

21-6903

No. 21

ORIGINAL

Supreme Court, U.S.
FILED

JAN 10 2022

OFFICE OF THE CLERK

In The
Supreme Court of the United States

Michel Thomas,
Petitioner

vs

Grundfos, CBS; Mads Nipper; Henrik Christansen; Jonathan Hamp
Adam; Henri Baek; Astrid Norgaard; Steve Marshall; Billy Baxter;
Terry Jalufka; Chau Nguyen; Paddi Riopelle; Lonnie Padilla; Thomas
Braun Larsen; Grundfos Americas; Grundfos;
Respondents

On Petition for Writ of Certiorari to
the United States Court of Appeals
for the Federal Circuit

Petition for Writ of Certiorari

Michel Thomas/ Pro Se
1127 Eldridge Parkway
#300-167
Houston, Texas 77077
jumpstart0820@gmail.com

Questions

1. What is the proper standard of review when it comes to the question of a void judgment and/or a constitutional question, and/or question of law, and/or question of jurisdiction? Did the district court and appeals court commit error when it did not use de novo review as the standard of review in this case?
2. Can a void judgment be afforded any legal protections?
3. Did the court of appeals commit error when it ruled Appellant did not adequately brief his arguments on appeal and did not adequately brief his Fifth Amendment due process, lack of subject matter jurisdiction and null and void judgment arguments?
4. Is a judgment and/or order void due to lack of subject matter jurisdiction when it does not adhere to statute?
5. Did the appeals court commit error in this case when it affirmed void judgment(s) and failed to fully, fairly, and materially engaged Petitioner's brief that was timely filed?

6. Did the district court judge lose jurisdiction in this case when it failed to adhere to federal statute 28 USC 453, the justices and judges' oath, does that render any and/or all the Memorandum and Recommendations, the orders adopting the Memorandum and Recommendations, Final Judgments, null and void, when it failed to adhere to its federal statutory Oath and is inconsistent with due process?
7. Did the district court judge commit error when it granted Mads Nipper and Henrik Christansen motion to dismiss without due process?
8. Did the district court commit error when it granted Jonatham Hamp Adam, Steve Marshall, Thomas Braun Larsen, Paddi Riopelle, Lonnie Padilla, Chau Nguyen, Billy Baxter, and Terry Jalufka motion to dismiss ruling they were not properly served and Appellant was not given due process and the district court lacked subject matter jurisdiction and/or authority to do so.?
9. Did the district court commit error when it accepted hearsay from Steve Marshall?

10. Did the district court commit error when it summary judgment to defendants Grundfos, CBS and Grundfos Americas?
11. Did the district court commit error when it granted Christine O' Brien and the employers' motion for summary judgment on both sets of Thomas' race discrimination and retaliation claims?
12. Is any and/or all the Memorandum and Recommendations, orders adopting the Memorandum and Recommendations, Final Judgments, Post Judgments null and void due to them being inconsistent with due process of law, and/or no actual recording of the proceedings, and/or lack of jurisdiction, and/or the lack of authority to act by the district court?
13. Did the district court commit error when it did not adhere to Talon v. Cotton, 572 U. S. 650 (2014) , in not weighing evidence in favor Appellant and not giving all favorable inference to Appellant?
14. Did the district court commit error when it ruled Appellant did not make a prima facie showing for same – sexual harassment and hostile work environment?

15. Did the district court have the subject matter jurisdiction and/or statutory authority to enter in the Memorandum and Recommendations and orders adopting the Memorandum and Recommendations, the Final Judgment and Post Judgment in this case?

TABLE OF CONTENT

	PAGES
QUESTIONS PRESENTED	i-iv
TABLE OF CONTENT	v-vii
TABLE OF AUTHORITY	viii- x
CORPORATE DISCLOSURE STATEMENT	1
RELATED PROCEEDINGS	1
OPINIONS BELOW	2- 3
JURISDICTION	3
STATUTORY PROVISIONS	3-7
INTRODUCTION	7- 8
STATEMENT	8- 9
REASONS FOR GRANTING THE PETITION	9- 15
CONCLUSION	16
APPENDICES	
APPENDIX A- OPINION OF UNITED STATES COURT OF APPEALS FIFTH CIRCUIT, DATED October 7 th , 2021	1-4

APPENDIX B- FINAL JUDGMENT FROM UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED June 17 th , 2020	922
APPENDIX C- ORDER ADOPTING THE MEMORANDUM AND RECOMMENDATION, FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED June 17 th , 201	920-921
APPENDIX D- MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED May 27 th , 2020	861- 881
APPENDIX E- ORDER ADOPTING THE MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED February 4 th , 2020	482
APPENDIX F- ORDER ADOPTING THE MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED January 3 rd , 2020	472

APPENDIX G- MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED December 12 th ,2019	467
APPENDIX H- MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED September 20 th ,2019	342
APPENDIX I- ORDER ADOPTING THE MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION DATED April 24 th ,2019	310-311
APPENDIX J- MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED February 15 th ,2019	279-282
APPENDIX K- ORDER ADOPTING THE MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION, DATED December 6 th ,2018	245
APPENDIX O- MEMORANDUM AND RECOMMENDATION FROM THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS, DATED November 5 th , 2018	237-244

TABLE OF AUTHORITY

	PAGES
Assad v. Phelps, 307 S. Ct. 361, 362, 515 S. E. 2d 397, 398 (1992)	10
Bank of Louisiana et al v. Federal Deposit Insurance Co., no. 17-30044 (5 th Circuit decided 03/28/2019)	12
Crawford v. Metro. Gov't of Nashville & Davidson City Tennessee, 555 U. S. 271 (2009)	12
East v. Scott, 55 F. 3d 996, 1002 (5 th Circuit 1995)	12
Griener v. United States, 900 F. 3d 700, 703 (5 th Cir)	12
Griffin v. Griffin, 327 U. S. 220, 66 S. Ct. 556, 90 L. Ed. 635 (02/25/1946)	12
In The Matter Of Taylor, 132 F. 3d 256, 259 (5 th Circuit 1998)	12
Jackson v. FIFE Corp., 302 F. 3d 515, 521-22 (5 th Circuit 2002)	12
Joyce v. United States, 474 2d 215 (3 rd Circuit 1973)	11
Old Wayne Mutual Associate v. McDonough, 204 U. S. 8, 27 S. Ct. 236 (1908)	10, 12

Oless Brumfield et al v. United States of America, No. 14-31010 (5 th Circuit decided 11/10/2013)	10, 12
Rosemond v. Lambert, 469 F. 2d 416 (5 th Circuit 1972)	11
Scheuer v. Rhodes, 416 U. S. 232 S. Ct. 1683, 1687 (1974)	11
Talon v. Cotton, 572 U. S. 650 (2014)	iii
United States v. Martinez, 151 F. 3d 384, 390 (5 th Cir. 1998)	12
United States Aids Fund v. Espinosa, 557 U. S. 260, 270, 130 S. Ct. 1367, 1377 (2010)	10
Valley v. Northern Fire & Marine Ins. Co. 254 U. S. 348, 41 S. Ct. 116 (1920)	10
Williamson v. Berry, 8 How. 945, 540, 12 L. Ed. 1170, 1189 (1850)	10
Fifth Amendment of the United States Constitution	3, 4
28 USC 453	ii, 4
42 USC 2000-e(3)(a)	5
Federal Rule of Civil Procedure 12(c)	4, 10, 11
Federal Rules of Civil Procedure 12(i)	5, 11
Federal Rule of Civil Procedure 12(h)(3)	4
Federal Rule of Civil Procedure 60(b)(4)	5, 12

29 USC 623(a)(1)	7
42 USC 2000-e (2)(a)(1)	7
42 USC 1981	6

CORPORATE DISCLOSURE STATEMENT

Thomas is not aware of any other person or entity that has at least a ten percent stake in the corporation other than the ones named as defendants.

RELATED PROCEEDINGS

The following proceedings is directly related as to the meaning of Rule 14.1(b)(iii).

Michel Thomas vs. Grundfos, CBS et al, Civil Action No. 4:18-CV-00557 in United States District Court Southern District of Texas Houston Division, the final judgment entered on June 17th, 2020.

Michel Thomas v. Grundfos, CBS, et al, No. 20-20505 in the United Court of Appeals for the Fifth Circuit, the judgment entered in on October 7th, 2021.

Petitioner, Michel Thomas respectfully petitions for a writ of certiorari of the United States Court of Appeals for the Federal Circuit in this case.

Thomas is petitioning to have these void judgments vacated, as they are absent of all due process, lack of jurisdiction and authority to act, and absent the application of the rule of law and a de novo review based on the merits.

OPINIONS BELOW

Michel Thomas v. Grundfos, CBS et al No. 20-20505 in the United States Court of Appeals Fifth Circuit judgment entered October 7th, 2021.

Michel Thomas v. Grundfos, CBS et al Civil Action No. 4:18-cv- 00557 in the United States District Court Southern District of Texas Houston Division final judgment entered on June 17th, 2021. Docket #98

Order Adopting Memorandum and Recommendation entered on June 17th, 2021. Docket #97

Memorandum And Recommendation entered in on May 27th, 2020. Docket #95

Order Adopting Memorandum and Recommendation entered on February 4th, 2020. Docket #84

Order Adopting Memorandum and Recommendation entered on January 3rd, 2020. Docket #81

Memorandum and Recommendation entered on December 12th, 2019. Docket #77

Memorandum and Recommendation entered on September 20th, 2019. Docket #64

Order Adopting the Memorandum and Recommendation entered on April 24th, 2019. Docket #53

Memorandum and Recommendation entered in on February 15th, 2019. Docket #46

Order Adopting the Memorandum and Recommendation entered in on December 6th, 2018. Docket #41

Memorandum and Recommendation entered in on November 5th, 2018. Docket #40

JURISDICTION

The United States Court of Appeals entered in its judgment in this case on October 7th, 2021. Thomas requested a five day extension of time, to file his petition for writ of certiorari from this court, and on December 17th, 2021 that request was granted by this court, which puts Thomas' petition for writ of certiorari due before or on January 10th, 2022. This Court has jurisdiction under 28 USC 1254(1).

STATUTORY PROVISIONS

Fifth Amendment of the Constitution for the United States of America: ' No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in arises in the land, or naval forces, or in the Militia, when in actual service in tome or war or public, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be

Federal Rule of Civil Procedure 12(i), Hearing Before Trial; "If a party so moves, any defense listed in 12(b)(1)-(7)- whether made in a pleading or by motion- and a motion under Rule 12(c) must be heard and decided before trial unless the court orders a deferral until trial."

Federal Rule of Civil Procedures 60(b)(4), "void judgment."

42 USC 2000-e(3)(a), Opposition Clause, DISCRIMINATION FROM MAKING CHARGES, TESTIFYING, ASSISTING, OR

PARTICIPATING IN ENFORCEMENT PROCEEDINGS; It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof, or applicant for membership because he has opposed any practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

42 USC CODE 1981: EQUAL RIGHTS UNDER THE LAW;

(a) Statement of Equal Rights, All persons within jurisdiction of the

United States shall have the same rights in every state and territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) “MAKE AND ENFORCE CONTRACTS” DEFINED, For the

purposes of this section the term “make and enforce contracts” includes the making performance, medication, and termination of contracts, and the equal enjoyment of all benefits, privileges, terms, and conditions of contractual relationship.

(c) PROTECTION AGAINST IMPAIRMENT, The rights protected by

this section are protected against impairment by nongovernmental discrimination and impairment under the color of law.

42 USC 2000-e(2)(a)(1), It shall be an unlawful employment practice for an employer to fail or refuse hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

29 USC 623(a)(1) PROHIBITION OF AGE DISCRIMINATION, It shall be unlawful for an employer to fail to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age.

INTRODUCTION

Thomas, the petitioner comes to this court after illegal and unconstitutional judgments have been entered in against Thomas and a de novo review on the merits were denied Petitioner at the district court and at the court of appeals. Neither previous court have addressed the issue of void judgment as it has been presented to the previously courts, nor have the previous courts addressed the legal arguments and evidence

that Petitioner have put before the previous courts to support his claims of race, age, sex, and religious discrimination, sexual harassment, hostile work environment, and retaliation.

STATEMENT

Thomas filed a civil action in the United States District Court, Southern District of Texas, Houston Division for age, race, sex, and religious discrimination, sexual harassment, hostile work environment, and retaliation, in the case Michel Thomas vs. Grundfos, CBS et al, 4:18-cv-00557 and all the claims were dismissed by the district court for failure to state a claim. Petitioner then filed post judgment Rule 60(b) motions to vacate all judgments and orders in the case for lack of due process and jurisdiction, and those motions were denied by the district court. Petitioner then timely filed a notice of appeal with the United States Court of Appeals Fifth Circuit, No. 20-20505, where the district court's judgments and/or orders were affirmed. Petitioner then filed a five day motion for extension of time, to file his petition for writ of certiorari with

this court and it was granted and it set Petitioner's petition to be filed before or on January 10th, 2022. Petitioner has now timely filed his petition for writ of certiorari with this court.

REASONS FOR GRANTING THE PETITION

1. The judgments and orders are unconstitutional and illegal, and they are being illegally enforced. The judgments and orders are null and void as is the judgment that affirmed them. They are absence of all due process and jurisdiction. These issues have never been addressed at any level of these judicial proceedings thus far.
2. The judgments and orders violate the United States Constitution Fifth Amendment, due process.
3. The judgment and orders violated statutes that Petitioner have outlined in the Statutory Provisions section.
4. The judgments and orders, as well as the judgment that affirmed them conflicts with cases from this Court, the United States Court of Appeals Fifth Circuit and other opinions of other United States Court of Appeals. In every issue presented, the judgments and orders run in

total conflict with the afore mentions courts and statutes.

Some of the cases are as follows:

Due Process/ Void Judgment; Valley v. Northern Fire & Marine Ins. Co., 254 U. S. 348 , 41 S. Ct. 116 (1920), Griffin v. Griffin, 327 U.S. 220, 66 S Ct. 556, 90 L. Ed 635 (02/25/1946), Old Wayne Mutual Associate v. McDonough, 240 U. S. 8, S. Ct. 236 (1907), Assad v. Phelps, 307 S. Ct. 361, 362, 425 S. E. 2d 397, 398 (1998), Oless Brumfield et al v. United States of America, no. 14-31010 decided November 10th, 2015 citing Williams v. News Orleans Pub. Serv. Inc., 728 F.2d 730, 735 (5th Circuit 1984), United States Aids Fund Inc. v. Espinosa, 557 U, S. 260, 270, 130 S. Ct. 1367, 1377 (2010), Williamson v. Berry, 8 How. 945, 540, 12 L. Ed. 1170, 1189 (1850).

These are all the cases where this Court and the United States Court of Appeals have repeated ruled that any judgment or order that is inconsistent with due process is void and the judgment and orders run in conflict with them. Petitioner never received a notice on the any of the motions to dismiss as required under Federal Rule of Civil

Procedure 12(c) and Petitioner never received a hearing on any of his motion to dismiss for failure to state a claim, as required by Rule 12(i). There is no recording of the actual proceedings, and the district court was not an impartial decisionmaker in this case at no point.

Jurisdiction; Scheuer v. Rhodes, 416 U. S. 232, 94 S. Ct. 1683, 1687 (1974), Rosemond v. Lambert, 469 F. 2d 416 (5th Cir, 1972), Joyce v. United States, 474 2d 215(3rd Circuit 1973), Old Wayne Mutual Associate v. McDonough, 240 U. S. 8, S. Ct. 236(1907).

These are some of the cases of the United States Supreme Court, United States Court of Appeals for the Fifth Circuit and other court of appeals of the United States that deals with lack of jurisdiction and render all judgments and orders null and void due to lack of jurisdiction, they are in total conflict with the judgments and orders render in this case. The district court acted without jurisdiction and each time Petitioner raised the issue, it has been ignored by the district court and court of appeals.

Standard of Review for rule 60(b)(4) motions; United States v. Martinez, 151 F. 3d 384, 390 (5th Circuit 1998), East v. Scott, 55 F. 3d 996, 1002 (5th Circuit 1995), In The Matter of Taylor, 132 F. 3d 256, 259 (5th Circuit 1998), Bank of Louisiana et al v. Federal Deposit Insurance Company, no. 17-30044 (5th Circuit decided 03/28/2019), Griener v. United States, 900 F. 3d 700, 703 (5th Circuit 2018), Oless Brumfield et al v. United States of America, no. 14-31010 (5th Circuit decided 11/10/2015), Jackson v. FIFE Corp., 302 F. 3d 515, 521-22(5th Circuit 2002).

These are the cases of the United States Court of Appeals that run in total conflicts with the judgments and orders in this case, when it comes to the standard of review under Rule 60(b)(4), questions of law, and lack of jurisdiction questions. The court of appeals did not use the correct standard of review which is de novo.

Retaliation; Crawford v. Metro. Gov't of Nashville and Davidson City Tennessee, 555 U. S. 271 (2009) Protected Opposition.

This case from the United States Supreme Court runs in total conflict

with the judgments, orders, and recommendations in this case as it pertains to retaliation.

Petitioner is only giving some of the cases, but there are plenty more, that goes to the merits of this case, that Petitioner will also be presenting in Petitioner's brief.

5. There is a federal question that is paramount to administering justice throughout all federal circuits of the court. That question is whether federal statute 28 USC 453, (the justices and judges' oath), is it a binding statute that governs the justices and judges conduct and if so, is it jurisdictional and if violated does it render any and/or all the judges' judgments and orders null and void in the case because of lack of jurisdiction?
6. Petitioner have not had a de novo review at any level of the judicial proceedings at this point and Petitioner is due one for the justice to take place in this case. The district court judge did not give Petitioner a de novo review from any of the Magistrate Judge's Memorandum and Recommendation as required by federal law to Petitioner's objections.

7. This Court should grant the petition for writ of certiorari as a supervisory function. Petitioner is sadly reporting to this Court that this conduct is not just limited to this case and to this circuit, or even the federal judiciary. This violation of Petitioner's due process rights, not adhering to 28 USC 453 or any other oath is rampant, and Petitioner have firsthand knowledge of this and will provide this Court with other federal and state court cases that petitioner is litigating where the exact tactics and behavior are being executed. The sad part about the situation is it is being done for the most part by the chief judges of the circuits (Fifth and Eleventh). There is no due process afforded, no impartial fact finder, no applicable laws are being applied.
8. Petitioner have yet to have the merits consider in this case, it has all been ignored in all previous proceedings. None of Petitioner's argument, facts, or evidence have been disputed or have been contested, they have been ignored in all previous proceedings. Petitioner is due an unbiased and fair legal proceeding, Petitioner is paying for the legal proceedings to proceed, his money is taken, then

Petitioner is being ignored in all proceedings in this case thus far.

9. This Court should grant the petition for writ of certiorari to restore Petitioner's constitutional rights and the restoration of fairness and ethics back into the courts at every level. The courts are the foundation of a civil society, for the sake of civility the courts must be fair and just, where one can have faith in the system, and society can remain civil.

CONCLUSION

Petitioner have nowhere else to go, so Petitioner stands before this Court with the constitution in hand and the rule of law in his corner, and respectfully asked this Court to stand with the constitution, with the rule of law, and with justice. For all the reasons stated within Petitioner's writ of certiorari, Petitioner humbly asks this Court to grant Petitioner's his writ of certiorari to vacate these void judgments and orders that are absent of all due process, lack jurisdiction and/or authority to act, no actual recording of the proceedings, lack of a neutral decision maker, no de novo review on the merits of this case at any level of these proceedings thus far, therefore this Court should grant Petitioner's writ of certiorari as a matter of law, for all the judgments and orders, and those affirming them are void.

Respectfully Submitted

Michel Thomas



1127 Eldridge Parkway #300-167 Houston, Texas 77077
770-255-8917 Dated: 01/10/2022