

No. 21-8

IN THE  
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

OCT 29 2021

OFFICE OF THE CLERK

WILMA PENNINGTON-THURMAN

Petitioner

v.

FEDERAL HOME LOAN MORTGAGE CORPORATION, ET AL,

Respondents

**On Petition For Rehearing And Remand To The United States Court of  
Appeals for the Eighth Circuit**

**CHALLENGE TO THE CONSTITUTION**

**FEDERAL RULES OF CIVIL PROCEDURE RULE 5.1  
CONSTITUTIONAL CHALLENGE TO A STATUTE**

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**Constitutional and Statutory Provisions Involved**

**The Fifth Amendment**

**The Fourteenth Amendment**

**MOTION FOR REHEARING AND REMAND**  
**CHALLENGE TO THE CONSTITUTION**  
**FEDERAL RULES OF CIVIL PROCEDURE RULE 5.1 CONSTITUTIONAL**  
**CHALLENGE TO A STATUTE**  
**CHALLENGE TO 12 U.S.C. CODE 1452 FEDERAL HOME LOAN**  
**MORTGAGE CORPORATION**

**Question: Is 12 U.S.C. Code 1452 (c) in violation of the Fifth Amendment  
Due Process Clause?**

The first three words in the Constitution are the most powerful: We the People. They declare that the Constitution derives its power not from a king or a Congress, but from the people themselves. This concept of **popular sovereignty** power to the people, is the foundation upon which the entire Constitution depends.

Without the people there would be no government, but the government turns around and mistreats the people that made it possible for there to be a government.

The defendants in this case are Federal Home Loan Mortgage Corporation, (Freddie Mac) Bank of America, N. A. (BANA) and Millsap and Singer, LLC. (Millsap) Three corporations that believed that taking from one Black woman in St. Louis, Missouri was power to the course of business. Why is that? Why is it they believed they could take with no repercussions?

When the government turns it back on you and does not listen to a complaint “We the People” have an issue or problem at hand.

## Reasons for Granting the Petition For a Challenge to the Constitution

I, the Petitioner in this case has petitioned the United States Court of Appeals for the Eighth Circuit five times about the Defendants and I have written a Writ of Habeas Corpus and five appeals to this court of appeals. They all were denied. According to the courts no one did anything wrong. The defendants signed a compromise and settlement agreement with the bankruptcy court, Eastern District of Missouri to dispose of judicated law suits I had filed in state civil court against Bank of America, N. A. which violated federal bankruptcy laws.

Bank of America was allowed by St. Louis City Circuit Court to foreclose on my home November 14, 2014, with this agreement in place and in force. but no one did anything wrong. BANA a Servicer of Freddie Mac hired Millsap and Singer, LLC to conduct the foreclosure and turned around and sold my home to the one that told them to foreclose, Federal Home Loan Mortgage Corporation. Both state and federal courts, the St. Circuit Court and the U. S. Court of Appeals for the Eighth Circuit allowed a GSE to evict a Senior Citizen from her home with a Sheriff on the porch where everyone in my neighborhood could witness the unfairness of the judicial system. Millsap and Singer, LLC was hired by Bank of America to be the Successor for Deed Under Foreclosure. Millsap is still harassing Petitioner with a state court case that has been appealed to the Missouri Supreme Court and again the case was denied.

During the financial crisis of 2008, Congress created the Federal Housing Finance Agency (“FHFA”) to provide “general regulatory authority” over Fannie Mae and Freddie Mac. 12 U.S.C. § 4511. On September 6, 2008, FHFA imposed itself as the conservator over Fannie Mae and Freddie Mac, thus stepping into their shoes. See *id.* § 4617. As conservator of Fannie Mae and Freddie Mac, FHFA being an Agency is responsible for FHLMC court cases. See *Collins v. Yellen*, 938 F. 3d 553.

The Fifth Amendment to the U. S. Constitution provides a Due Process Clause: Like the Fourteenth Amendment, the Fifth Amendment includes a due process clause stating that no person shall "be deprived of life, liberty, or property, without due process of law." The Fifth Amendment's due process clause applies to the federal government, while the Fourteenth Amendment's due process clause applies to state governments. The Supreme Court has interpreted the Fifth Amendment's Due Process Clause as providing two main protections: procedural due process, which requires government officials to follow fair procedures before depriving a person of life, liberty, or property, and substantive due process, which protects certain fundamental rights from government interference. The Supreme Court has also held that the Due Process Clause contains a prohibition against vague laws and an implied equal protection requirement similar to the Fourteenth Amendment's Equal Protection Clause.

The clause also promises that before depriving a citizen of life, liberty or property, government must follow fair procedures. Thus, it is not always enough for the government just to act in accordance with whatever law there may happen to be. Citizens may also be entitled to have the government observe or offer fair procedures, whether or not those procedures have been provided for in the law on the basis of which it is acting. Action denying the process that is "due" would be unconstitutional.

State courts, federal courts and Appellate courts have ignored the due process clause of the Fourteenth Amendment and the Fifth Amendment in this case. What the defendants did is unconstitutional.

Fannie Mae and Freddie Mac, the two most prominent GSEs, purchase mortgages and package them into mortgage-backed securities (MBS), which carry the financial backing of Fannie Mae or Freddie Mac. Because of this GSE financial backing, these MBS are particularly attractive to investors and are also eligible to trade in the "to-be-announced," or "TBA" market.

This is in violation of the Fifth Amendment.

Federal Home Loan Mortgage Corporation was created in 1970 to expand the secondary market for mortgages in the United States.

## **A Government-Sponsored Enterprise (GSE)**

A GSE a type of financial services corporation created by the United States Congress. Their intended function is to enhance the flow of credit to targeted sectors of the economy, to make those segments of the capital market more efficient and transparent, and to reduce the risk to investors and other suppliers of capital.

The residential mortgage borrowing segment is by far the largest of the borrowing segments in which the GSEs operate. GSEs hold or pool approximately \$5 trillion worth of mortgages.

At the time the Federal Home Loan Mortgage Corporation was founded by Congress it was considered a fundamental proposal to help the housing market, but no consideration was adopted for the heartache this legislation would cause Americans.

The framers of the Constitution designed a system of government in 1787 that distributed power among three branches—legislative, executive, and judicial. The framers themselves did not think the Constitution was perfect. That's why they included an amendment process in Article V, so the people could make changes to the Constitution as they saw fit. Over the past 225 years, the people have added 27 amendments; the most common theme has been expanding the right to vote. In the end, each generation strives to create a “more perfect union” for those yet to come. The Constitution begins and ends with We the People.

I, the Petitioner in this Appeal Challenge the Constitution pursuant to Federal Rules of Civil Procedure Rule 5.1, Statute 12 U.S.C 1452.

### **Foreclosure Information**

Many mortgages are actually owned by one government-sponsored enterprise or another, including Freddie Mac, although they're always handled by various mortgage servicers. According to Freddie Mac's website, it is not allowed to work with homeowners on their foreclosure issues. However, Freddie Mac does offer a number of useful tools for those homeowners either in foreclosure or trying to avoid it. Also, many Freddie Mac foreclosure policies allow for unemployment forbearance and even lengthened foreclosure timelines in some states. These procedures were not offered to Petitioner Pennington-Thurman.

### **Mortgage Servicers**

In all instances when a Freddie Mac-owned mortgage risks eventual foreclosure, the servicer handling it obeys the government-sponsored enterprise's foreclosure directives. Freddie Mac's first directive to its mortgage servicers, however, is that they help homeowners with Freddie Mac-owned mortgages avoid foreclosure if possible. Freddie Mac mortgage servicers are required to utilize what's called a "borrower response package" for delinquent homeowners. Freddie Mac borrower response packages include provisions for homeowner short sales and various government mortgage refinancing initiatives. The Servicer for Petitioner's mortgage

was Bank of America, N. A. and it did not provide a “borrower response package” to Petitioner.

This process to foreclose and sell your home without compensation is in violation of the Fifth Amendment “nor shall private property be taken for public use, without just compensation.” To foreclose without a Deed and Title together creates an illegal foreclosure.

The preemption doctrine refers to the idea that a higher authority of law will displace the law of a lower authority of law when the two authorities come into conflict.

### **Is There Proper Order and Coherence**

Congress created the monster Federal Home Loan Mortgage Corporation. A GSE that is allowed to create money for the secondary market, but in the process, it is creating homelessness in the United States and it appears to be alright with the high courts. It takes personal property from homeowners and evicts families and elderly people, and they end up sleeping under bridges and in tents. This is not the America I grew up believing in!

The statute for Federal Home Loan Mortgage Corporation is 12 U.S.C Code 1452. Under this statute is (c)(8) that reads, “to acquire, take, hold, and own, and to deal with and dispose of any property;” This statement is in violation of the Fifth Amendment. The Fifth Amendment contains the Takings Clause, which allows the federal government to take private property for public use if the government

provides "just compensation." Freddie Mac has foreclosed on thousands of homes since its creation, but where is the just compensation? Where is Petitioner's just compensation?

Petitioner asked for compensation and damages when I filed the complaint in the U. S. Bankruptcy Court, Eastern District of Missouri, and he U. S. Court of Appeals for the Eighth Circuit.

The term "property" includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choses in action and mortgages, and includes any interest in any of the foregoing. 12 U.S.C § 1451(g)

The *Erie* doctrine is a fundamental legal doctrine of civil procedure in the United States which mandates that a federal court called upon to resolve a dispute not directly implicating a federal question (most commonly when sitting in diversity jurisdiction, but also when applying supplemental jurisdiction to claims factually related to a federal question or in an adversary proceeding in bankruptcy) must apply state substantive law.

The doctrine follows from the Supreme Court landmark decision in *Erie Railroad Co. v. Tompkins* (1938). The case overturned *Swift v. Tyson*, which allowed federal judges sitting in a state to ignore the common law local decisions of state courts in the same state in diversity actions.

Congress has the authority to regulate matters of practice and procedure in the federal courts. *Sibbach v. Wilson & Co.*, 312 U.S. 1, 9-10 (1941). Congress delegated some of this power in 1934 by passing the Rules Enabling Act, which gave the Supreme Court the power to promulgate the Federal Rules of Civil Procedure. Despite this delegation, Congress maintains a passive, but integral role in implementing any rules drafted by the Supreme Court. All rules are subject to congressional review and become effective only after Congress has had seven months to review the proposed rules or changes. 28 U.S.C. Section(s) 2074. The purpose of the review period is to assure that the rules or amendments comply with congressional purpose. *Sibbach*, 312 U.S. at 15. Although the Supreme Court has some authority to regulate the federal courts, Congress maintains the power to repeal, amend, or supersede the delegation of authority or the rules of procedure. *Jackson v. Stinnett*, No. 96-20720, 1996 WL 714352, at \*1 (5th Cir. Dec. 11, 1996).

When I appeal in forma pauperis my appeal is denied or dismissed. When I appeal and pay the fee my appeal is denied or dismissed. Both ways demonstrate discrimination towards a non-prisoner. See 28 U.S.C 1915.

The preemption doctrine refers to the idea that a higher authority of law will displace the law of a lower authority of law when the two authorities come into conflict. 12 U.S.C. 1452 is in conflict with The Fifth Amendment.

## Conclusion

In 1923, the United States Supreme Court recognized the pursuit of happiness at the national level when interpreting the Fourteenth Amendment's protection of the right to liberty. In the case *Meyer v. Nebraska*, Robert Meyer, a schoolteacher, challenged the constitutionality of Nebraska's *Siman Act*, which forbade education administered in a foreign language. In a 7-2 ruling, the Court found in favor of Meyer. Justice McReynolds, writing for the majority, found that the Fourteenth Amendment's due process clause protects not only one's freedom from restraint, but also one's freedom to engage in contracts, to hold an occupation, to learn and gain knowledge, to marry and raise children, and to demonstrate faith and participate in religion. He found that, in sum, these freedoms entitled one "generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men." Meyer, 262 U.S. 390 (1923)

The recognitions of the "right to life, liberty and the pursuit of happiness is promoted at the federal and state level. This is just language if the government does not support the right to life, liberty and the pursuit of happiness. When the government picks and chooses which legal cases to support then it fails in its chief design.

The Challenge to the Constitution should be granted by The U. S. Supreme Court.

Respectfully submitted,



Wilma Pennington-Thurman,

Petitioner