

No.: 21-7106

IN THE
SUPREME COURT OF THE UNITED STATES

AKB
LEONARD NYAMUSEVYA,

Supreme Court, U.S.
FILED
APR 19 2022
OFFICE OF THE CLERK

Petitioner,

V

HONORABLE JUDGE DANIEL R. HAWKINS:
(FRANKLIN COUNTY COURT OF COMMON PLEAS)

Respondent.

Re: Leonard Nyamusevya
v.
Franklin County Court of Common Pleas, et al.
No. 21-7106

Amended Petitioner-Debtor's Petition for Rehearing

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PETITIONER (PRO-SE)

HONORABLE JUDGE DANIEL R. HAWKINS:
(FRANKLIN COUNTY COURT OF COMMON PLEAS)
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RESPONDENT

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Counsel of Record for Respondent

1. **NOW COMES** Petitioner-Debtor, Leonard Nyamusevya, (hereinafter the “Petitioner-Debtor,”) and hereby respectfully moves timely the Supreme Court of the United States of America, under Rule 44.2 for an Order for Rehearing or Reconsideration of its March 28, 2022 Order Denying the request for a writ of certiorari. The Petitioner-Debtor is providing his concise “Questions Presented,” which are organized and not lengthy or obscure. Rule 44.2 provides in pertinent part as follows:

2. Any petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ shall be filed within 25 days after the date of the order of denial and shall comply with all the form and filing requirements of paragraph 1 of this Rule, including the payment of the filing fee if required, but its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

2. When preparing and filing *pro se* his request for a writ of certiorari, the Petitioner-Debtor was sick and suffering from *covid* pandemic and was under treatment with strong medications; hence, the Petitioner-Debtor suffered from the inability to concentrate and uncontrollably switching topics while writing, and was drowsy and impaired and under the influence of prescribed medications that affected his brain and his ability to think and write; hence, the fainted Petitioner-Debtor uncontrollably wrote too much and lengthy incomprehensible and unclear “Questions Presented,” and lacked the minimum writing preparation and assessment and controllability skills. On the face of the originally filed request for a writ of certiorari, the Supreme Court of the United States of America should have deemed or found that the Petitioner-Debtor’s reasoning and mental capability and brain were drowsy and impaired and should have given an opportunity for the Petitioner-Debtor to write concise “Questions Presented.” The U.S. Supreme Court should review the herein concise “Questions Presented.”

3. The Petitioner-Debtor vehemently demands that the U.S. Supreme Court should take a second look at its March 28, 2022 decision Order to conclude that the Petitioner-Debtor had reasonable grounds for rehearing, because he pointedly and specifically indicates that this Court overlooked that the Petitioner-Debtor’s reasoning and mental capability and brain were drowsy and impaired; hence, this Court should give an opportunity to present herein concise “Questions Presented.”

4. This Court did not know that the Petitioner-Debtor had been suffering from *covid* symptoms and nerves and heart problems and was taking strong drugs that cause impairment and drowsiness. The Supreme Court of the United States of America should also have considered the manifest weight of the evidences and should have appreciated the significance of competent evidences in the service of the ultimate goal of substantial justice and to improve the law for public interest. The evidences remain the same and unchanged. The evidences were collected and prepared before the Petitioner-Debtor was drowsy and impaired and thus factually substantiate as follows:

- (a) Petitioner-Debtor's mortgage payment under 11 U.S.C. § 1326(c) was not credited to his mortgage lien account, for having been paid in a Bankruptcy Court's forum. When the Petitioner-Debtor exercised his right to have the payment under 11 U.S.C. § 1326(c), to be lodged in the office of the Clerk of Court, and entered and docketed in the foreclosure case's record in order to extinguish the principal and thus to reflect the satisfaction of the mortgage lien account, his writ of prohibition's request was denied by the Supreme Court of Ohio, knowingly that the Petitioner-Debtor cannot get back the fund that was paid to the mortgagee under 11 U.S.C. § 1326(c)? That is the first issue this case presents.
- (b) Petitioner-Debtor's Bankruptcy Court's Order of Discharge under 11 U.S.C. § 727(a) was blocked to be lodged in the office of the Clerk of Court, and entered and docketed in the foreclosure case's record. When the Petitioner-Debtor exercises his right to have his Bankruptcy Court's Order of Discharge under 11 U.S.C. § 727(a), to be lodged in the office of the Clerk of Court, and entered and docketed in the foreclosure case's record, his writ of prohibition's request was denied by the Supreme Court of Ohio, knowingly that the Petitioner-Debtor's Bankruptcy Court's Order of Discharge affected the State Court's foreclosure decree and extinguished his personal liabilities. That is the second issue this case presents.
- (c) Petitioner-Debtor received on November 21, 2019 his Bankruptcy Court's Order of Discharge under 11 U.S.C. § 727(a), which was blocked and not lodged in the office of the Clerk of Court, and entered and docketed in the foreclosure case's record. When after receiving his Bankruptcy Court's Order of Discharge, the Petitioner-Debtor exercises his right under O.R.C. § 2329.191(B)(7) to have the foreclosure decree to be "*in rem*" only, his writ of prohibition's request was denied by the Supreme Court of Ohio, knowingly that the Petitioner-Debtor's Bankruptcy Court's Order of Discharge affected the State Court's foreclosure decree and making it to be "*in rem*" only. That is the third issue this case presents.
- (d) The Supreme Court of the United States of America should unanimously agree that a State Court of Common Pleas lacks the jurisdiction or discretion to block a party's exercise of his right to have his mortgage payment under 11 U.S.C. § 1326(c), to be lodged in the office of the Clerk of Court, and entered and docketed in his foreclosure case's record, in violation of O.R.C. § 2329.191(B)(7). That is the fourth issue this case presents.
- (e) The Supreme Court of the United States of America should unanimously agree that a State Court of Common Pleas lacks the jurisdiction or discretion to block a party's exercise of his

right to have his Order of Discharge under 11 U.S.C. § 727(a), to be lodged in the office of the Clerk of Court, and entered and docketed in his foreclosure case's record, in violation of O.R.C. § 2329.191(B)(7). That is the fifth issue this case presents.

- (f) The Supreme Court of the United States of America should unanimously “disagree” that Congress specifically intended that mortgage payments under 11 U.S.C. § 1326(c) be “unaccounted for” and “be blocked to be entered and docketed in a foreclosure case’s record, to reduce a party’s mortgage lien amount. That is the sixth issue this case presents.
- (g) The Supreme Court of the United States of America should unanimously agree that “When there is a want of jurisdiction, a writ of prohibition should be granted when a State Court of Common Pleas unconstitutionally disregards the law and blocks a party’s mortgage payment under 11 U.S.C. § 1326(c) that paid off entirely the mortgage lien, from being entered and docketed in a party’s foreclosure case’s record, to extinguish a party’s mortgage lien amount. That is the seventh issue this case presents.
- (h) The Supreme Court of the United States of America should unanimously agree that “When there is a want of jurisdiction, a writ of prohibition should issue when a State Court of Common Pleas unconstitutionally disregards the law and blocks a party’s Order of Discharge under 11 U.S.C. § 727(a) from being entered and docketed in a foreclosure case’s record, to cause a foreclosure decree to be “*in rem*” only. That is the eighth issue this case presents.
- (i) The Supreme Court of the United States of America should unanimously agree that “When a State Court of Common Pleas unconstitutionally disregards that a mortgagee conceded to have received the satisfaction of payments in full, a writ of prohibition should issue to prevent a substantial injustice and prejudice and miscarriage of justice and irreparable harm and a deprivation of personal property from affecting a party, when a State Court blocks a party’s exercise of his right under 11 U.S.C. § 1326(c) and 11 U.S.C. § 727(a). That is the ninth issue this case presents.
- (j) In denying a writ of prohibition knowingly and disregarding that a State Court unconstitutionally and unlawfully silenced and extinguished the authority of a Bankruptcy Court, by blocking a party’s exercise of his right under 11 U.S.C. § 1326(c) and 11 U.S.C. § 727(a); thus, the Supreme Court of the United States of America should unanimously agree that a State Supreme Court had decided an important question of federal law that has not been, but should be, settled by this Court, and had decided an important federal question in a way that conflicts with relevant decisions of this Court. That is the tenth issue this case presents.

INTRODUCTION AND FACTS

5. In *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365 (2007), the U.S. Supreme Court held that, “Congress gave ‘honest but unfortunate debtor[s]’ *Grogan v. Garner*, 498 U. S. 279, 287, the chance to repay their debts should they acquire the means to do so.” The Bankruptcy Code provides diverse courses overburdened debtors may pursue to gain discharge of their financial obligations, and thereby a “fresh start.” *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 367 (2007) (quoting *Grogan v.*

Garner, 498 U.S. 279, 286 (1991)). Two roads individual debtors may take are relevant here: Chapter 7 and Chapter 13 Bankruptcy proceedings.

6. On May 18, 2015, the U.S. Supreme Court held in *In Harris v. Viegelahn* Case No.: 14-400 that, “Individual Debtors may seek discharge of their financial obligations under either Chapter 7 or Chapter 13 of the Bankruptcy Code... Chapter 13, a wholly voluntary alternative to Chapter 7, permits the Debtor to retain assets during Bankruptcy subject to a Court-approved plan for payment of his debts.” Congress enacted 11 U.S.C. § 1326(c) to allow the disbursement of funds to creditors. A mortgagee is a creditor. In this instant case, the Petitioner-Debtor filed a Chapter 13 Bankruptcy case on August 18, 2014; thereafter, the Chapter 13 Bankruptcy Trustee made on November 12, 2015 a single mortgage payment to the mortgagee, which paid off entirely the mortgage lien. The Chapter 13 Bankruptcy Trustee’s mortgage payment(s) directly to the mortgagee under 11 U.S.C. § 1326(c) was not credited to the Petitioner-Debtor’s mortgage lien account and was not entered and docketed in his State Court’s foreclosure case’s records to extinguish his mortgage lien and to reflect the satisfaction of his mortgage lien account, for having been paid in a Bankruptcy Court’s forum. By act of Congress, a core service provided by a Bankruptcy Chapter 13 Trustee is the disbursement of “payments to creditors.” § 1326(c) (emphasis added).

7. Thereafter, the Petitioner-Debtor received on November 21, 2019 a Bankruptcy Court’s Order of Discharge under 11 U.S.C. § 727(a). With a lack of its jurisdiction and discretion to do so, the State Court unlawfully and unconstitutionally and fraudulently blocked the Petitioner-Debtor from exercising his right under O.R.C. § 2923.191(B)(7) to have his Bankruptcy Court’s Order of Discharge under 11 U.S.C. § 727(a) to be lodged in the office of the Clerk of the Court of Common Pleas, and entered and docketed in his foreclosure case’s records, in order to cause the foreclosure decree to be “*in rem*” only. Congress in enacting 11 U.S.C. § 727 did not establish a patently and unambiguous mechanism that automatically enables the Petitioner-Debtor’s Bankruptcy Court’s Order of Discharge

under 11 U.S.C. § 727(a) to be lodged in the office of the Clerk of the Court of Common Pleas, and entered and docketed in his foreclosure case's records.

8. Congress in enacting 11 U.S.C. § 1326 did not establish a patently and unambiguous mechanism that automatically enables a Bankruptcy Chapter 13 Trustee's payment disbursement to a mortgagee under 11 U.S.C. § 1326(c) to be lodged in the office of the Clerk of the Court of Common Pleas, and entered and docketed in a Debtor's foreclosure case's records. The Petitioner-Debtor's request for a writ of prohibition was denied; consequently, the granting of this petition for a writ of certiorari is vital of paramount importance to prevent the unlawful and unconstitutional confiscation and deprivation of the Petitioner-Debtor's paid off entirely residential real property.

9. In *Deutsche Bank Natl. Trust Co. v. Holden*, 147 Ohio St.3d 85, 2016-Ohio-4603, the Supreme Court of Ohio held as follows:

{¶ 28} A mortgagee bears the burden to demonstrate the extent of the mortgage lien, which is measured by the amount of the outstanding mortgage debt. *See 4 Wolf, Powell on Real Property*, Section 37.12[5], at 37-67 (2008). Generally, “the promissory note is the primary evidence of the debt,” *Washer v. Tontar*, 128 Ohio St. 111, 113, 190 N.E. 231 (1934), and the borrower’s history of payments is evidence of amounts credited to reduction of the principal, which proportionately reduce the mortgage lien, 4 Wolf at 37-226.

10. Contrary as it was held In *Deutsche Bank Natl. Trust Co. v. Holden*, 147 Ohio St.3d 85, 2016-Ohio-4603 by the Supreme Court of Ohio that, “... and the borrower’s history of payments is evidence of amounts credited to reduction of the principal, which proportionately reduce the mortgage lien, 4 Wolf at 37-226,” in this case at bar, the Chapter 13 Bankruptcy Trustee’s mortgage payment directly to the mortgagee under 11 U.S.C. § 1326(c) was blocked by the State Court to be evidence of an amount credited to reduction of the principal, which proportionately reduced the Petitioner-Debtor’s mortgage lien, 4 Wolf at 37-226; consequently, the Petitioner-Debtor is before the U.S. Supreme Court to seek redress, because he filed a writ of prohibition in the Supreme Court of Ohio, which was denied.

11. The Supreme Court of the United States of America should conclude that this instant case presents issues of importance beyond the particular facts and parties involved and the State Court’s

practice of wrongful and prohibited and unauthorized use and application of law, because the granting of certiorari is difficult to get; as a result, the State Court willfully and deliberately breaks the law. The Supreme Court of the United States of America should grant certiorari to deter lower State Courts nationwide from unconstitutionally and unlawfully blocking Trustees' mortgage payments directly to mortgagees or creditors under 11 U.S.C. § 1326(c); and furthermore, to deter lower State Courts nationwide from unconstitutionally and unlawfully blocking parties' Bankruptcy Court's Orders of Discharge under 11 U.S.C. § 727(a), while lacking the jurisdiction and discretion to do so.

12. There is not a single case in the American case law where a State Court blocked the Trustee's payment to a mortgagee under 11 U.S.C. § 1326(c) to be entered and docketed in a party's foreclosure case. Furthermore, there is not a single case in the American case law where a State Court blocked a party's Bankruptcy Court's Order of Discharge under 11 U.S.C. § 727(a) to be entered and docketed in a party's foreclosure case. This is a case of (1) first impression; and of (2) great public interest; and (3) it is an outlier; and (4) it is a unique case and the first of its kind; and (5) its specific issues and legal matters have no Courts' binding precedents or controlling authorities; therefore, the Supreme Court of the United States of America should grant the petition for a writ of certiorari.

13. The Supreme Court of the United States of America should unanimously agree that this case sub judice presents an important situation that with its lack of its jurisdiction or discretion to do so, a State Court of Common Pleas' blocking the Trustee's payment to a mortgagee under 11 U.S.C. § 1326(c) to be entered and docketed in a party's foreclosure case; and furthermore, blocking a party's Bankruptcy Court's Order of Discharge under 11 U.S.C. § 727(a) to be entered and docketed in a party's foreclosure case would generate nationwide disagreements among lower State Courts about specific legal questions; and that the consideration of the importance to the public of the issues is that the public interest in the integrity of the judicial system will be devastated and abolished. This case presents a national importance of having the Supreme Court of the United States of America to decide the questions involved. The importance of granting certiorari in this case is not only to the Petitioner-

Debtor but to others nationwide. The Petitioner-Debtor vehemently demands that the Supreme Court of the United States of America should take a second look at its March 28, 2022 decision Order to conclude that this Court should give an opportunity for the Petitioner-Debtor to present his listed below concise “Questions Presented” as follows:

QUESTIONS PRESENTED ARE

Question 1: “When a party is blocked to exercise his right to have his payment under 11 U.S.C. §1326(c), to be lodged in the office of the Clerk of Court, and entered and docketed in his foreclosure case’s record, should the writ of prohibition be denied?”

Question 2: “When a party is blocked to exercise his right to have his Order of Discharge under 11 U.S.C. § 727(a), to be lodged in the office of the Clerk of Court, and entered and docketed in his foreclosure case’s record, should the writ of prohibition be denied?”

Question 3: “When upon receiving an Order of Discharge under 11 U.S.C. § 727(a), a party is blocked to exercise his right to have a foreclosure decree to be “*in rem*” only, should the writ of prohibition be denied?”

Question 4: “Isn’t that a State Court lacks the jurisdiction or discretion to block a party’s exercise of his right to have his payment under 11 U.S.C. § 1326(c), to be lodged in the office of the Clerk of Court, and entered and docketed in his foreclosure case’s record? Shouldn’t the writ of prohibition be granted?”

Question 5: “Isn’t that a State Court lacks the jurisdiction or discretion to block a party’s exercise of his right to have his Order of Discharge under 11 U.S.C. § 727(a), to be lodged in the office of the Clerk of Court, and entered and docketed in his foreclosure case’s record? Shouldn’t the writ of prohibition be granted?”

Question 6: “Will the U.S. Supreme Court unanimously agree that Congress specifically intended that mortgage payments under 11 U.S.C. § 1326(c) be “unaccounted for” and “be blocked to be entered and docketed in a foreclosure case’s record?”

Question 7: “When there is a want of jurisdiction, should a writ of prohibition be denied when a State Court disregards the law and blocks the mortgage payment under 11 U.S.C. § 1326(c) from being entered and docketed in a foreclosure case’s record?”

Question 8: “When there is a want of jurisdiction, should a writ of prohibition be denied when a State Court disregards the law and blocks a party’s Order of Discharge under 11 U.S.C. § 727(a) from being entered and docketed in a foreclosure case’s record, to cause a foreclosure decree to be “*in rem*” only?”

Question 9: “When a State Court disregards that a mortgagee conceded to have received the satisfaction of payments in full, shouldn’t a writ of prohibition be granted when the State Court blocks a party’s exercise of his right under 11 U.S.C. § 1326(c) and 11 U.S.C. § 727(a)?”

Question 10: “Whether, on the merits, when a writ of prohibition is denied where a State Court blocks the mortgage payment under 11 U.S.C. § 1326(c) from being entered and docketed in a foreclosure case’s record is consistent with the Constitution of the United States of America.

Question 11: “Whether, on the merits, when a writ of prohibition is denied where a State Court blocks a party’s Bankruptcy Court Order of Discharge under 11 U.S.C. § 727(a) from being entered and docketed in a foreclosure case’s record is consistent with the Constitution of the United States of America.

Question 12: “Whether, on the merits, this Court should grant the writ of prohibition where a State Court disregards that a mortgagee conceded to have received the payments in full, but blocks a party’s exercise of his right under 11 U.S.C. § 1326(c) and 11 U.S.C. § 727(a) inconsistently with the Constitution of the United States of America.

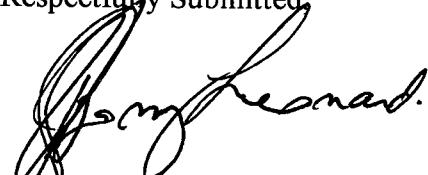
Question 13: “Where a State Court rejected the authority of a Bankruptcy Court, by blocking a party’s exercise of his right under 11 U.S.C. § 1326(c) and 11 U.S.C. § 727(a); isn’t that a State Supreme Court allowed and decided an important question of federal law that has not been, but should be, settled by this Court for nationwide public protection?

Question 14: “Whether Bankruptcy process is rejected and abolished where a State Court blocked a party’s exercise of his right under 11 U.S.C. § 1326(c) and 11 U.S.C. § 727; isn’t Bankruptcy authority dead and unnecessary anymore in U.S.A. for public protection?

CONCLUSION

The Supreme Court of the United States of America should grant this motion for rehearing in order to avail redress to the Petitioner-Debtor and to nationwide protect the public and the interest of the public in the integrity of the American judicial system. Without a writ of certiorari my life will be substantially devastated and depleted and damaged and destroyed. At my current old age, certiorari is my only hope for my life.

Respectfully Submitted



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