

21-8096

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

BARBARA FRANTZ

(Your Name)

— PETITIONER

FILED

MAY 29 2022

vs.

OFFICE OF THE CLERK
SUPREME COURT, U.S.

PATRICK FRANTZ

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Tenth Circuit

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

PETITION FOR WRIT OF CERTIORARI

BARBARA FRANTZ

(Your Name)

ICF 815 SE RICE Road

(Address)

TOPEKA, KS. 66607

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

K.S.A. 59-513 KANSAS STATUTORY AND COMMON LAW VERSUS GENUINE FACTS OF UNRESOLVED QUESTIONS OF ENORMOUSLY CONSEQUENTIAL FACT, AS PRESENTED THROUGH OTHER COURTS. PATRICK FRANTZ ASK THE COURTS TO TWIST K.S.A. 59-513 IN A MANNER THE LEGISLATURE NEVER INTENDED BY ISSUING LIFE INSURANCE BENEFITS TO A CONTINGENT BENEFICIARY ACCUSED OF THE MURDER OF THE INSURED.

BARBARA'S CRIMINAL APPEAL CENTERS ON THE CLAIM THAT THE POLICE INVESTIGATION WRONGFULLY CONCENTRATED ON HER AND IGNORED THE WEIGHT OF THE EVIDENCE POINTING TOWARD'S PATRICK'S GUILT. PATRICK'S SUMMARY JUDGMENT CITES CASES SIMPLY INAPPLICABLE TO THE FACTS AT HAND - WHERE THE CONTINGENT BENEFICIARY (PATRICK) HAS BEEN ACCUSED OF THE MURDER FOR WHICH THE PRIMARY BENEFICIARY (BARBARA) WAS CONVICTED. SUMMARY JUDGMENT IS ONLY APPROPRIATE IF PATRICK DEMONSTRATES THAT THERE IS "NO GENUINE DISPUTE" ABOUT ANY MATERIAL FACT.⁴ AN ISSUE OF FACT IS "MATERIAL" IF UNDER THE SUBSTANTIVE LAW IT IS ESSENTIAL TO THE PROPER DISPOSITION OF THE CLAIM OR DEFENSE. A DISPUTE OF FACT IS GENUINE "IF THE EVIDENCE IS SUCH THAT A REASONABLE JURY COULD RETURN A VERDICT FOR (SUMMARY JUDGMENT) NONMOVING PARTY."⁵ PATRICK HAS NOT AND COULD NOT CITE A CASE THAT SUPPORTS AWARDING BENEFITS UNDER THESE CIRCUMSTANCES. RESEARCH BY BARBARA'S COUNSEL DID NOT REVEAL ANY SUCH CASES. IN A SITUATION SUCH AS THIS, WHERE THE PRIMARY AND CONTINGENT BENEFICIARY EACH ARGUE THE OTHER WAS RESPONSIBLE FOR THE DEATH OF THE INSURED, IT MAKES SENSE TO WAIT TO DISPERSE THE FUNDS UNTIL THE CRIMINAL PROCEEDINGS ARE FULLY RESOLVED, WHICH HAS BEEN BARBARA'S REQUEST FROM THE START.

⁴A CASE WITH WITH THIS SORT OF FACTUAL DISPUTE IS INAPPROPRIATE FOR SUMMARY JUDGMENT. SEE FED. R. CIV. P. 56 (a). THE BODY CAMERA FOOTAGE SHOWING GARY'S IDENTIFICATION OF PATRICK AS THE SHOOTER AND THE EVIDENCE THAT PATRICK LIED ABOUT HIS ALIBI, REQUIRED TO CREATE A GENUINE ISSUE OF MATERIAL FACT.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari 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 D to the petition and is

reported at CASE NO. 21-3103; 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 B to the petition and is

reported at CASE NO. 18-2469-JWB; 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 B to the petition and is

reported at CASE NO. 18-2469-JWB; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was MARCH 16th 2022.

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 _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied 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. § 1257(a).

LIST OF PARTIES

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

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:

PRIMERICA LIFE INSURANCE COMPANY
FOULSTON SIEFFIN LLP JAY F. FOWLER # 10727
Michael P. CROW, # 07707

RELATED CASES

SUPREME COURT OF KANSAS 20-123096-S, COUNTY APPEAL LEAVENWORTH, KS
DISTRICT COURT CASES 17-CR-92

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT 21-3103

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS
CASE NO. 2:18-CV-2469-JWB-KGG

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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STATEMENT OF THE CASE

INTERPLEADER ACTION FILED AUGUST 30th, 2018 BY PLAINTIFF PRIMERICA LIFE INSURANCE COMPANY REGARDING \$ 150,000. LIFE INSURANCE POLICY PURCHASED BY GARY FRANTZ, NOW DECEASED. AT THE TIME OF HIS DEATH APPELLANT BARBARA FRANTZ, GARY'S SPOUSE, WAS LISTED AS THE PRIMARY ON PRIMERICA POLICY HELD ON THE LIFE OF GARY FRANTZ. APPELLEE PATRICK FRANTZ, GARY AND BARBARA'S ONLY LIVING CHILD WAS LISTED AS THE CONTINGENT BENEFICIARY.

August 30th, 2018 BARBARA AND PATRICK WAS GRANTED INTERPLEADER RELIEF.

NOVEMBER 13th, 2020 PATRICK FILED A MOTION FOR SUMMARY JUDGMENT SEEKING A DECLARATION THAT HE IS PROPER BENEFICIARY OF THE LIFE INSURANCE PROCEEDS. BARBARA FILED RESPONSE IN OPPOSITION, ATTACHED. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS GRANTED PATRICK'S MOTION FOR SUMMARY JUDGMENT ON MAY 4th, 2021. BARBARA FILED FOR APPEAL, ATTACHED. A-12 BRIEF. UNITED STATES COURT OF APPEALS FOR THE 10th CIRCUIT AFFIRMED U.S. DISTRICT COURT OF KANSAS DECISION ON MARCH 16th, 2022.

BARBARA'S CRIMINAL APPEAL, APPELLATE BRIEF FILED AUGUST 31st 2021 AND PRO SE SUPPLEMENTAL BRIEF (OS MAY 5th, 2022, ATTACHED. BARBARA'S CRIMINAL APPEAL ARGUES K.S.A. 22-3419 VIOLATIONS OF DUE PROCESS OF LAW AND EQUAL PROTECTION CLAUSE AND IMPROPER METHODS USED BY THE STATE PROSECUTORS AND POLICE OF MISCONDUCT RESULTED IN A MISCARRAGE OF JUSTICE. THE MANIFEST OF INJUSTICE ARISING FROM POLICE AND PROSECUTORIAL MISCONDUCT, SHOWING THE POLICE INVESTIGATION WRONGFULLY CONCENTRATED ON BARBARA AND IGNORED THE WEIGHT OF THE EVIDENCE POINTING TOWARDS PATRICK'S GUILT. HERE, THE CRIMINAL PROCEEDINGS ARE NOWHERE NEAR COMPLETE. ONCE THE CRIMINAL PROCEEDINGS ARE RESOLVED, THE PARTIES AND THE COURTS WOULD HAVE THE NECESSARY FACTS AND CONTEXT TO ARGUE AND RULE ON THE PROPER ALLOCATION OF THE POLICY FUNDS.

FED. R. BANKR. P. 702(b), FED. R. CIV. P. 24 (b) PROVIDES THAT A COURT MAY ALLOW PERMISSIVE INTERVENTION WHEN AN APPLICANT'S CLAIMS OR DEFENSE AND THE MAIN ACTION HAVE A QUESTION OF LAW OF FACT IN COMMON.

REASONS FOR GRANTING THE PETITION

UNDER KANSAS COMMON LAW RULE [SECTION K.S.A. 59-513] BARS A BENEFICIARY OF A LIFE INSURANCE POLICY WHETHER CONVICTED OR NOT. THIS CASE IN POINT THE CONTINGENT BENEFICIARY (PATRICK) HAS BEEN IDENTIFIED AS THE KILLER, BY THE INSURED. THIS WOULD ALSO BAR PATRICK FRANTZ UNDER KANSAS COMMON LAW RULE, HARPER, 662 P.2d AT 1271. APPENDIX E WITH ATTACHMENTS EXHIBITS 1, 2, 3; K.S.A. 60-460 ALTERNATIVE PERPETRATOR. STRONG REASONS FOR GRANTING THIS PETITION AS GREAT QUESTIONS INTO K.S.A. 59-513 EXIST. 59-513, UNDER KANSAS LAW, A PERSON "CONVICTED" OF MURDER MAY NOT INHERIT OR TAKE AS A BENEFICIARY OF ANY PORTION OF THE DECEDENTS ESTATE OR PROPERTY. KANSAS LAW DID NOT TAKE INTO ACCOUNT OF A "CONVICTED" BEING FULLY EXONERATED, IN FACT INNOCENT. FURTHER, CONSIDERATION AN APPEAL PROCESS OF A CONVICTION NOT BEING FINAL. QUESTIONS ARISING OF THE CONTINGENT BENEFICIARY (PATRICK) BEING THE ACTUAL PERPETRATOR, UNDER K.S.A. 60-460 (a) ALTERNATIVE PERPETRATOR - PATRICK FRANTZ BEING THE KILLER OF THE INSURED, DISTRICT COURT GRANTING BARBARA'S DEFENSE THE AUTHORITY TO DEFEND THE CASE ON 6-6-2018. K.S.A. 59-513 A BENEFICIARY MAY EVEN BE BARRED PRIOR TO A CONVICTION, THIS INCLUDING PATRICK, WHERE PATRICK WAS IDENTIFIED BY THE INSURED, AS THE WEIGHT OF THE EVIDENCE POINTING TOWARDS PATRICK'S GUILT. BARBARA'S CRIMINAL CASE, SHE HAS AND WAS GRANTED HER REQUEST TO THE UNITED STATES ATTORNEY GENERAL'S OFFICE, FOR INVESTIGATION INTO CRIMINAL MISCONDUCT COMMITTED IN HER CRIMINAL CASE, RESULTING A MISCARRIAGE OF JUSTICE IN WRONGFULLY CONVICTING THE PRIMARY BENEFICIARY (BARBARA). THE USAAG DIRECTING THE CRIMINAL DIVISION OF THE FBI TO INVESTIGATE; ATTACHED. THE FACTS FROM OTHER COURTS (SUPREME COURT OF KANSAS), BARBARA'S PRO SE SUPPLEMENTAL BRIEF; ATTACHED, WITH EXHIBITS; K.S.A. 22-3419.

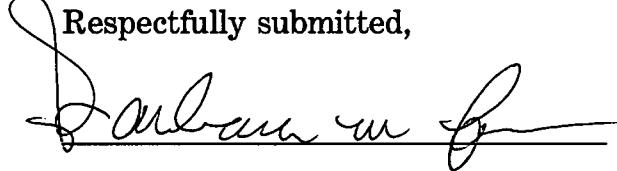
THIS BRINGS TO THE UNITED STATES SUPREME COURT FOR GRANTING THE PETITION FOR REVIEW, THE EXAMINATION INTO K.S.A. 59-513 FLAWS, AS PERMISSIVE REVIEW OF THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT DECISION TO AFFIRM DISTRICT COURT'S JUDGMENT UNDER KANSAS COMMON LAW SECTION 59-513 GRANTING PATRICK'S MOTION OF SUMMARY JUDGMENT, HOWEVER CONSIDERING ALL THE FACTS, U.S. DISTRICT COURT AND U.S. COURT OF APPEALS DID NOT APPLY THE SAME STANDARD UNDER KANSAS COMMON LAW RULE REGARDING PATRICK BEING IDENTIFIED AS THE KILLER, OF THE INSURED, AND THE WEIGHT OF THE EVIDENCE POINTING TOWARDS PATRICK'S GUILT, BEING GENUINE UNRESOLVED QUESTIONS OF ENORMOUSLY CONSEQUENTIAL FACT AS OUTLINED IN BARBARA'S COUNSEL, OF OPPOSITION TO PATRICK'S MOTION FOR SUMMARY JUDGMENT, ATTACHED, SUMMARY JUDGMENT BEING INAPPROPRIATE WHEN AN ISSUE OF FACT IS "MATERIAL" IF UNDER SUBSTANTIVE LAW IT IS ESSENTIAL TO THE PROPER DISPOSITION OF THE CLAIM OR DEFENSE. ANDERSON V. LIBERTY LOBBY, INC., 477 U.S. 242, 248 (1986); K.S.A. 60-460 ALTERNATIVE PERPETRATOR.

BARBARA FRANTZ PRAYS UPON THIS SUPREME COURT OF THE UNITED STATES FOR GRANTING HER PETITION, AS A MANIFEST OF INJUSTICE IN WRONGFULLY CONVICTING MS. FRANTZ IS BEING ARGUED IN BARBARA'S CRIMINAL CASE. THIS AS MATERIAL FACT SHOWING GENUINE DISPUTE REGARDING THE IDENTITY OF GARY'S KILLER HANG OVER THIS CASE, FED. R. CIV. P. 56(a). SUBSTANTIVE LAW AS 'MATERIAL' FACT SHOWING GENUINE DISPUTE, WHERE THE UNITED STATES DISTRICT COURT AND UNITED STATES COURT OF APPEALS, ERRED, AS LAW VERSUS FACTUAL QUESTIONS PRESENTED BRINGING A PUBLIC ISSUE REGARDING K.S.A. 59-513, INTO ISSUING LIFE INSURANCE PROCEEDS TO CONTINGENT BENEFICIARY ACCUSED OF THE MURDER OF THE INSURED. FOR THESE REASONS SUMMARY JUDGMENT WAS INAPPROPRIATE AND REASONS FOR GRANTING THIS PETITION.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: MAY 29th, 2022