

21-7761

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

FILED
FEB 02 2022
OFFICE OF THE CLERK
SUPREME COURT
ORIGINAL

"In Re SHANNON RILEY"

(Your Name)

ON PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS
IN THE SUPREME COURT OF THE STATE OF KANSAS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SHANNON RILEY

(Your Name)

1368 SMITHS LAWN

(Address)

AIKEN, SC 29801

(City, State, Zip Code)

(815) 814-5179

(Phone Number)

QUESTION(S) PRESENTED

1. CAN A KANSAS STATE COURT REVERSE A KANSAS APPELLATE COURT ON A COUNTERCLAIM?
2. DOES THE REQUIREMENT OF A SUPERSEDEAS BOND ON A DEFENDANT FACING PUNITIVE DAMAGES HAVE A DUE PROCESS RIGHT TO APPEAL?
3. IS THE FILING TO EXECUTE A KANSAS FOREIGN JUDGMENT IN SOUTH CAROLINA FOR THE SECOND TIME RES JUDICATA?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[x] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

The Honorable Paul C Gurney
District Court Judge
Johnson County District Court
150 W Santa Fe St
Olathe, KS 66061

Rhonda K. Levinson, Esq.
Perry & Trent LLC
132 Oak St
Bonner Springs, KS 66012

Dionne Carroll, Esq.
Carroll Law Firm, P.S.
107 Pendleton St N.W.
Aiken, SC 29801

RELATED CASES

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CARRIE KATHLEEN MEEHAN, PLAINTIFF v SHANNON RILEY, DEFENDANT
Case No. 18CV00490
Division No. 11

IN THE COURT OF APPEALS OF THE STATE OF KANSAS
CARRIE KATHLEEN MEEHAN, APPELLEE v SHANNON RILEY, APPELLANT
Case No. 122,380 "A"

CARRIE KATHLEEN MEEHAN, PLAINTIFF v SHANNON RILEY, DEFENDANT
State of South Carolina, County of Aiken In the Court
of Common Pleas, Case No. 2019CP0200950

IN THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA
SHANNON RILEY, PETITIONER, CARRIE KATHLEEN MEEHAN,
RESPONDENT, Appellate Case No. 2019-01987.

SUPREME COURT OF THE UNITED STATES
592 U.S. Case No. 20-6501
SHANNON RILEY, PETITIONER v CARRIE KATHLEEN MEEHAN, RESPONDENT

SUPREME COURT OF THE UNITED STATES
"IN RE" SHANNON RILEY
595 U.S. CASE NO. 21-5512

IN THE SUPREME COURT STATE OF KANSAS
SHANNON RILEY, PETITIONER V CARRIE KATHLEEN MEEHAN RESPONDENT
CASE NO. 124722

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APPENDIX C	State of Kansas Court of Appeals Meehan v Riley, Case No. 122380 Memorandum Opinion filed 9/25/20
APPENDIX D	District Court of Johnson County Kansas Meehan v Riley Case No. 18CV490 Journal Entry Granting Default Judgment filed 12/3/18
APPENDIX E	Johnson County District Court Meehan v Riley Case No. 18CV490 Nunc Pro Tunc Journal Entry Correcting Default Judgment Consistent with the Order of the Court filed 1/15/19
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Case No. 124722
Kansas Supreme Court

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Case No. 2020-000228
South Carolina Supreme Court

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v
Carrie Kathleen Meehan, Respondent
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v
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State of South Carolina
Aiken Courthouse Common Pleas

7 (footnote 1)

STATUTES AND RULES

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of Mandamus issue to review the judgment below.

OPINIONS BELOW

☐ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the _____ Supreme Court State of Kansas _____ court appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

☒ For cases from state courts:

The date on which the highest state court decided my case was 1/26/22.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: Feb 1, 2022, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U.S.C. 1651(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. XIV Amendment U.S. Constitution due process
2. K.S.A. 260(b)(3) fraud
3. Kan.PR! Rel. Dist. Ct. 170
4. South Carolina Section 15-35-920

STATEMENT OF THE CASE

This case is filed under Supreme Court Rule 20, whereby Petitioner seeks the extraordinary Writ of Mandamus, 28 U.S.C. 1651(a). To justify the granting of the writ, Petitioner must show that the writ will be in aid to the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief can not be obtained in any other form or from any other court.

WRIT IN AID OF COURT'S APPELLATE JURISDICTION

This Petition for the extraordinary Writ of Mandamus will aid the Courts appellate jurisdiction on the issue of the Kansas Supreme Court denying a Petition for a Writ of Mandamus and Request to Stay as moot, case closed, in a fraud on the District Court, by the District Court itself.

EXCEPTIONAL CIRCUMSTANCES WARRANT COURT'S DISCRETIONARY POWERS

This case, Meehan v Riley, 18CV490, Johnson County District Court, KS involves the District Court's reversal of the Kansas Appellate Court, case No. 122380 Memorandum Opinion that Petitioner's counterclaim is outstanding and has not been dismissed and no action has been taken on the counterclaim. The reversal in a Kansas Rule 170 order that dismissed the counterclaim with prejudice and ordered the filing of a supersedeas

bond in the event of an appeal. The Kansas Supreme Court Case No. 124722 dismissing the Petition for Mandams and request for stay as moot. Case Closed.

The nexus of of the case, filed in 2018 is the filing to execute a Kansas foreign judgment in South Carolina in 2019, the first time with a pending counterclaim¹. The filing of the Rule 170 order, dismissing the counterclaim paving the way for a second filing without a counterclaim.

At the heart of the order are two orders, (i) a journal entry granting default judgment filed in 12/3/18 and (ii) a nunc pro tunc journal entry correcting default judgment. Neither order dismissed the counterclaim.

The 3 judge panel of the Kansas Appellate Court (Apdx C@pg2) states, "At no time has the district court taken action on Riley's counterclaim against Meehan. The counterclaim remains pending." Pg 3, "Riley's counterlcaim for breach of contract is outstanding and has not been dismissed." The district court's judgment only provides: "Plaintiff Carrie Kathleen Meehan is granted

judgment against Defendant Shannon Riley in the amount of \$40,000.00 in actual damages, pre-judgment interest at the statutory rate on the actual damages of \$40,000.00, \$80,000.00 in punitive damages, postjudgment interest at the rate, and the Costs of the action." see Appendix F, pg 2/3 Nunc pro tunc journal entry correcting default judgment. "No ruling has ever been sought and no action has been taken on Riley's outstanding counterclaim."

Yet, the Kansas Rule 170 Order (Appx B, pg 2&7) states:

"Defendant's counterclaim against Plaintiff was denied on November 20, 2018 and dismissed with prejudice."

NOVEMBER 20, 2018 JOURNAL ENTRY GRANTING
DEFAULT JUDGMENT. HEARING HELD NOVEMBER 20, 2018,
FILED IN DISTRICT COURT 12/3/18

Appearing as Appx Dm pg 2, IT IS ORDERED AND ADJUDGED AND DECREED AS FOLLOWS: "The above findings are adopted as the Order of this Court. "Plaintiff Carrie Kathleen Meehan is granted judgment against Defendant Shannon Riley in the amount of \$40,000.00 in actual damages and \$80,000.00 in punitive damages, for a total judgment of \$120,000.00. Court costs shall be assessed against the Respondent."

DEFENDANT'S COUNTERCLAIM AGAINST PLAINTIFF WAS NOT
DENIED ON NOVEMBER 20, 2018 AND DISMISSED WITH PREJUDICE.

NUNC PRO TUNC JOURNAL ENTRY CORRECTING
DEFAULT JUDGMENT

Appx E, pg 2/3Y, IT IS THEREFORE ORDERED ADJUDGED AND DECREED AS FOLLOWS: The above findings are adopted as the Order of this Court. "Plaintiff Carrie Kathleen Meehan is granted judgment against Defendant Shannon Riley in the amount of \$40,000.00 in actual damages, pre-judgment interest at statutory rate on the actual damages of \$40,000.00, \$80,000.00 in punitive damages, post-judgment interest at the statutory rate, and the Costs of the action." IT IS SO ORDERED.

DEFENDANT'S COUNTERCLAIM AGAINST PLAINTIFF WAS NOT
DENIED ON ON JANUARY 15, 2019 AND DISMISSED WITH PREJUDICE.

After the issuance of the mandate (Appx F), by the Kansas Appellate Court on 8/18/21 (28 months after the first filing to execute the Kansas foreign judgment in South Carolina), Petitioner filed a Petition for a Writ of Mandamus in the U.S. Supreme Court, Case No. 21-5512, U.S. 595. Rehearing denied 12/6/21.

Following the Rule 170 Order, where the court directed Plaintiff to prepare an order reversing the Appellate Court, and to dismiss defendant's counterclaim with prejudice and require a supercedeas bond in the event of an appeal, Petitioner filed a Petition for Mandamus and Request to stay proceedings. Both denied as moot, Case closed.

-
1. Plaintiff fraudulently filed to enforce to execute the Kansas foreign judgment in South Carolina on 4/22/19 with the simultaneous filing of the Journal entry granting default judgment and nunc pro tunc journal entry correcting default judgment on a false affidavit (Appx G, pg 1 @15), stating "The foreign judgment is not further contested." The Case filed as No. 2019CP0200950, on which Plaintiff obtained judgment (Appx G) on 2/3/20. This, 18 months prior to a District Court Order in Kansas (Appx H), filed 12/5/19 with the order stating @3,

The District Court final order @3, "The Nunc Pro Tunc

Journal Entry Correcting Default Judgment Consistent with the Order of the Court entered January 15, 2019, constitutes a final order because it disposed of the action as to all claims by all parties and no appeal was taken during the statutory deadlines."

This 12/5/19 Order, 9 months before the Kansas Appellate Court Opined on 9/25/20 that, "At no time has the district court taken action on Riley's counterclaim against Meehan."

RELIEF FROM JUDGMENT OR ORDER (FRAUD)

Pursuant to K.S. Chapter 60-260(B) Grounds for relief from a final judgment, order or proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order or proceeding for the following reasons(3) fraud, whether previously called intrinsic or extrinsic, misrepresentation or misconduct by an opposing party.

The Kansas District Court's reversal of the Kansas Appellate Court as to the dismissal of defendant's counterclaim is clearly fraud, wrongful deception intended to result in financial gain for Plaintiff in enforcing a Kansas foreign judgment in South Carolina and the result of the District Court order directing Plaintiff to prepare an order (see Kan R Rel Dist Ct 170(a), dismissing defendant's counterclaim with full knowledge that the journal entry granting default judgment and the nunc pro tunc journal entry correcting default judgment did not dismiss defendant's counterclaim and is not in the public record.

SUPERCEDEAS BOND ORDER

The Kansas District Court filed the Rule 170 Order, granting Plaintiff's dismissal of Defendant's counterclaim with prejudice and requiring Defendant to file a supersedeas bond in the amount of the judgment in order to stay any execution on the judgment in the event an appeal is taken.

FUNDAMENTAL DUE PROCESS AND FAIRNESS DENIED

Defendants should be on the same footing as plaintiffs when it comes to their ability to appeal an adverse verdict. Appeal bond requirements can act as a full denial of this right of appellate jurisdiction review. The U.S. Supreme Court has held that a state violates the due process clause if it imposes procedures which effectively impede access to the appellate court system. *Evitts v Lucey*, 469 U.S. 387, 393-94 (1985); *Smith v Robbins*, 528 U.S. 259, 270 (2000). It has been held that defendant facing punitive damages (as in this case see Appendix D pg 2, E, pg 2/3) have a due process right to appeal. *Honda v Oberg* 512, U.S. 415, 432 (1994).

THE FILING TO EXECUTE A KANSAS FOREIGN JUDGMENT
IN SOUTH CAROLINA FOR THE SECOND TIME IS RES JUDICATA

The Rule 170 Order dismissing the counterclaim allows the filing to execute a Kansas foreign judgment in South Carolina for a second time. The first time with the counterclaim not dismissed, the second time with it dismissed.

This matter has been adjudicated by a competent court, Aiken Court of Common Pleas, Case No. 2019CP0200950 judgment² filed 2/3/20 (Appendix H), on a false affidavit (Appendix i), filed on 4/19/19, simultaneously with the nunc pro tunc journal entry correcting default judgment. The Affiant is swearing, "There are no post trial motions pending before the District Court of Johnson County." The counterclaim clearly pending.

The Doctrine of Res Judicata bars subsequent litigation where four elements are met; (1) the prior decision was rendered by a court of competent jurisdiction; (2) there was a final judgment on the merits; (3) the parties were identical in both suits, and (4) the prior and present causes of action are the same.

-
2. After judgment in this case, Petitioner filed a Mandamus Petition in the Supreme Court of South Carolina. Denied 11//20 Case No. 20-001987. Petitioner then filed a Petition for Certiorari in the U.S. Supreme Court Case No. 20-6501 592 U.S. denied

REASONS FOR GRANTING THE PETITION

FRAUD UPON THE COURT

The fraud upon the court in this case is a situation in which a material misrepresentation has been made by the court itself, and impeaching due process under the XIV amendment of U.S. Constitution

The Kansas District Court Rule 170 Order (Appx B@7) states, "Defendant's counterclaim against Plaintiff was denied on November 20, 2018 and dismissed with prejudice."

The November order (filed 12/3/18) (Appx D) states, "IT IS THEREFORE ORDERED ADJUDGED AND DECREED AS FOLLOWS: The above findings are adopted as the Order of this Court. Plaintiff Carrie Kathleen Meehan is granted judgment against Defendant Shannon Riley in the amount of \$40,000.00 in actual damages and \$80,000.00 in punitive damages, for a total judgment of \$120,000.00. Court costs shall be assessed against Respondent."

The counterclaim was not denied on November 20, 2018.

The District Court reversing the Kansas Appellate Court Memorandum Opinion filed 9/25/20 (Appx C@2/3) states, "At no time has the district court taken action on Riley's counterclaim against Meehan. The counterclaim remains pending." "Riley's counterclaim for breach of contract is outstanding and has not been dismissed."

The District Court reversing the Appellate Court for the sole purpose of ~~refiling~~ refiling to execute a Kansas foreign judgment in South Carolina for the second time. ~~The~~ first time with the counterclaim pending in violation of South Carolina Code 15-920(A), which states in part,

"A contested judgment includes a judgment includes a judgment for which post-trial motions are pending before the trial court, notice of appeal has been filed, or an appeal is pending.

The second time with the counterclaim dismissed with prejudice by the engineering of the District Court.

The first filing to execute the foreign judgment filed simultaneously

The first filing to execute the foreign judgment filed on a sworn affidavit (Appx I@15) states, "The

foreign judgment is not further contested. There are no post-trial motions pending before the District Court of Johnson County."

To further confuse that, "Defendant's counterclaim against Plaintiff was denied on November 20, 2018 and dismissed with prejudice," the Rule 170 Order (Appx B@3/4) states, On December 3, 2018, this Court granted a default judgment in favor of Plaintiff and against Defendant." On January 15, 2019, the Court issued a Nunc Pro Tunc Judgment, which clarified that Plaintiff was awarded interest on her damages against Defendant during the hearing held November 20, 2018. Through the inadvertent oversight and clerical error of counsel, this detail has been omitted from the original journal entry."

@4. In granting these judgments, this Court intended to dispose of all claims in this case, including Defendant's counterclaims against Plaintiff. During the hearing held November 20, 2018, the Court denied Defendant's counterclaims against the Plaintiff when granting judgment in favor of Plaintiff. The Court did not intend to bifurcate this proceeding."

The Nunc Pro Tunc Order correcting default judgment (Appx E) states; IT IS THEREFORE ORDERED ADJUDGED AND DECREED AS FOLLOWS:

"The above findings are adopted as the Order of the Court. Plaintiff Carrie Kathleen Meehan is granted judgment against Defendant Shannon Riley in the amount of \$40,000.00 in actual damages, pre-judgment interest at the statutory rate on the actual damages of \$40,000.00, \$80,000.00 in punitive damages, post judgment interest at the statutory rate and the Costs of the action."

THE COUNTER CLAIM IS NOT DENIED ON JANUARY 15, 2019.

Further to the Memorandum Opinion of the Appellate

Court (Appx C@2), states, "Riley's counterclaim for breach of contract is outstanding and has not been dismissed. The district court's judgment only provides, "Plaintiff Carrie Kathleen Meehan is granted judgment against Defendant Shannon Riley in the amount of \$40,000.00 in actual damages, pre-judgment interest at the statutory rate on the actual damages of \$40,000.00, \$80,000.00 in punitive damages, post-judgment interest at the statutory rate, and the Cost of the action." "NO RULING HAS EVER BEEN SOUGHT, AND NO ACTION HAS BEEN TAKEN ON RILEY'S COUNTERCLAIM."

AT NO TIME WAS THE COUNTERCLAIM DISMISSED AND NOT PART OF THE ORDER FILED IN THE DISTRICT COURT.

When ordering a supercedas bond to prevent appeal of the order.

Petitioner respectfully seeks the extraordinary writ of mandamus to the Kansas Supreme Court ordering it to properly fulfill its official duties to correct an abuse of discretion. That this obligated under the law to do.

"The writ of mandamus is the highest judicial writ known to the law and according to long approved and well established authorities, only issues in cases where there is a specific legal right to be enforced or where there is a position of duty to be performed, and there is no other specific remedy." Willimon v City of Greenville, 243, S.C. 82, 6-87, 132 S.E. 2d 169, 170-71 (1963).

The primary purpose of function of a writ of mandamus is to enforce an established right, and to enforce a corresponding imperative duty created to or imposed by law." Id. "It is designed to promote justice, subject to certain well-defined qualifications." Id. Its principal function is to command and execute and exercise, and not to inquire and adjudicate, therefore, it is not the purpose of the writ to establish a legal right, but to enforce one which has already been established." id.

"For a writ of mandamus to issue, the following must be shown; (1) a duty of the Respondent to perform the act, (2) the ministerial nature of the act;

(3) the Petitioner's specific legal right for which discharge of the duty is necessary; and (4) a lack of any other legal remedy." Edwards, 383 S.C. 97, 678 S.E. 2d, 420. "When mandamus is warranted, "the judiciary cannot properly shrink from its duty." Id. (quoting Blalock v Johnson, 180 S.C. 40, 50, 185 S.E. 51, 55 (1936).

In Cheney, et al v U.S. Dist Ct for the D.C. Supreme Court Case No. 03-475, Justice Kennedy opined in part; "As we discussed at the outset, under principles of mandamus jurisdiction, the Court of Appeals may exercise its power to issue the writ only upon a finding of "exceptional circumstances amounting to a judicial" usurpation of power," Will, 389 U.S. at 95, or "a clear abuse of discretion," BankersLife, 346 U.S. at 383."

Such "exceptional circumstances" and judicial usurpation of power" exist in this case, with the Kansas Supreme Court denying a Mandamus petition and Request to stay as moot. Case closed.

CONCLUSION

Based on the foregoing Appendix, the Petition for the extraordinary Writ of Mandamus should issue.

Respectfully submitted,

Date:

FEB 9 2022