

IN THE SUPREME COURT OF THE UNITED STATES

BERTHA MONTES DE OCA, Petitioner

v.

PARK WAY BAPTIST CHURCH, Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE
DISTRICT COURT OF APPEAL OF THE STATE OF
FLORIDA, FOURTH DISTRICT

**BRIEF FOR THE RESPONDENT IN OPPOSITION TO
PETITION FOR WRIT OF CERTIORARI**

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QUESTIONS PRESENTED

While it is not clear from the Petition, it appears that Petitioner is presenting the following questions:

- 1) Whether the Florida' Fourth District Court of Appeal appropriately dismissed Petitioner's appeal to the Florida appellate court as untimely, Case No. 4D22-0406.
- 2) Alternatively, Petitioner may be asking this Court to address the factual allegations that Petitioner originally raised in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, Case No. CACE20010534.

OBJECTIONS TO JURISDICTION

Respondent objects to jurisdiction. Petitioner seeks Certiorari review of a Florida state court decision. Jurisdiction, if any, would exist pursuant to 28 U.S.C. 1257(a). Petitioner is not seeking review of a final judgment of the highest court of the State of Florida, the Florida Supreme Court, and instead seeks review of an intermediate Florida appellate court decision. The Petitioner is not questioning the validity of any treaty or statute of the United States, or a statute of Florida on the grounds that is it repugnant to the Constitution, treaties, or the laws of the United States, and is not seeking to claim any right, privilege, or immunity claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States. Further, the issue of a federal question being raised and decided in the state court below does not appear on the face of the record; therefore, jurisdiction does not exist. Illinois v. Gates, 462 U.S. 213, 218 (1983).

STATEMENT OF THE CASE

Respondent disagrees with how Petitioner has chosen to describe the factual background of this matter. Respondent generally disputes all allegations raised by Petitioner alleging the perpetration by Respondent of wrongdoing against Petitioner and her family.

Respondent would offer the following facts in response. Respondent, Pine Island Baptist Church Inc., d/b/a Parkway Baptist Church¹ operates a church in Hollywood, Florida. Petitioner is believed to reside near Respondent. Petitioner brought suit against Respondent in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, Case No. CACE20010534. On December 21, 2021, the Florida circuit court dismissed Petitioner's lawsuit against Respondent with prejudice. P. App. at 2. Petitioner appealed to Florida's Fourth District Court of Appeal. On March 16, 2022, the Fourth District Court of Appeal dismissed Petitioner's appeal as untimely. P. App. at 1.

ARGUMENT

The Petition for Writ of Certiorari does not present a compelling reason for the Court to exercise its judicial discretion. Petitioner has not presented any question raised by the decision in the lower state action that touches upon an important federal question that conflicts with the decision of another state court of last resort or a United States Court of Appeal. *See U.S. Sup Ct. R. 10(b)*. The lower state court decision raised for review by Petitioner did not decide an important federal question

¹ Petitioner incorrectly identified Respondent as "Park Way Baptist Church."

in a way that conflicts with a prior decision of this Court. *See U.S. Sup Ct. R. 10(c).* Further, nothing on the face of the record filed by Petitioner reflects that a federal issue was raised and decided by the lower state court. *See Generally P. App.*

Petitioner's basis for seeking Certiorari review is not clearly reflected in the Petition. To the extent Petitioner seeks to dispute the dismissal of her appeal as untimely, no appropriate basis exists for further review of that decision by this Court. Such a denial certainly does not present a compelling reason for the Court to exercise its discretionary jurisdiction. Alternatively, the Petition may be intended to re-litigate the factual issues originally raised by Petitioner in her lawsuit against Respondent, or to assert them as new cause of action before this Court. In either case, that is not an appropriate basis upon which to grant the Petition for Writ of Certiorari. This is particularly true as the issues raised relate primarily to findings of fact or the application of Florida procedural rules in the underlying state action. *See U.S. Sup Ct. R. 10.* The Petitioner has failed to pose a question appropriate for this Court's review in the Petition for Writ of Certiorari.

CONCLUSION

For all the aforementioned reasons, the Petition for Writ of Certiorari should be denied.

SUPREME COURT RULE 29 CORPORATE DISCLOSURE STATEMENT

There is no parent or publicly held company that owns 10% or more of Respondent's stock.

Respectfully Submitted on the 31st day of May 2022.

/s/Robert D. Fingar, Esq.
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