

No. 21A356**ORIGINAL**

IN THE SUPREME COURT OF THE UNITED STATES

SHARON NEAL, Petitioner

v.

NATALIA NEAL, Respondent

Supreme Court, U.S.
FILED

JAN 19 2022

OFFICE OF THE CLERK

On Petition for Writ of Certiorari to the Oregon Supreme Court

MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI PURSUANT TO
RULE 13(5)

To the Honorable Elena Kagan, Supreme Court Justice and Circuit Justice to
the area covered by the Ninth Circuit:

1. Petitioner, Sharon Neal (pro se), pursuant to Rule 13(5), Rules of the Supreme Court, respectfully seeks a sixty (60) day extension of time within which to file her petition for writ of certiorari in this Court. The jurisdiction of this Court is invoked under 28 U.S.C. §1257. This application is submitted more than ten (10) days prior to the scheduled filing date for the Petition. The pertinent dates are:

Sharon Neal, Petitioner, Pro Se
17700 SE Forest Hill Drive
Damascus, Oregon 97089
Tel: (503) 658-6355 / Email: sharoneneal@yahoo.com

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SUPREME COURT, U.S.

a. August 26, 2021: Issuance of Order by the Oregon Supreme Court, in Sharon Neal v. Natalia Neal, Case No. S068512, denying petition for review. A copy of the order is attached hereto as **Exhibit A**.

b. September 8, 2021: Petitioner filed a petition for reconsideration of the foregoing with the Oregon Supreme Court pursuant to Oregon Rules of Appellate Procedure (ORAP) 6.25(2).

c. November 4, 2021: Issuance of Order by the Oregon Supreme Court denying reconsideration. A copy of the order is attached as **Exhibit B**.

d. January 23, 2022: Deadline for seeking extension of time within which to file a petition for writ of certiorari of the foregoing in the United States Supreme Court.

e. February 2, 2022: Expiration of time for filing a petition for writ of certiorari in the United States Supreme Court, unless extended.

2. This is a complex civil case that concerns Petitioner's home and property that she has lived for 50 years, and which she and her late husband bought and paid for at approximately one million dollars. The Respondent holds legal title, and Petitioner commenced this underlying state case for the purpose of reconveyance of that title under multiple claims including resulting trust. The case was dismissed with prejudice by the Oregon court as a sanction for Petitioner's failure to pay a court ordered fine. Petitioner appealed that decision of dismissal on several

grounds, including a violation of due process under the 14th amendment in that the dismissal was due to the failure to pay a sanction that had no bearing at all on the merits of the case. That point on dismissal having no relation to the merits of the case was confirmed in two orders of stay granted by the Oregon Court of Appeals during the pendency of the appeal. Those orders are attached hereto as **Exhibit C**.

3. The Oregon Court stayed the issuance of the appellate judgment on November 15, 2021 pending the filing of a petition for writ of certiorari with the United States Supreme Court. A copy of that order is attached hereto as **Exhibit D**.

4. Petitioner is 82 years old and without counsel who is a member of the United States Supreme Court's bar. Her attorney, Trevor Robins, who has represented her at the state court level is currently seeking application to this Court's bar for the purpose of submitting the petition for writ of certiorari on Petitioner's behalf. Mr. Robins was involved in an automobile accident a few months ago in which he suffered a concussion. The resulting injury, rehabilitation and medically related issues have caused work delays for Mr. Robins. Petitioner respectfully asks that the Court grant an extension of time so that Mr. Robins can be admitted to the bar of this Court and prepare and submit the petition for writ of certiorari on Petitioner's behalf.

5. The basis of Appellant's Petition for a Writ of Certiorari to the United States Supreme Court is that the dismissal of the Petitioner's case entered with

prejudice by the Oregon court violated her right to due process under the 14th Amendment to the U.S. Constitution, and that action is in patent conflict with hornbook law established by the United States Supreme Court and Constitution. The dismissal was ordered based on Appellant's failure to pay a monetary sanction, which bore no relationship on the merits of the case. This point is clearly made by the Oregon Appellate Commissioner in the Order that granted a stay of the judgment in this case pending the appeal: (**Exhibit C, Page 3**)

“The judgment of dismissal at issue on appeal did not result from the trial court's consideration of the merits of appellant's claims. Instead, the trial court dismissed the action because plaintiff had failed to pay sanctions in the amount of \$2,490 and otherwise failed to follow orders of the trial court. If she were to prevail on appeal, she would obtain a remand to the trial court so that her case could be considered and disposed of on the merits.”

Order of Theresa Kidd, Oregon Court of Appeals Commissioner
Filed: January 17, 2020

To comply with principles of constitutional due process, when a court exercises its inherent authority to dismiss a claim for violations of its orders, "[t]here must be a nexus between the party's actionable conduct and the merits of the case." *Halaco Eng'g Co. v. Costle*, 843 P.2d 376, 381 (9th Cir. 1988); see *Fjelstad v. Am. Honda Motor Co.*, 762 F.2d 1334, 1338 (9th Cir. 1985) ("Due process limits the imposition of the severe sanctions of dismissal or default to 'extreme

circumstances' in which 'the deception relates to the matters in controversy' and prevents their imposition 'merely for punishment of an infraction that did not threaten to interfere with the rightful decision of the case'."), quoting *Wyle v. R.J. Reynolds Indus., Inc.*, 709 F.2d 585, 589, 591 (9th Cir. 1983).

This nexus requirement, or, more accurately, due process requirement, is derived from the United States Supreme Court's decisions in *Hammond Packing Co. v. Arkansas*, 212 U.S. 322, 349-54, 29 S.Ct. 370, 53 L.Ed. 530 (1909), and *Hovey v. Elliott*, 167 U.S. 409, 413-14, 17 S.Ct. 841, 42 L.Ed. 215 (1897). See *Wyle*, 709 F.2d at 589, *Phoceene Sous-Marine, S.A. v. U.S. Phosmarine, Inc.*, 682 F.2d 802, 806 (9th Cir. 1982).

In *Hovey*, the Court held that due process prevented the trial court from summarily striking a defendant's answer as punishment for failure to comply with the trial court's order that the party deposit into court the funds at issue in the lawsuit. 167 U.S. at 411-12, 413-14, 17 S.Ct. 841. That rule was modified in *Hammond*, where the Court found no due process violation in striking the pleadings of a party that had failed to comply with a discovery order. The Court reasoned that the refusal to produce the requested materials "was but an admission of the want of merit in the asserted defense." 212 U.S. at 351, 29 S.Ct. 370; see also *Societe Internationale Pour Participations Industrielles Et Commerciales, S.A. v. Rogers*, 357 U.S. 197, 210, 78 S.Ct. 1087, (1958).

Petitioner's case was not dismissed based on failure to comply with a discovery order, or any basis connected to the merits or the diligent prosecution of the case. Rather, she failed to pay a monetary sanction (\$500 fine and associated attorney fees of \$1900) imposed because she violated a provision in a preliminary injunction order issued in the case, which prohibited her and the Defendant from re-litigating matters that had been adjudicated at the hearing on the injunction. Specifically, the Petitioner filed for an elder abuse restraining order against the Defendant in another court that was granted after the injunction, and the Oregon court found the application for that elder abuse order violated the injunction.

It is not disputed that the monetary sanction for which the Petitioner's case was dismissed had to do with an elder abuse restraining order application and nothing at all to do with the merits of this case, which involve title to real property. Because the sanction and the merits of the lawsuit were entirely unrelated, the dismissal of the case is a flagrant violation of Petitioner's 14th Amendment right to due process pursuant to the Hovey and Hammond line of cases. Petitioner intends to ask the U.S. Supreme Court for a writ of certiorari on that question of constitutional violation and severe conflict with U.S. Supreme Court rulings.

6. The Respondent's position on this motion for extension of time to file a petition for writ of certiorari is unknown.

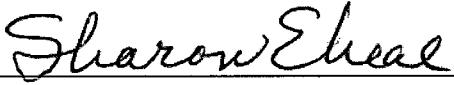
7. This proceeding involves a question of the constitutionality and application of a statute of the State of Oregon, and neither the State nor any agency, officer, or employee thereof is a party. 28 U.S.C. § 2403(b) may apply and this document is being served on the Attorney General for the State of Oregon. To Petitioner's knowledge the Oregon Supreme Court (pursuant to 28 U.S.C. § 2403(b)) has not certified to the State Attorney General the fact that the constitutionality of a statute of the State of Oregon is drawn into question.

For the foregoing reasons, the Petitioner, respectfully prays that this Court grant an extension of sixty (60) days to and including April 4, 2022, within which to file her petition for writ of certiorari.

VERIFICATION

I hereby declare that the foregoing statements contained herein and exhibits attached hereto are true and correct to the best of my knowledge and belief, and that I understand they are made for use as evidence in Court and I am subject to penalty for perjury.

Respectfully submitted, this the 20th day of January 2022.



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