

In the Supreme Court of the United States

R. SUSAN WOODS,

Petitioner,

v.

ALINAS REAL ESTATE, LLC,

And

JOSEPH B. COLLINS, CHAPTER 7 TRUSTEE,

Respondents.

*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIRST CIRCUIT*

BRIEF FOR ALINAS REAL ESTATE, LLC IN OPPOSITION

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QUESTIONS PRESENTED

Whether the finding by the First Circuit Court of Appeals that the District Court's certification that Petitioner's appeals were motivated by subjective bad faith and taken for improper purposes and denying Petitioner's Motion for leave to appeal *in forma pauperis* was supported by the record.

Whether the conclusion by the First Circuit Court of Appeals that the Petitioner had failed to present a "substantial question" on appeal, and affirming the judgment of the District Court, was supported by the record.

PARTIES TO THE PROCEEDING

Petitioner R. Susan Woods is the Chapter 7 debtor in her personal bankruptcy case and the plaintiff in the adversary proceeding against Respondent Alinas Real Estate, LLC, which is the subject of the appeal relating to First Circuit Docket No. 20-1991.

Respondent Joseph B. Collins is the Chapter 7 Trustee in Petitioner's bankruptcy case, the plaintiff in First Circuit Docket No. 20-1992, and the defendant in First Circuit Docket No. 20-1993.

RULE 14.1(b)(iii) STATEMENT

Pursuant to this Court's Rule 14.1(b)(iii), the following proceedings are related to this case:

- *In re Woods*, Chapter 7 bankruptcy case Docket No. 18-30549-EDK, United States Bankruptcy Court for the District of Massachusetts.
- *Woods v. Alinas Real Estate, LLC*, Docket No. 18-3019-EDK, United States Bankruptcy Court for the District of Massachusetts. Judgment entered February 4, 2020.
- *Woods v. Alinas Real Estate, LLC*, Docket No. 20-30026-LTS, United States District Court for the District of Massachusetts. Appeal dismissed September 29, 2020.
- *Woods v. Alinas Real Estate, LLC*, Docket No. 20-1991, First Circuit Court of Appeals. Judgment denying Petitioner's motion to proceed *in forma pauperis* entered April 27, 2021; motion for *en banc* review denied July 19, 2021.

REPORTED OPINIONS AND ORDERS

Woods v. Alinas Real Estate, LLC, (In re Woods), 614 B.R. 159 (Bankr. D. Mass. 2020)

Woods v. Alinas Real Estate, LLC (In re Woods), 2020 WL 6497927 (D. Mass. 2020)

Woods v. Alinas Real Estate, LLC, (In re Woods), 2021WL1799849 (1st Cir. 2021)

In re Woods, 2021 WL 933486 (Bankr. D. Mass. 2021)

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OPINIONS BELOW

The judgment of the Bankruptcy Court for the District of Massachusetts is reported at 614 B.R. 159. The Bankruptcy Court's decision was affirmed by the District Court for the District of Massachusetts and is reported at 2020 WL 6497927. The District Court's decision was affirmed by the First Circuit Court of Appeals and is reported at 2021 WL 1799849.

JURISDICTION

Jurisdiction in this case is pursuant to 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

PREFACE

As a preface, Respondent Alinas Real Estate, LLC (“Alinas”) notes that while Petitioner has filed a consolidated petition on three appeals, Alinas is a party only to First Circuit Court of Appeals Docket No. 20-1991, and not to Docket Nos. 20-1992¹ and 20-1993. Alinas takes no position on the allegations related to the latter two cases. While Petitioner is the debtor in all three appeals, the underlying disputes are different: the appeal in which Alinas is a party results from a violation of the automatic stay, 11 U.S.C. § 362(a); the appeals to which Respondent Collins is a party concern denial of Petitioner’s motion to avoid a sale of property (not involving Alinas) pursuant to 11 U.S.C. § 363, and a judgment denying Petitioner’s discharge, 11 U.S.C. § 727.

Docket No. 20-1991 arises from an adversary proceeding [Bankruptcy Court Docket No. 18-3019] filed by Petitioner in the Bankruptcy Court alleging violations of the automatic stay, 11 U.S.C. § 362(a), concerning efforts by Respondent Alinas to evict the Debtor from property formerly owned by her at 43 West Street, Hadley, Massachusetts, and seeking damages under 11 U.S.C. § 362(k).

In a number of instances Petitioner makes references to alleged “illegal” evictions, and “illegal” or “void” foreclosures of her properties. Respondent Alinas

¹ In her petition, Petitioner lists one of Respondent’s members as an “additional party” to Docket No. 20-1992. This is simply false. That appeal concerned the Trustee’s objection to Petitioner’s discharge; Respondent Alinas was not a party either to the underlying adversary proceeding or those appeals.

disputes those characterizations, and has consistently done so below. Prior to the commencement of Petitioner’s bankruptcy case, Respondent Alinas received judgment against Petitioner authorizing eviction, and her appeal was dismissed by the Massachusetts Appeals Court. Shortly after the bankruptcy case was commenced, Alinas filed a motion for relief from the automatic stay to resume the eviction process, which was contested by Petitioner. On July 19, 2018 the Bankruptcy Court granted Respondent’s motion for stay relief for “cause”, pursuant to 11 U.S.C. § 362(d)(1). The court stated as follows: “[t]his Court is prohibited from considering the Debtor’s arguments regarding the validity of the foreclosure sale and the movant’s right to proceed with eviction proceedings under principles of res judicata and collateral estoppel and by the Rooker-Feldman Doctrine, which ‘bars a losing party in state court to file a suit in a federal district court—after the state proceeding has ended—to complain of an injury caused by the state-court decision and seek review and rejection of the state-court judgment’”.² Petitioner filed a motion for reconsideration of the order granting stay relief; that motion was denied by the Bankruptcy Court on August 3, 2018. Petitioner did not appeal the order granting stay relief, so that order has long been a final order.

Thus, the facts relevant to the Petitioner’s request to this Court with respect to Respondent Alinas Real Estate, LLC (“Alinas”) are much simpler than those set forth in her petition.

² The Rooker-Feldman doctrine is based upon the cases of *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

1. On July 10, 2018 the Petitioner filed a petition for relief under Chapter 7 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Massachusetts.
2. The following day she filed an adversary proceeding in the Bankruptcy Court [Docket No. 18-3019, the “Adversary Proceeding”] against Respondent Alinas alleging violations of the automatic stay, 11 U.S.C. § 362(a), for conducting an eviction against Respondent the day after the bankruptcy filing, and seeking damages.
3. On February 4, 2020, following discovery and a trial, the Bankruptcy Court entered judgment against Alinas in the amount of \$2,500.00 pursuant to 11 U.S.C. § 362(k).
4. Petitioner appealed the judgment, and elected to have the appeal heard by the District Court [Docket No. 20-30026-LTS].
5. On May 11, 2020 Respondent Alinas filed a motion for dismissal of the appeal because, among other things, Petitioner had neither timely filed her appellate brief nor timely filed a (second) motion for extension of the deadline.³

³ On April 7, 2020 petitioner filed a motion to extend the deadline for filing her brief for 30 days. The District Court granted that motion, ordering that her brief be filed by May 7, 2020. She neither filed her brief nor filed a motion for another extension by that date.

6. On September 29, 2020 the District Court (Sorokin, J.), issued a detailed memorandum opinion granting Respondent Alinas' motion, and entered a judgment dismissing the appeal. The District Court stated as follows: "Woods's right to this Court's review of the Bankruptcy Court's decisions is not absolute. Her failure to comply with court scheduling orders and to follow the rules governing federal court proceedings justifies dismissal of her appeal without reaching its merits. This should come as no surprise to Woods, as her pattern of such noncompliance has led to the same result more than once previously." *Petitioner's Appendix B, pp. 10-11.*

7. On October 9, 2020 Petitioner appealed the judgment of dismissal to the First Circuit Court of Appeals [Docket No. 20-1991].
8. On October 15, 2020 Respondent Alinas filed a motion with the District Court pursuant to F.R.A.P. 24(a)(3)(A), requesting that the District Court certify that that Petitioner's appeal was not taken in good faith, so that she would not be eligible for *in forma pauperis* relief.⁴

⁴

Similar motions were filed by Respondent Collins.

9. On October 21, 2020 Petitioner filed her Motion for Appellant to Proceed in Forma Pauperis in Appeal to the United States Court of Appeals for the First Circuit (the “IFP Motion”).
10. On October 22, 2020 the District court (Sorokin, J.) entered an order granting Respondents’ motions, certifying “that Woods’ three appeals are motivated by subjective bad faith and are taken for improper purposes...” *Appendix A, p. 5.*⁵
11. Respondent Alinas filed an opposition to the IFP Motion on November 9, 2020.
12. On April 27, 2021 the First Circuit entered a judgment (the “Judgment”) summarily affirming the District Court, stating that “[w]e agree with the district court’s determination that good faith is lacking. Because [Petitioner] has failed to identify any non-frivolous argument on appeal, we deny the IFP motion”. The First Circuit further concluded that Petitioner’s appeal did not present a “substantial question”, and summarily affirmed the judgment of the District Court dismissing the appeals. *Appendix A, p. 1.*

⁵ The Bankruptcy Court made a similar finding: “The Debtor has clearly evidenced a “propensity to file repeated [pleadings] involving the same or similar claims of a ‘frivolous or vexatious nature.’” *In re Woods*, 2021 WL 933486 (Bankr.D.Mass. 2021) (granting the Trustee’s second motion to prohibit vexatious litigation).

13. On May 11, 2021 Petitioner filed a request with the First Circuit for *en banc* review; that motion was denied on July 19, 2021. *It is the Judgment—and this Judgment only--that is the subject of Petitioner’s appeal to this Court.*

ARGUMENT

There are no Grounds for Granting the Petition

It is axiomatic that factual findings of lower courts are generally not appropriate for review by this Court. “A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law”. Supreme Court Rule 10. Both of the rulings in the Judgment are solely based upon factual determinations that are well supported by the record below.

28 U.S.C. § 1915 (a)(3) provides that “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith”. The language of F.R.A.P. 24(a)(3)(A) is essentially the same. In evaluating whether an appeal is taken in good faith, the District Court may also appropriately inquire as to whether the issue being appealed is frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). A review of the District Court’s opinion makes it clear that that the Court had carefully and thoroughly reviewed the record in the Petitioner’s three appeals. It made a factual determination that each of the appeals were frivolous, taken in bad faith and with improper motives, citing to the record.

The First Circuit agreed. A Court of Appeals decision in review of a certification of bad faith is not conclusive, but it is given weight. *Id.*, 369 U.S. at 446. Here, the First Circuit found that good faith was lacking, and that there were no non-

frivolous arguments on appeal. Thus, the IFP Motion was denied. That Court then went further, stating that “after careful review of relevant portions of the record, we conclude that the appeal does not present a ‘substantial question’, see 1st Cir. Rule 27.0(c) ... [t]he judgment of the district court is summarily affirmed”. Again, this is a factual determination. It is not based on any sort of interpretation of federal law, is not in conflict with interpretation of federal law in other circuits, and there is no other compelling reason that merits further review by this Court.

CONCLUSION

For these reasons, Petitioner’s motion to proceed *in forma pauperis* in this Court should be denied, and her petition for a writ of certiorari should likewise be denied.

Respectfully submitted,

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RESPONDENT

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