miller was not to sign them or be part of the misconduct in the event the Courtroom scam was exposed as Miller was running for re-election in 2014.

Fisher and Peyton Jr. conformed to the agreement and left Miller's signature off all the Orders to keep him from being involved.

It took me 7 years and hundreds of thousands of dollars in attorney fees and court cost to clean up the

mess intentionally created by Fisher, Miller and Peyton Jr. I now have multiple State Appeal Court rulings confirming that the unsigned, illegal, incomplete, proposed Peyton Jr. orders used to crush me for exposing the gross misconduct, ineptitude and un professional conduct of David Pyke are not valid, never were valid, and can never be made valid.

The Defendant, Peyton Jr. has never provided any Federal Court at any time any Order against me signed off by the Probate Court as required by and in accordance with State Law.

ARGUMENT FOR ALLOWING/ ACCEPTING PETITION

A. VALIDITY OF THE JUDGEMENT

Refer to the prior Fifth Circuit Case 18-10735 and 18-11657 for Peyton Jr.'s absence of authority and his removal as a Judge by the State of Texas as they deemed him to be incompetent.

I will focus this argument on the Absence of a valid, legal State Order which is the fundamental assumption to apply the *Rooker-Feldman* Doctrine.

After the Federal Courts incorrectly denied review of the violations of my Civil Rights, in November 2018 I filed a suit back in a Texas State District Court DC-19-00682 [District Court 116, Judge Tonya Parker] to have the proposed Peyton Jr. Orders voided as Peyton Jr. failed to have authorization and that the proposed

Peyton Jr. orders, remained unsigned by the Court. For 9 months, this Court held multiple hearings on my case and this State District Court admitted that there were serious issues of misconduct and illegality in the Dallas Probate Court, and the Dallas Appeal Court, with former Judge Robert Fillmore on the panel. While acknowledging the misconduct of Peyton Jr. in my case, Judge Parker did not feel confident to alter any prior rulings due to jurisdictional issues. In October 2019, Judge Tonya Parker dismissed the case in her court but encouraged me to go back to the Dallas Probate Court and the Dallas Appeal Court for relief.

I followed Judge Tonya Parker's advice and requested that the Dallas Probate Court for the third time to sign the proposed Orders to make them valid per State Law. The Dallas Probate Court again refused to address my Motion as they had with the original hearing in 2013 and my Bill of Review effort in 2015 [PR-15-2286-3].

I then formally filed an Appeal on the original Case with the Dallas Appeal Court in October 2019 [05-19-01293-CV] and then a Writ of Mandamus in November 2019 [05-19-01462-CV] to have the Appeal Court force the lower court to sign the proposed Peyton Jr. Orders to make them Legal. The Dallas Appeal Court questioned their jurisdiction to address a 6 year old Order from 2013 and a Case they had previously reviewed in 2016 via a Bill of Review. I responded that they "can't" address an Appeal as the Orders had never been signed by the Court as required by State Law, so there is no "Effective Date" per State Law. The prior

Dallas Appeal Court review of my original Bill of Review Case in 2016 claimed a Court signature was not required and completely ignored the four provisions in State Law written at the level a fifth grader could comprehend.

The Appeal Court Panel in 2016 was led by former Judge Robert Fillmore who had a strong long standing history and reputation for concealing and covering for misconduct and illegal behavior within the Dallas Probate Court system, especially for Peyton Jr.

On April 10, 2020, the Dallas Appeal Court, without Fillmore, addressed their prior error and failure of the Appeal Court from 2016, reversed course, and confirmed, that under State Law, which is written at the level fifth Grader can comprehend, that the Court sign off is required to set the Effective Date for a proposed Order by an Associate Judge in a Dallas Probate Court. The Court determined that the Peyton Orders were incomplete, not valid, and were unappealable. They also ruled to deny my Writ to Mandamus to force the lower Court to sign the proposed Peyton Orders to make them valid. [ITEM #4/R.E. 20/ROA. 505-510]

The defense requested a rehearing on the April 10, 2020 Dallas Appeal Court Ruling and between he and I, we submitted over 500 pages of background data and the Appeal Court re affirmed the April 10th ruling on May 12, 2020. [ITEM #5/R.E. 26/ROA. 511-512]

On May 7, 2020 [received May 13, 2020,] the Dallas Probate Court finally acknowledged their error and for some totally unexplainable reason, signed off on

one but, not both of the two Peyton Jr. Orders. [ITEM #6/R.E. 28/ROA. 513-514]

I then submitted this May 7, 2020 Order from the Dallas Probate Court to the Dallas Appeal Court and they responded on June 9, 2020 that it was not adequate to open an Appeal. [ITEM #7/R.E. 30/ROA. 515-516]

This Ruling and the earlier denial of my Writ of Mandamus to have the Appeal Court Force the lower Court to sign the Proposed Orders IS CRITICAL.

The Dallas Appeal Court not only ruled that the proposed Peyton Jr. Orders were not and never were valid but that the Dallas Probate Court's effort in May 2020 to make them valid was futile and that:

The Peyton Jr. Orders can never be made Valid.

The Defense then immediately petitioned to the Texas Supreme Court and on October 2, 2020, after a four month review, the Texas Supreme Court recognized that the Dallas Appeal Court got it right this second time and refused to accept the petition [ITEM #8/R.E. 32/ROA. 517-518].

The State law requires that the Court sign off on a proposed Order by an Associate Judge is written in 4 separate sections in the Texas Government Code. Two of the provisions require that the order be signed within 30 days. Given the 7 year gap from July 2013 and October 2013 to May 2020, the Dallas Probate

Court effort to validate the scam deemed to be too little, too late. The end result of the Three Dallas Appeal Court Rulings is that the Proposed Peyton Jr. Orders have never been complete legal instruments and due to the extreme tardiness from the Dallas Probate court to respond, the Orders can never be perfected and made legal. All the prior testimony by Peyton Jr. that he did not deny me my Civil Right to a fair trial was and remain "LIES".

Peyton Jr. has failed to provide this court with any supportive evidence for his position and failed to show that any of my supportive documents were incomplete, inappropriate, not applicable or deficient in any way.

The recent Orders by both the Dallas Appeal Court and the Dallas Probate Court along with the denial of the petition by the Texas Supreme Court have now confirmed that my position was **always legally sound** and that Peyton Jr.'s position was always completely without merit. Peyton Jr. has been removed as a Judge by the State of Texas as they deemed him to be incompetent and Judge Margaret Jones Johnson who mishandled my Bill of Review is currently under review to be disciplined and or removed with the misconduct related to this and other cases.

B. STATUTORY LAW REFERENCE

Requirement for the Court to sign the proposed Order by an Associate Judge in a Dallas Probate Court is as follows.

First is that the Associate Judge must obtain an Order of Referral from the Judge of Record or the State Probate Judge prior to the hearing and that the date of any Order by this associate judge is defined as the date the Referring Court signs the Order per State Laws Tex. Gov Code 54.209c, 54A.214[b], 54A.215, and 54A.217.

54A.209[c] states: *An order described by Sub-section [a][16] that is rendered and signed by an associate judge constitutes an order of the referring court. The judge of the referring court shall sign the order not later than the 30th day after the date the associate judge signs the order.*

00

54A.214[b] *Except as provided by Section 54A.209[c], if a request for a de novo hearing before the referring court is not timely filed or the right to a de novo hearing before the referring court is waived, the decisions and recommendations of the associate judge or the proposed order or judgement of the associate judge becomes the order or judgement of the referring court at the time the judge of the referring court signs the proposed order or judgment.*

54A.215[b] *The judge of the referring court shall sign a proposed order or judgement the court adopts as provided by subsection [a][1] not later than the 30th day after the date the associate judge signed the order or judgement.”*

**REQUIRED SIGN OFF BY THE
JUDGE OF RECORD FOR AN APPEAL**

Without Peyton having the Judge of Record sign off on his proposed Orders to make an Appealable final Order, Peyton denied me my civil right to take the Probate Court Case to a Texas Appeal Court.

A State Appeal court will not accept a proposed Order as a Final Order.

Refer to Texas Government Code 54A.217[b]
"Except as provided by subsection [c], the date the judge of a referring court signs an order or judgement is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or a supreme court?" ["c" refers to 54A.209.16 where all parties have agreed to the associate judge's ruling in writing, which is certainly not applicable with my case].

HAVING AN ORDER WHICH IS SUITABLE FOR APPEAL IS THE ULTIMATE DEFINITION OF A FINAL ORDER BY THE COURT AND THIS LAW CLEARLY AND UNEQUIVOCALLY SHOWS PEYTON'S WORK IS SIMPLY A NOW-EXPIRED PROPOSED ORDER.

C. PREGNANCY/VALIDITY

A woman is pregnant or not pregnant at any time. There is no "in between". The same concept holds true in Law. An Order is signed by the Court or not. The concept of a Partial Final Order does not exist in Law.

incomplete, illegal, and unappealable per State Law.

3] The Texas Courts have confirmed the Proposed Peyton Jr. Orders can never be made complete, legal, or appealable.

4] It is an undisputed fact by both Statutory Law and Case Law that the proposed Peyton Jr. Orders are incomplete, illegal, unsigned and unappealable cannot be represented as Final State Orders.

5] Any assumption that the unsigned proposed Peyton Jr. orders are final is a gross error of fact.

6] The *Rooker-Feldman* Doctrine is only applicable to valid Final State orders.

9] To apply the *Rooker-Feldman* Doctrine while referencing an unsigned illegal, incomplete proposed Order is a gross error of Law.

G. FITZWATER

The District Court Judge in his January 29, 2021 ruling makes a curious statement: "Kam has not met her burden of demonstrating extraordinary circumstances exist". The sole reason that this case is back in the Federal Court system is because of the complete prior failure of the Federal District Court to properly assess the Facts and properly apply the Law as noted above. I am confident that the average citizen would

quickly assess that a complete failure within the Federal District Court does in fact constitute not just an “extraordinary circumstance” but also a “disturbing circumstance” that justifies review of this case by this court.

CONCLUSION

The District Court and the Fifth Circuit made an unexcusable and completely unsupportable error in Fact and Law in 2018 and 2019 and continued to make the same error in 2021.

I made no errors and had no deficiencies in any of my presentations in 2018, 2019 and clearly proved that there was no Final State Order per Texas Statutes. After 7 years the State Court, finally confirmed this, and I immediately provided in 2020 and 2021 this Case Law, specific to my Case to the Federal Courts fully confirming their prior error. All of the mistakes were made by the District and Circuit Court. I never made an error and promptly filed all claims once I was able to after State Court actions.

The District Court and the Fifth Circuit are smart people. The ERROR IN FACT AND LAW was intentional and an overt attempt to provide a favor to a fellow Jurist, even though he is an acknowledged disgrace on their profession. While noble with intent for loyalty, cover for misconduct and ineptitude is not their responsibility.

Only the Single Issue of the applicability of the *Rooker-Feldman* when there is and never was no Final State Order is to be determined by this Court. I also pray that the Supreme Court reverse the District Court and Circuit Court Rulings and permit me to seek relief in District Court as originally requested.

Respectfully submitted,

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