

No. 21-6267

In the
Supreme Court of the United States

ADRIENNE BROWN-MALLARD

Petitioner

v.

POTOMAC CONCRETE CO., INC.,

CREATIVE LANDSCAPES BY GREGORY

Respondents

On Petition for Writ of Certiorari
To The Court of Special Appeals of Maryland

PETITION FOR REHEARING

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SUPREME COURT, U.S.

QUESTION PRESENTED

Whether Due Process of Laws were dishonored under *Liteky v. U.S.*, 114 S.Ct. 1147, 1162 (1994), *Elliot v. Piersol*, Title 18, U.S.C., Section 241, 242, 245, *Batson v. Kentucky* 476 U.S. 79 (1986), *J.E.B. v. Alabama* 511 U.S. 127 (1994), *Edmonson v. Leesville Concrete Co., Inc.* 500 U.S. 614 (1991), creating reversible errors of law under Federal Rules 60(b), 455(b)(1) or 455(a)?

LIST OF PARTIES

POTOMAC CONCRETE, CO., INC.

CREATIVE LANDSCAPES BY GREGORY Respondents

RELATED CASES

Court of Appeals of Maryland (No. 479)

Court of Special Appeals of Maryland (No. 3030/September Term 2018)

Prince George's County Circuit Court (CAL 17-13531)

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Petitioner

v.

POTOMAC CONCRETE CO., INC.

CREATIVE LANDSCAPES BY GREGORY

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE COURT OF SPECIAL APPEALS OF MARYLAND

PETITION FOR REHEARING

OPINIONS BELOW

The Opinion of the Court of Special Appeals of Maryland (No. 3030 September Term, 2018) Affirm

JURISDICTION

The Order of the Court of Appeals of Maryland was entered on June 22, 2021.

The Opinion of the Court of Special Appeals of Maryland was entered on January 6, 2021.

INTRODUCTION

Pursuant to Rule 44.2 of this Court, I, Adrienne Brown-Mallard (the Petitioner) respectfully petitions this Honorable Court for a Rehearing of January 18, 2022 Order denial of a Writ of Certiorari in light of Federal Rules 60(a), 60(b), 60(b)(1-4) authorizing corrections and relief from final judgement Sua sponte, and 28 U.S. Code 455(a), 455(b)(1) disqualification of trial judge Sua sponte voiding below courts judgments.

Furthering intervening circumstances of substantial, extraordinary, controlling effects by appellate court not addressing brief issues regarding trial courts Unconstitutional errors. Condensed.

1. Rule 47(a), 47(b), 47(c)-Three-jurors without requisite qualifications? 2. 28 U.S.C. 1870-Peremptory challenges 5-per party/same race same gender? 3. Title X 77, 79, 80-Court/Clerk not docketing/not recording courtroom procedures/jury communications? 4. Judge deliberate bias tainting jurors? 5. Respondent confessions to code-violations/admitting repaired staircase proves guilt/liability? 6. Granting summary judgment caused instant removal of other relevant evidence? 7. Respondent's joint-liability both constructing bonded staircase?

Along with my 3-briefs (initial/2-responses) extensively arguing issues not addressed in opinion, the amalgamation of errors disobeys *Title 18 U.S.C. Section 241*-conspiracy against rights, *Section 242*-Deprivation of Rights, *Section 245*-Federally Protected Activities-*The Color of Law*, *depriving Constitutional Due Process of Laws*.

I am presenting this petition to each of the U.S. Supreme Court Justices on merits, supportive laws, Supreme Court precedence's, in good faith and not for delay after 7 years. Having genuineness, truths from my kind spirit and heart. The grounds are limited to intervening circumstances of a substantial or controlling effect, as well as other substantial grounds not previously presented. Similarly, with extraordinary circumstances. With respect, please appreciate the extreme challenge for a pro se to condense an abundance of errors (over 15) into one petition, researched and written 100% by me.

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

We the people ensures inclusiveness. Of the people, for the people, by the people.

STATEMENT OF THE CASE

This case is the painful harsh reality of absolute denial of Due Process. Crucial in balancing circuits and disproportionate rulings for U.S. minorities. Federal Rules 60(b), 455(a), 455(b)(1) disqualification of trial judge for impartialities, not recusing himself Sua sponte, certainly voids both trial and appellate court's rulings. Reversible grounds for a new trial. 455(a) is self-executing, enforces judges' duty to recuse himself on-his-own. Had Prince George's County Circuit Court (PGCCC) judge recused himself in 2018 or had Court of Special Appeals of Maryland (CSAM)

acknowledged and corrected trial errors, further documented court infractions would not have occurred, extending case.

Today (2022), this case has not received one-acknowledgement from courts-on-courts Constitutional infractions interfering with case Due Process.

Pierson v. Ray, 386 U.S. 547 (1967), *When a judge acts intentionally knowingly to deprive a person of constitutional rights, he exercises no discretion or individual judgment; he acts no longer as a judge, but as a "minister" of his own prejudices.*

(T)he courts are in many instances under control of those who are wholly inimical to impartial administration of law and equity. Id., at 394.

What about judges who conspire... to "railroad" a dissenter? What about judge who knowingly turns a trial into "Kangaroo" court? Congress, I think, concluded that the evils of allowing intentional, knowing deprivations of civil rights to go unredressed far outweighs the speculative inhibiting effects which might attend an inquiry into a judicial deprivation of civil rights.

Since my 2014 work injuries and 7½ shocking years in courts standing for mine and minorities Constitutional Rights, I've learned it is impossible to receive any justice without courts 1st Acknowledging.

Without Courts acknowledging errors, Due Process cannot exist.

U.S. Constitution indicates equality in Due Process of Laws. Courts are citizens only resource for justice of law. Only Courts can correct Courts Unconstitutional misconducts. After years on appeal following rules, this honorable court is this case remaining sole protection. Without Supreme Court reversal ruling, this case sits in courts with Federal law inequalities, Supreme Court rulings disobeyed, Constitution challenged, discriminated, unbalanced in circuits.

REASONS FOR GRANTING PETITION FOR REHEARING

Substantial intervening circumstances of reversible court errors controlling case narrative and outcome, averting Constitutional Due Process of Laws. My Writ of Certiorari presented 6 questions implicating no equal Due Process of Laws. Abbreviated question presented (if I may add).

Whether Due Process of Laws were dishonored under Liteky v. U.S., 114 S.Ct. 1147, 1162 (1994), Elliot v. Piersol, Title 18, U.S.C., Section 241, 242, 245, Batson v. Kentucky 476 U.S. 79 (1986), J.E.B. v. Alabama 511 U.S. 127 (1994), Edmonson v. Leesville Concrete Co., Inc. 500 U.S. 614 (1991), creating reversible errors of law under Federal Rules 60(b), 455(a) or 455(b)(1) Sua sponte, requiring setting aside lower courts judgments?

Substantial Grounds/Statutes Not Previously Presented/Opinion Not Addressing Brief

1. **28 U.S. Code 455(a)**—Disqualification of judge. Recusing himself for impartialities. Sua sponte.
 - (a) Any judge...of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
 - (b) He shall also disqualify himself in the following circumstances:
 1. Personal bias or prejudice concerning a party.

CSAM Opinion not addressing brief arguments-judge bias. From trial onset, PGCCC transcript documents judge initial bias towards case, entering courtroom antagonizing. Bellowing, A four-day trial...Really guys! Fully expressed his emotions towards my liability case involving about 30 medically diagnosed injuries, Life-Long disabilities, and work restrictions. My first trial.

Berger v. United States, 255 U.S. 22 (1921)...bias or prejudice against him, stating facts, reasons, substantial in character which, if true, fairly establish a mental attitude of judge against affiant which may prevent impartiality of judgment, it becomes the duty of judge to retire from case. P.255 U.S. 30.

Opinion not addressing brief arguments-judge rushed trial/replaced reading Maryland Pattern Jury Instructions with jury conversation, often manipulating jurors using special-titles. Taylor v. O'Grady 888 F.2d 1189 (7th Cir. 1989) requires judge to recuse-himself-Section 455(a).

Attorneys On Both Sides Objected-Judge Not Reading Jury Instruction

Defense attorney joins Plaintiff's standing-objection:

Mr. Daily: *"Your Honor, and I am just a little concerned about my client who you described as the corporation rather than the defendant..."*

Court: *"Well, you know, I did that for a reason, because I don't want them to discriminate."*

Mr. Daily: *"Yes, sir."*

Court: *"That's what I meant to do."*

"So are you ready to argue to the jury?"

Mr. Daily: *"Yes, Your Honor."*

Court: *"Then go right ahead."*

Mr. Daily: *"Your Honor... am just going to double-check on the instruction we submitted... Your Honor, I'm not sure you gave the mitigation instruction, minimizing..."*

Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 108 S.Ct. 2194 (1988)...*what matters is not the reality of bias of prejudice but its appearance...Proof not required.*

Judge Lombardi's court recorded statements are admittance of direct persuasions for jurors and blatant shameless bias directed towards case. Drilling it home with, *"That is what I meant to do."* This comfort level of reversible court errors should not stand in U.S. Courts harming citizens only seeking guidance and help.

United States v. Balistrieri, 779 F.2d 1191 (7th Cir. 1985) Judicial Code, 28 U.S. 455(a), not intended to protect litigants from actual bias in their

judge but rather to promote public confidence in impartiality of judicial process.

2. Title VI 47(a)-Selecting jurors.

Opinion not addressing brief/response arguments-trial transcript revealing judge selected jurors #13, #17, #18 not asked any qualifying question (Appx-F-Juror-Skip/Appx-H-Who's-#17?). 3-Jurors not appearing in court recorded transcript until judge selected them as jurors.

3. Title VI 47(b) Peremptory Challenge-omitting jurors same race/same gender. 28 U.S.C. 1862-Jury discrimination prohibited.

Opinion not addressing brief arguments-peremptory challenge Rule 47(b), 28 U.S.C. 1862 removed jurors of same gender/same race defies U.S. Supreme Courts *Batson v. Kentucky*, *J.E.B. v. Alabama*, *Edmonson v. Leesville Concrete Co., Inc.*

Throughout Vior dire, judge asked all question, selected jurors, and Forman. Court asked my then lawyer Kevin Finnegan and Respondents lawyer Frank Daily if they were good/okay with jury selection (Appx-G-transcript). Both said yes without objecting, aware throughout jury-selection bench discussions with judge, 3-jurors selected never questioned/qualified as jurors. None of the 5-lawyers on case in courtroom objected to trial misconduct, omitting jurors of same race/same gender, or 5 out of 6 jurors having same race/same gender? Court not correcting. Illusory, why have trial if opposing sides/attorneys on one accord?

Noteworthy, AO 153-Attorney Oath disobeyed. Judge Oath 28 U.S. Code 453 disobeyed with 455(a), 455(b)(1). *Knowledgeable of laws/rules. Transcript proves.*

Unbeknownst to me, unable to hear attorney/judge bench discussions involving my-life. Concerned, I argued same gender/race, some jurors selected not familiar in PGCCC Motion for New Trial and CSAM-brief.

4. **Federal Rule of Evidence, Rule 401**-Test for Relevant Evidence:

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without evidence.
- (b) fact is of consequence in determining action.

Opinion not addressing brief arguments-judge excessive relevant evidence removal. Federal Rules of Evidence Article IV 403-excluding relevant evidence prejudice/confusion. Unnecessarily removing 1 of only 2-steps in staircase by removing a Respondent without fact-checking. Each respondent constructed a-step. Immediately eliminating nearly all my trial evidence proving Respondents culpable code-violations on different colored steps-height-texture-patterns created optical causing my Life-Long disabilities/work restrictions. 2-or-more needed to compare anything. Judge aware expert witness deposition stated both Respondents negligence caused injuries (Appx-J-Expert-witness/E-attorney-retreat). Finnegan flipped stance without informing me.

Opinion not properly addressing removing riser-height talks. Riser-heights are staircases (Appx-I-Riser-Definition). Eliminating jurors considering both Respondents crucial multiple code-violations constructing negligent staircase. Completely eradicating strong supportive evidence. Left to begin trial with only ½ of bonded steps. Evidence of National-State Builder Codes to prove negligence now extinct.

Opinion mischaracterized removal of one-bonded-step from staircase without properly weighing Article IV 401, 403. Misleads to believe 2-separate staircases not rightful 1-staircase. Not addressing/weighing brief arguments-removal caused domino-effect excluding other relevant evidence. Both-steps needed to compare LSC and IBC code-violations. Nonsensical-judge removing 1-step, then removes talks of steps. Case concerns-Steps. Partial.

5. Title X District Courts-Clerk Rule 77/79/80 Conduct/Records Kept-Stenographic

- a. Opinion not addressing brief arguments-deliberating jurors informing court questions, judge informed both attorneys. We all left restaurant for courtroom. While my family and I waited in security line, court proceeded anyway. Jurors 3-questions directed towards me on what I was wearing, why I filed late, why defense found out late? Veering from evidence, any instructions received, defense confessed code-violations, rules, laws. Court advised jurors to get back/make-a-decision, without answers, without my attendance, concerning my-life.

Rule 2-521(d). Court responds to jury request-reviews evidence and communication. All communication between judge-jury must be on record or in writing-filed in the action.

894. ID. (b), (c). Court notifies parties of receipt of any communication from jury before responding to it.

- b. Opinion not addressing brief arguments-PGCCC trial transcript (Appx-A-certificate), revealed court proceedings were not docketed nor recorded. Multiple witnesses on deliberating jurors returning to courtroom with

questions. No stenographer. This U.S. Courtroom procedure omitted from transcript. As proof, my Affidavit docketed in this Court indicating after receiving transcript realized edited-courtroom procedures not documented. Respondent CLG acknowledged proceeding. Further proof court followed only Rule 894. ID. (b), (c)-informing parties, but not Rule 893. MD. R.P. 2-521(c) by willfully illegally not docketing/recording courtroom event/procedure.

6. U. S. Constitution VI—*US Superior Law of the Land—Judges bound thereby any Thing in the Constitution or Laws of any State Oath.*

Verdict influenced by irrelevant and discriminating evidence, avoiding Defense confessions.

On appeal, CSAM opinion deeply protected Respondents and trial court errors by not responding to Constitutional issues presented in brief, avoiding judge impudent bias statements tainting jurors before deliberation. Unfairly misrepresented the essence of case appealed issues with dismissive oversights, rerouting towards me/Petitioner-called by name as if not represented by attorneys Kevin Finnegan and Joshua Sturman (Appx-D-transcript-attorney representations) never-once mentioned, inserted my name “quoting” Finnegan. Opinion concentrating on defending unreasonably removed PCC-Respondent throughout 4 of 5-½ pages. CLG-Respondent present throughout 3-day-trial notated only 1-paragraph/riser-height removal. CSAM opinion overlooked a barrage of trial errors, Respondent’s code-violations, not one-negative statement against any wrong-doers. No avoidance or excuses reign above the Law.

Sixteen potential reversible court-errors, 1) 28 U.S. Code 455(a), 2) Judge deliberate bias/antagonizing. 3) Excessive removal of evidence. 4) Court Voir Dire 3-unqualified/unquestioned jurors selected. 5) Peremptory challenge removing jurors same gender/race. 6) Neither attorney objected unqualified jurors. 7) Neither attorney objected jury removal-same gender/race. 8) Judge rushed entire trial. 9) Court not reading Maryland Pattern Jury Instructions. 10) Court describing Defendant as "Corporation" to jurors-not reading jury instructions before deliberation *"Well, you know, I did that for a reason... That's what I meant to do."* 11) Court not reading Respondent's mitigation instructions. 12) Deliberating jurors returning to courtroom received no answers-Get back make-a-decision. 13) Court not recording/docketing courtroom events. 14) Court not recording communications with jurors. 15) Verdict not based on court record and defense confessions to guilt. 16) CSAM ignored all above-violations argued in brief/mischaracterized opinion.

The amalgamation of errors defying Title 18, U.S.C., Section 241, Section 242, Section 245 deprive, creating Absolute Denial of Due Process of Laws. Reversible errors voiding judgments.

One-acknowledgment could've corrected trial errors. Instead allowed, protected, opinion confirmed. Years of Courts errors could've been avoided, but for trial judge not following rules, even honoring 28 U.S. Code 455(a) recusing himself-Sua sponte.

Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828). Without authority, judgments/orders are regarded as nullities. They are not voidable, but simply void; form no bar to a recovery sought, even prior to reversal in opposition to them. They constitute no justification; all

persons concerned in executing such judgments or sentences, are considered, in law, as trespassers.

7. Title VII 60(b)(1) Federal Rule of Civil Procedure, authorizes relief from final judgment based on mistake, inadvertence, surprise, or excusable neglect.

Lastly, my case encompasses numerated extraordinary circumstances under Civil Procedure 60(b)(1), 60(b)(6) requiring judgment set-aside. Rehearing is suitable considering supportive statutes, common law, Constitutional protections from the level/amount from those in law involved. This Court recently granted Certiorari for No. 21-5726 concerning Civil Procedure 60(b)(1)-relief from final judgment-errors of law.

Errors of law is the resounding essence of my case throughout below courts. Gone too long without acknowledgement or accountability. Seeking reversal of judgment.

Elliott v Piersol, 26 U.S. 328, Courts act without jurisdiction. *“But if it acts without authority, its judgment and orders are regarded as nullities.”*

EXHAUSTED LEVELS IN COURTS TO RECTIFY COURTS ERRORS

- a. 11/7/18, PGCCC-Filed Motion for New Trial/Notwithstanding 10/31/18 verdict, 7-Days after trial.
- b. 11/14/18, PGCCC-Filed Addendum Motion for New Trial. Providing court opportunity to rectify courts errors.
- c. 12/4/18, PGCCC-Filed Notice of Appeal to CSAM. Lost in PGCCC over two weeks.
- d. 6/28/19, CSAM-Filed brief (due-prior to receiving court-transcript 9/18/19).
- e. 12/31/19, CSAM-Filed response brief-Respondent PCC.

- f. 12/31/19, CSAM-Filed response brief-Respondent CLG.
- g. 5/1/20, CSAM-Filed Affidavit-PGCCC not docketing/recording courtroom procedures.
- h. 1/23/21, CSAM-Filed Motion for Reconsideration.
- i. 2/21, CAM-Filed Notice of Appeal.
- j. 2/12/21, CAM-Filed Writ of Certiorari.
- k. 3/11/21, CAM-Filed Supplemental Questions.
- l. 3/24/21, CAM-Filed-Response to Respondents.
- m. 4/22/21, CAM-Filed Supplement-Jury Nullification.
- n. 5/3/21, CAM-Filed Motion for Reconsideration.
- o. 5/17/21, CAM-File-Supplement (Opinion-Steps Caused Injury).
- p. 6/30/21, U.S. Court of Appeals 4th Circuit-Filed Extraordinary Writ of Mandamus.
- q. 7/14/21, Attorney Grievance Commission of Maryland-Filed regarding attorney Kevin Finnegan (Appx-B-C).
- r. 9/14/21, U.S. Supreme Court-Filed Petition-Writ of Certiorari.
- s. 11/10/21, U.S. Supreme Court-Filed Corrections-Writ of Certiorari.
- t. 1/11/22, U.S. Supreme Court-Filed Petition for Rehearing.
- u. 3/1/22, U.S. Supreme Court-Filed Corrections.

Inhumane for any U.S. citizen to ever have to chase court rules/dates for years from suppressed court errors, while those under Color of Law break known laws. U.S. Constitution doesn't promote getting away with crimes. It's the Law-of-the-Land.

Errors of laws illustrated from disqualified rulings, void under 28 U.S. Code 455(a), grounds for rulings to be set-aside accordingly.

Liteky v. U.S., 114 S.Ct. 1147, 1162 (1994), Disqualification-If judge's attitude/state of mind leads a detached observer to conclude that a fair impartial hearing is unlikely, judge must be disqualified. Favorable or unfavorable predisposition can also deserve to be characterized as "bias"

or 'prejudice"...it is so extreme as to display clear inability to render fair judgment. Some courts called this case the "pervasive bias" exception to "extrajudicial source" doctrine.

Below courts had opportunity for a precedence establishing communications for multiple contractors merging projects at same sites. Reinforcing legalities/liabilities on attached constructions, properly weighing code-violations, Respondent's confessions, adhering to National/State Builder Codes.

Shockingly interrupted by substantial intervening circumstances of reversible court-errors controlling this case narrative and outcome. Opinion disproportioned, discriminated, imbalanced. Irrefutably blocking Due Process. Since 2018 trial, undisputable court errors stand Unconstitutionally unchecked. Opinion overlooked judicial errors, confirmation suggest further Federal and Constitutional errors. Regrettably seems collaborative.

For three-second, focus only on those in law (in-this-case), not the victim. See, below courts/counsels of courts own deliberate judicial errors directly targets, defies, insults own Courts, own Rule of Law, U.S. Constitution. I only sought help from disabilities.

United States v. Balistrieri, ...rather to promote public confidence in impartiality of judicial process.

Equal justice under law. Protecting the guaranteed rights of citizens. Judicial review gave Courts crucial responsibilities assuring individual rights-maintaining a living Constitution. I ask each of the Justices, why have not my Constitutional rights been honored?

We the people ensures inclusiveness/equality of the U.S. Constitution, not selectiveness. Of the people, for the people, by the people.

Below courts judicial errors are of the courts, by the courts, and for the courts to correct.

This case represents harsh intervening developments from below courts/counsels' willful acts against the Color of Law, Constitution, Federal, State, Supreme Court rulings, supported by statutes visibly on the record. The suitable course to balance circuits and honor equality, liberty, laws, and the truth in courts is to grant certiorari, vacate judgment below, and remand for damages in-light of extraordinary circumstances, *Federal Rules 60(b), 455(b)(1), 455(a)* and *Due Process of Laws*.

CONCLUSION

I respectfully submit that this Honorable Court grants certiorari to review below courts judgment.

Submitted this 1st day of March 2022.

Respectfully submitted.

Adrienne Brown-Mallard
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