
**IN THE
SUPREME COURT OF THE UNITED STATES**

DONALD A. VANDERVEER,

Petitioner

v.

ZONING BOARD OF APPEALS TOWN OF EAST HAMPTON, etc.

Respondents

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Second Circuit**

Suggestion of Death and Motion for Substitution

I. SUGGESTION OF DEATH

The authorized representative of the Estate of Donald A. Vanderveer, the Petitioner, and undersigned counsel hereby give notice of Donald Vanderveer's death on January 30, 2022. A previous notice was provided to this Court by a letter which was mailed and has since been electronically posted on the docket.

II. MOTION FOR SUBSTITUTION

Supreme Court Rule 35.1 provides, "If a party dies after the filing of a petition for a writ of certiorari to this Court ... the authorized representative of the deceased party may appear and, on motion, be substituted as a party."

In January 2022, Petitioner Donald A. Vanderveer timely filed a Petition for

a Writ of Certiorari to the United States Court of Appeals for the Second Circuit.

Petitioner died later in January 2022, on January 30th.

Respondents timely filed their Brief In Opposition to the Petition.

The Petitioner's Reply Brief is scheduled to be timely filed on February 28th.

The federal court jurisdiction for the underlying case is based upon 42 U.S.C. § 1983, the civil rights statute, and it seeks monetary, declaratory and injunctive relief. The case was dismissed by the E.D.N.Y. District Court on a Rule 12 motion in December 2020; the Second Circuit affirmed dismissal in August 2021. If this Court were to grant the writ and then reinstate the case, any such relief would inure to the benefit of the Estate of Donald A. Vanderveer.

At the time of his death, Donald A. Vanderveer was a widower, and he had a Last Will and Testament which is believed to be in proper form and duly executed, as it was written by a New York attorney (now deceased) who was experienced in matters of estate law. His adult daughter Karin Vanderveer was named as the sole Executor/Executrix of his Estate. Karin Vanderveer is also the sole Trustee of a "living trust" created by Donald A. Vanderveer during his lifetime, and that living trust is a beneficiary under Donald A. Vanderveer's Will. Donald A. Vanderveer lived together with Karin Vanderveer at the time of his death. Karin Vanderveer is presently working with a (new) estate attorney to follow, and act consistent with, the legal procedures required in New York State. Karin Vanderveer's authority as the Estate's representative is derived from her being named as the Executor/ Executrix of the Estate in a validly executed will.

As the sole authorized representative of Donald A. Vanderveer's Estate and sole trustee of an existing trust which is a named beneficiary of the Estate (as supported by Karin Vanderveer's accompanying Declaration signed by her and declared in accordance with the provisions of 28 U.S.C. §1746), Karin Vanderveer respectfully requests that she be substituted for Donald A. Vanderveer as a party, and she adopts and ratifies the statements in the Petition filed in January 2022 and the Reply Brief which is (more or less simultaneously) being timely filed by the appellate printer BeckerGallagher.

Karin Vanderveer has requested that I prepare these motion papers and prepare the Reply Brief, and she approved of their submissions to this Court.

Counsel for Respondents represents multiple parties, and I do not know their position on this motion for substitution of a party.

I have personally spoken to Clerk Daniel Bickell concerning the procedural mechanics for this motion and about the Court's schedule for the distribution of the booklets to the Honorable Justices and for the first conference.

WHEREFORE, we ask that this Court grant this motion for substitution.

February 25, 2022

Respectfully submitted,

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*Counsel for Petitioner Donald A. Vanderveer,
By and Through his Authorized Representative Karin Vanderveer*

Declaration of Karin Vanderveer (28 U.S.C. § 1746)

I, Karin Vanderveer, hereby declare and state as follows, in accordance with the provisions of 28 U.S.C. § 1746:

1. I make this Declaration on my personal knowledge. I am competent to testify as to the matters stated herein. If called and sworn as a witness, I would and would testify competently thereto.
2. I am the daughter of Donald A. Vanderveer. At the time of his death on January 30, 2022, we were residing together at our family home in Huntington, New York. I have been provided with certified copies of his certificate of death, and I could provide a copy to this Court, if required.
3. When he died, Donald A. Vanderveer had a duly executed Last Will and Testament. I am the sole Executor/Executrix in the Last Will and Testament.
4. Before his death, my father created a Trust, and that Trust is a beneficiary under the Last Will and Testament. I am the sole Trustee of that Trust.
5. I am presently working together with an estate attorney to move forward.
6. I have read the motion papers for my substitution as a party in place and stead of my father Donald A. Vanderveer in #21-986, and I concur with them.
7. I have read the Petition and the Reply Brief. I hereby ratify the statements contained in them. I wish for the case to continue before this Supreme Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 25, 2022 at Huntington, New York.

By: 

Karin Vanderveer, *Authorized Representative of Estate of Donald A. Vanderveer*