

21-5344

No. \_\_\_\_\_

ORIGINAL

Supreme Court, U.S.

FILED

AUG 05 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

EDITH WOODBERRY — PETITIONER  
(Your Name)

CITY OF DETROIT vs.  
A MUNICIPAL CORPORATION — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

EDITH WOODBERRY  
(Your Name)

803 GLADSTONE  
(Address)

DETROIT MI 48202  
(City, State, Zip Code)

(313) 575-9774  
(Phone Number)

## QUESTION(S) PRESENTED

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1. It is against public policy and the United States Constitution to permit the bankruptcy court to discharge in bankruptcy the City of Detroit's mandatory obligation to pay just compensation after taking private property via eminent domain.
2. The fifth amendment of the United States Constitution bars the bankruptcy court from disallowing or discharging the City of Detroit's constitutional obligation to pay Petitioner just compensation after the City of Detroit confiscated Petitioner's real property under color of the Michigan eminent domain statute.
3. After the bankruptcy court determined that it did not have jurisdiction over Petitioner's claim for payment of just compensation, the bankruptcy court's subsequent bankruptcy orders disallowing Petitioner's claim for payment of just compensation violated the United States Constitution fifth amendment due process clause and fifth amendment mandate requiring that the City of Detroit pay just compensation.
4. It is against public policy, the Michigan eminent domain statute, and the 5th amendment of the United States Constitution for the bankruptcy court to shift to the Petitioner the state's (City of Detroit) mandatory duty and obligation to go forward with obtaining a final order authorizing the taking of Petitioner's real property via eminent domain.
5. The bankruptcy power to disallow a claim does not supersede the 5th amendment requirement that the City of Detroit pay Petitioner just compensation

## LIST OF PARTIES

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☒ 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

Case Number	Style	Filed/Location	Type/Status
84-402901-CH		10/31/1984 Civil Division	(CH) - Housing and Real Estate Conversion (Final)
84-433299-AV		11/21/1984 Civil Division	(AV) - Civil Appeals Conversion (Final)
85-507238-AV		03/20/1985 Civil Division	(AV) - Civil Appeals Conversion (Final)
85-507406-AV		03/21/1985 Civil Division	(AV) - Civil Appeals Conversion (Final)
85-509485-CZ	WOODBERRY v MICH CONSOLIDATED	04/11/1985 Civil Division	(CZ) - General Civil Conversion (Final)
85-531651-CZ		12/03/1985 Civil Division	(CZ) - General Civil Conversion (Final)
86-622688-AV		08/25/1986 Civil Division	(AV) - Civil Appeals Conversion (Final)
16-005862-NI	Woodberry, Edith v KM Food Services, LLC , et al.	05/09/2016 Civil Division	(NI) - Personal Injury, Auto Negligence Final
19-005182-CZ	City of Detroit, a Michigan Municipal Corporation v Edith Woodberry	04/10/2019 Civil Division	(CZ) - General Civil Final
05-522129-CC	City of Detroit, a Michigan Municipal Corporation v Edith Wooberry, James Fuller, Benjamin Sobeloff, etc.	2005 Civil Division	(CC) - General Civil Not Final

## TABLE OF AUTHORITIES CITED

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### CASES

### PAGE NUMBER

*Mumaw v Mumaw*, 124 Mich App 114, 333 NW2d 599 (1983).

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### STATUTES AND RULES

**MCL 213** - The Uniform Condemnation Procedures Act ("UCPA") - provides standards for an agency's acquisition of land, the conducting of condemnation actions, and the determination of just compensation.

**MCLS § 213.52** - provides that if property is to be acquired by an agency through the exercise of its power of eminent domain, the agency should commence a condemnation action for that purpose.

**MCR 2.517** - a court trying a case without a jury must make special findings of fact and state its conclusions of law thereon.

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### OTHER

**MCLS Const. Art. X, § 2.** - The Michigan Constitution provides that private property should not be taken for public use without just compensation being first made or secured in a manner prescribed by law.

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IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**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 A 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 April 1, 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: May 7, 2021, 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. \_\_\_\_ A \_\_\_\_.

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



## CONSTITUTIONAL AND STATUTORY PROVISIONS

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**USCS Const. Amend. 5.** - The Fifth Amendment to the U.S. Constitution states that private property should not be taken for public use, without just compensation.

**USCS Const. Amend. 5** - The Due Process clause of the Fifth Amendment - says to the federal government that no one shall be **"deprived of life, liberty or property without due process of law."**

**USCS Const. Amend. 14** - The Due Process Clause of the Fourteenth Amendment - The Fourteenth Amendment, ratified in 1868, uses the same eleven words, called the Due Process Clause, to describe a legal obligation of all states. It is exactly like a similar provision in the Fifth Amendment, which only restricts the federal government. It states that no person shall be **"deprived of life, liberty, or property without due process of law."** Usually, **"due process"** refers to fair procedures.

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**MCLS Const. Art. X, § 2.** - The Michigan Constitution provides that private property should not be taken for public use without just compensation being first made or secured in a manner prescribed by law.

## STATEMENT OF THE CASE

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The City of Detroit commenced several separate eminent domain actions in the Wayne County Michigan Circuit Court against Petitioner Edith Woodberry ('Petitioner') and various other defendants to take, via eminent domain, Petitioner's 18 unit apartment building ("Subject Property"). Case no. 05-522129 CC was the only case that ultimately proceeded to a Judgment after three years of litigation.

All of the earlier eminent domain actions were dismissed for procedural violations. In one instance, the City of Detroit's eminent domain action was dismissed after the Michigan Court of Appeals held that the decision to assign all eminent domain cases in a geographical area to one Wayne County Circuit Court Judge for adjudication was improper. Upon dismissal, the Wayne County Circuit Court denied the City of Detroit's motion to require the defendants return money paid.

After the dismissal, the City of Detroit then filed, de novo, eminent domain case no. 05-522129 CC to acquire the Subject Property. In 2008, the Wayne County Circuit Court Judge entered a Judgment that awarded the City of Detroit title to the Subject Property and awarded the Petitioner and eleven of the co-defendants a joint just compensation award.<sup>1</sup> Petitioner and co-defendants were barred from appealing the Judgment as a matter of right because the Judgment expressly stated that the Judgment was not a final order.

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<sup>1</sup> Earlier in the case 05-522129 CC, the Wayne County Circuit Court judge awarded the Fuller co-defendants approximately \$250,000 just compensation for their one half interest in the Subject Property. This is noteworthy because the Fuller's one half just compensation is approximately three times more than the approximate \$87,000 the court jointly awarded Petitioner and the remaining co-defendants for the remaining one half interest. Even if Petitioner actually received the approximate \$87,000, that amount is not just compensation because it does not represent one half the value of the Subject Property. This is one of the issues that would have been raised on appeal if a final judgment was entered.

No just compensation awarded in the 05-522129 CC eminent domain action was ever paid to Petitioner and the co-defendants. The 2008 Judgment, entered in lump sum form, did not specify how much just compensation was awarded to Petitioner and each individual co-defendant.

The Wayne County Circuit Court denied the Petitioner and the co-defendant's motion to apportion the just compensation award, which, de facto, left actual payment of any just compensation under case no. 05-522129 CC to the Petitioner and the co-defendants unpaid.

The 2008 Judgment also ordered that an unspecified amount be deducted from the just compensation award to pay for rent, utilities, taxes, etc. that accrued during the three years the eminent domain action was pending before the Wayne County Circuit Court.

Despite the fact that the City of Detroit did not obtain a final order from the Wayne County Circuit Court judge, the City of Detroit forcibly evicted Petitioner (and the co-defendants) from the Subject Property. Petitioner and the co-defendants were unable to appeal the unlawful eviction and the City of Detroit's illegal "taking" of their homes because the Wayne County Circuit judge did not enter a final order.

The City of Detroit filed Chapter 9 bankruptcy. The City of Detroit did not list Petitioner as a creditor in its Chapter 9 application. After the City of Detroit completed Chapter 9 bankruptcy proceedings, the City of Detroit notified Petitioner (and co-defendants) that if Petitioner (they) had a claim against the City of Detroit, Petitioner (they) should file a claim in the bankruptcy.

Petitioner filed a claim which the City of Detroit moved to disallow. Bankruptcy

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Judge Stephen Rhodes did not sustain the City of Detroit's petition to disallow the claims. Instead, without making any determination regarding the validity of Petitioner's claim for payment of just compensation, Judge Rhodes determined that the bankruptcy court could not decide Petitioner's claim because the 2008 Judgment requiring the City of Detroit to pay just compensation was not a final order and that Petitioner and the co-defendants were entitled to an appeal as a matter of right. Judge Rhodes retired shortly after making this determination. Judge Rhodes' order was never quashed or set aside.

Rather than appeal Judge Rhodes' order or obtain a final order in the Wayne County Circuit Court, the City of Detroit petitioned the bankruptcy court a second time for entry of an order disallowing the Petitioner's claim for just compensation.<sup>2</sup>

In the new petition, the City of Detroit submitted false documentation that the City of Detroit paid Petitioner just compensation in case 05-522129 CC. The City of Detroit submitted null and void documents from the dismissed eminent domain action in which the Wayne County Circuit Court Judge denied the City of Detroit's motion to require the return of money paid. The City of Detroit did not appeal the order denying return of money paid in that case.

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<sup>2</sup> On June 19, 2018, Edith Woodberry filed Edith Woodberry's Response to Order Setting Deadline by Which the Woodberry and Mabin Claimants (Fifty-Sixth and Sixty Second) Must Take Certain Actions Regarding Their Claims [Doc, No.12838]. The record shows that on the same day, June 19, 2018, the Court issued a Notice of Deficient Pleading and that Edith Woodberry's response was stricken from the record as untimely filed.

The court failed to make sufficient specific findings of fact and conclusions of law pursuant to MCR 2.517. Per MCR 2.517, a court trying a case without a jury must make special findings of fact and state its conclusions of law thereon. A trial court must make findings of fact and conclusions of law which are sufficient to allow a review in court to determine whether the findings of fact were against the great weight of evidence, whether an abuse of discretion occurred or whether a clear legal error was made. *Mumaw v Mumaw*, 124 Mich App 114, 333 NW2d 599 (1983).

The City of Detroit did not present any proof or documentation that the City of Detroit paid any just compensation to Petitioner in case no. 05-522129 CC per the 2008 judgment.

Footnote #1 makes the point that even if the City of Detroit paid Petitioner the Judgment amount, the 05-522129 CC just compensation award contained is only approximately one third of the approximate \$250,000 the City of Detroit paid the Fuller Defendants' for their one half interest in the Subject Property. By definition, the 05-522120 CC Judgment is not just compensation.

The Michigan eminent domain statute (Uniform Condemnation Procedures Act, MCL 213, et seq.) does not authorize the City of Detroit to apply money paid in a dismissed eminent domain action to a new eminent domain case 05-522129 CC. The effect of the dismissal made any just compensation payment in the dismissed eminent domain action null and void. Further, the Circuit Court Judge in the dismissed case expressly denied the City of Detroit's motion to return money paid.

The bankruptcy court judge assigned to replace Judge Rhodes, unlawfully shifted the City of Detroit's statutory responsibility to go forward with the 05-522129 CC eminent domain action to final Judgment to Petitioner and the co-defendants, in effect improperly requiring and shifting to the Petitioner and co-defendants the City of Detroit's duty to prosecute the 05-522129 CC eminent domain case to completion. See MCL 213.52.

The Petitioner and co-defendants took action in compliance with the bankruptcy court order. Nevertheless, the bankruptcy court entered orders disallowing Petitioner and co-defendants' claims for just compensation payment.

## REASONS FOR GRANTING THE PETITION

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1. It is against public policy and it is bad law to permit the City of Detroit to file bankruptcy to bypass its constitutional duty to pay Petitioner just compensation.
2. Manifest injustice will occur if the City of Detroit is allowed to take and keep Petitioner's property without paying Petitioner just compensation. At a minimum, the City of Detroit must be required to return the Subject Property to Petitioner.
3. The disallowance of Petitioner's claim in the City of Detroit's bankruptcy unjustly enriches the City of Detroit to the Petitioner's detriment.
4. Per the Michigan Uniform Condemnation Procedures Act (MCL 213.52), a bankruptcy court cannot shift the City of Detroit's obligation to proceed to final judgment in an eminent domain action from the City of Detroit to the Petitioner.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Edith Woodberry

Date: August 5, 2021

