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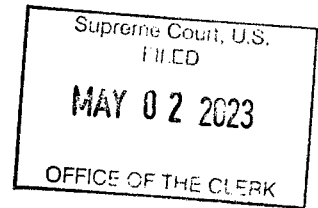
SUPREME COURT OF THE UNITED STATES

SHERYL PEREIRA

Petitioner,

TERRIAL O'NEAL

Respondent.



On Petition for a Writ of Certiorari to the Georgia  
Supreme Court

PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

Following longstanding precedent promotes predictability in the law and protects people who have come to rely on past decisions as a guide for their behaviors. Judges are generally bound to follow these precedential decisions and apply the same Legal reasoning of those prior cases. Each court system operates Under the common law system, which is based on Precedents.

Precedents are rooted in the doctrine of stare decisis, which is a Latin phrase meaning “to stand by things decided”. The United States Supreme Court applies the doctrine of stare decisis by following the rules of its prior decisions to overrule precedent. The Common law system is premised on the idea of having predictable and consistent outcomes to cases

with similar facts and legal issues questions. The questions presented: 1. Whether Supreme Court of Georgia and Court of Appeals of Georgia erred by violating their own longstanding precedent setting Case decisions and well- established Statutes of cases they have reviewed in violation of O.C.G.A. §9-11-42 and O.C.G.A... §9-15-14 which now requires this Court to exercise its supervisory powers?

1. Is the Constitution's guarantee of a fundamentally fair trial Compromised when Supreme Court of Georgia and Court of Appeals of Georgia Affirmed this case granting Attorney fees without conducting an evidentiary hearing in effect stripping Petitioner of her property which violates her due process rights under the 5th Amendment of

the United States Constitution? 2. Did Court Appeals of Georgia abuse its discretion Affirming this case knowing that the Trial Court committed reversible errors by improperly consolidating and transferring this case in which there was insufficiency of service and without conducting a hearing or getting Consent or permission of both parties in violation and derivation of O.C.G.A. §9-11-42?

#### **PARTIES TO THE PROCEEDING**

All parties in the caption of the case on the Cover page Petitioner, plaintiff below, is Sheryl Pereira, Respondent defendant below, is Terrial O'Neal.

Pereira v. O'Neal, No. 2021-MAG1892, Magistrate Court of Rockdale County entered August 19, 2021.

O'Neal v. Pereira, No. 2021-CV-1938, Superior Court of Rockdale County entered October 20, 2021.

Pereira v. O'Neal, No. A22A0548, Court of Appeals of Georgia Judgement entered April 13, 2022. Pereira v. O'Neal, No. S22C0984, Supreme Court of Georgia Judgment entered February 7, 2023.

## TABLE OF CONTENTS

QUESTIONS PRESENTED.....	i, ii
PARTIES TO THE PROCEEDING.....	iii
TABLE OF CONTENTS.....	iv, v
TABLE OF AUTHORITIES.....	v
CONSTITUTION AND STATUTES.....	1
PETITION FOR WRIT OF CERTIORARI.....	2
OPINIONS BELOW.....	1
JURISDICTION.....	3

CONSTITUTIONAL AND STATUTORY.....	3
INTRODUCTION.....	5-12
STATEMENT OF THE	
CASE.....	5-12
REASONS FOR GRANTING THE	
PETITION.....	13-15
CONCLUSION.....	15
APPENDIX.....	16
Appendix 1. Rockdale Magistrate Court, Final Order Of transfer to Superior Court, case 2021-CV-1938, August19, 2021.....	16
Appendix 2. Superior Court of Rockdale County, Order and Final Judgment, case 2021-CV-1938, October 20, 2021.....	16

Appendix 3. Court of Appeals of Georgia, Opinion, case A22A0548 April 13, 2022.....	16
Appendix 4. Court of Appeals of Georgia, Amended Motion for Reconsideration, case A22A0548, May 3, 2022.....	16
Appendix 5. Supreme Court of Georgia, Petition for Writ of Certiorari, case S22C0984, February 7, 2023.....	16
Appendix 6. Supreme Court of Georgia, Stay of Remittur, Case S22C0984, March 7, 2023.....	16
Appendix 7. Supreme Court of Georgia, Motion For Reconsideration, case S22C0984, March 7, 2023.....	16



## TABLE OF AUTHORITIES

Page	Case
Southland Propane, Inc. v. McWhorter, 312 Ga. App. 812, 720 (2011) .....	8
Payne v. Harbin, 254, Ga. App. 402, 562 S.E. 2d 772 (2002) .....	8
Atlanta J's, Inc. v. Houston Foods, Inc 237 Ga. App. 415. 514 S.E. 2d 216(1999) .....	9
Transmission Corporation v. Worley No. A11A1035 Nov 23, 2011, 312 Ga. App 855 (Ga. Ct. App 2011) .....	9
Tavakolian, et Al. V. Agio Corp. et Al. Ga. App. Case No. A11A0694.....	9

Williams v. Becker, 294 Ga. 411, 754 S.E. 2d 11	
(2014) .....	11
Hall v. Hall, 335 Ga. App. 208, 780 S.E. 2d 787	
(2015) .....	11
Heiskell v. Roberts 295 Ga. 795 764 S.E.2d 368	
(2014).....	14
McClure v. McCurry, 329 Ga.App. 342, 765 S.E 2d 30	
(2014) .....	14
Amayo v. Amayo 301 Ga. 660, 802 S.E. 2d 245	
(2017) .....	12
Cameron et Al v. Miles 311 Ga. Ct. App. 753,	
(2011) .....	10

Statute

Ga. Code Ann. ... §9-11-58(b).....	i
Ga. Code Ann. ...§9-11-42.....	i, 7
Ga. Code Ann. ...§15-3-3.1(a)(1).....	i
Ga. Code Ann. ...§5-6-34(a)(1).....	i
Ga. Code Ann... §15-10-2(5)(6).....	i
Ga. Code Ann. ...§9-15 14.....	7-11
Ga. Code Ann. ...§9-11-4.....	7

Constitution

U.S. Constitution Due Process and Equal Protection  
Clause of 5<sup>th</sup> and 14<sup>th</sup> Amendment.

**PETITION FOR WRIT OF CERTIORARI**

Petitioner, Sheryl Pereira, respectfully petitions  
for a Writ of of Certiorari to review the judgment of  
the Supreme Court of Georgia.

**OPINION BELOW**

The decision of Appendix A. Rockdale Magistrate  
Court, Final Order Of transfer to Superior Court,  
case 2021-CV-1938, August19, 2021. Appendix B.  
Superior Court of Rockdale County, Order and Final  
Judgment, case 2021-CV-1938, October 20, 2021.  
Appendix C. Court of Appeals of Georgia, Opinion,

Case A22A0548 April 13, 2022. Appendix D. Court of Appeals of Georgia, Amended Motion for Reconsideration, case A22A0548, May 3, 2022. Appendix E. Supreme Court of Georgia, Petition for Writ of Certiorari, case S22C0984, February 7, 2023. Appendix F. Supreme Court of Georgia, Stay of Remittur, Case S22C0984, March 7, 2023.

### **JURISDICTION**

The Supreme Court of Georgia issued its Opinion on February 7, 2023. A timely petition for rehearing was denied On March 7, 2023, this Court has Jurisdiction pursuant to 28 U.S.C §1254(1) having timely filed this petition for a writ of Certiorari within ninety days of the Georgia Court's judgement.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **Federal Constitution:**

The Constitution states only one Command twice, the Requirement for due process found in the United States Constitution is as follows: the Fifth Amendment stipulates that, According, to the federal government, no one shall be “deprived of life, Liberty or property without due process of law” The Fourteenth Amendment, ratified in 1868, uses the same eleven Words, called the Due Process Clause, to describe a legal Obligation of all states, which includes Georgia as well as the Counties and municipalities incorporated therein. Section

One of the Fourteenth Amendment to the United States Constitution states in the relevant part.” or shall any State deprive any person of life, Liberty, property, without due Process of law” these words have as their central promise an Assurance that all levels of American government must operate Within the law (“legality”) and provide fair procedures. The U.S. Supreme Court has published many opinions on this issue and has arrived at the conclusion that due process is essentially the right of a party to be provided “notice” and “an opportunity to be heard” on all issues in dispute. Such a requirement provides that notice must be in advance so that one might be given up to be heard prior to any other action taken. In the U.S. Supreme Court case of *Grannis v. Ordean* (1914) 234 U.S. 385, 34 S. Ct. 779, 58 L. Ed. 1363 [234 U.S. 385], the Court

stated, "The fundamental requisite of due process of law is the opportunity to be heard. Petitioner contends that, if she had been "heard," the merits of her case would have prevailed. Georgia Constitution Article Rights of Persons: Paragraph I Life, Liberty, Property. No person shall be deprived of life, liberty or property except by due process by law.



## **STATEMENT OF THE CASE**

### **Introduction**

### **BACKGROUND AND STATEMENT OF FACTS**

This case presents an important and recurring question of whether Georgia Courts can be relied upon to uphold a Defendant's Constitutional rights to present a full and fair defense and have liability rest on the merits of a claim and the inconsistent rulings by Georgia Court of Appeals and Georgia Supreme Court on different cases with the same Issues but receiving a different outcome.

This Petition arises out of Respondent ("tenant") signed A lease with the option to purchase Agreement with Petitioner ("landlord") on October 15, 2020, that included a condition that the

Respondent remains a tenant in good standing and in full compliance with the terms and conditions of the lease agreement for one (1) calendar year to avail himself of the purchase option. (R. Vol. pages 24-36).

Early into the rental lease period in

December 2020 Respondent began to materially

breach the lease agreement by Damaging her rental property by 1.) failure to pay rent since 7/2021

2.) Installed an unauthorized defective retaining wall that did not meet Code standards causing

Petitioner to receive \$1,000 fine by Rockdale Code

Enforcement. 3.) flushed foreign and unsafe objects

down toilet clogging up and damaging the septic

system which Petitioner had to pay \$4200 to repair.

4.) damaged driveway with heavy equipment. 5.)

failure to maintain property by allowing trash, junk and foreign objects all over the lawn (R. Vol 2. Page 144-454). 6.) have roaches and damage walls inside the home. As a result of Respondent numerous material breaches of the Lease agreement Petitioner opted to terminate the lease Agreement by way of letter of termination send to respondent

On June 22, 2021, following informal efforts and attempts by Petitioner to get Respondent to voluntarily vacate the Petitioner's rental property.

Petitioner ("landlord") filed Dispossession action in Rockdale Magistrate Court on July 20, 2021, trying to evict Respondent ("tenant") from her rental property because Respondent breached multiple provisions of their lease Agreement, including making unauthorized changes to Rental property. (R. Vol 2 page 46-47). On August 19, 2021, Rockdale

Magistrate Court issued and filed an order Transferring Dispossessory case to instant case to Rockdale Superior Court without Conducting a hearing or getting consent of both parties or serving a summons of the lawsuit on Petitioner in violations of O.C.G.A .... §9-11-42 and O.C.G.A ... §9-11-4. Petitioner was never served a summons to this lawsuit. There is an insufficiency of service in this case in violation of O.C.G.A ...§9-11-4. THERE WAS NO HEARING, NO CONSENT, AND NO PROCESS OF SERVICE CONDUCTED BEFORE OR AFTER THE CASE WAS TRANSFERRED TO ROCKDALE SUPERIOR COURT.

On October 13, 2021, Rockdale Superior Court conducted a “Motion hearing”. There was no trial and no deposition or Interrogatives conducted in this case. On October 20, 2021, Rockdale Superior Court

issued an order granting Specific Performance and attorney fees. There was NO EVIDENTIARY

HEARING, and the trial court provided no explanation and expressed no findings or determination or fairness of granting Attorney fees. Petitioner was not given the opportunity to cross examine attorney fees as to the appropriateness, reasonableness, fairness and amount of attorney fees. In violation of O.C.G.A...§9-15-14. The trial Court committed reversible errors by erroneously assuming Jurisdiction over a case that

Had Insufficiency of service and was improperly transferred to them by the Magistrate Court.

Improperly consolidated the Dispossessory case and the instant Case without the consent and permission of both parties namely Petitioner 2.) no service of summons was conducted, insufficiency of Service, 3.)

No consolidation or transfer hearing, 4.) No Evidentiary Hearing to determine attorney fees 5.) issuing and filing a final Order that was not supported by the Evidence. As a result of October 20, 2021, the above, the final order of October 20, 2021, fails. On October 20, 2021, Petitioner timely filed a Notice of Appeal challenging the October 20, 2021, final Order granting specific performance and attorney fees, et Al and denial of all of Petitioner's Motions. The trial court failed to hold an evidentiary hearing and to make the findings required for an award under statute O.C.G.A...§9-15-14

On April 13, 2022, Court of Appeals of Georgia affirmed the trial court's decision. Petitioner filed a Motion for Reconsideration by presenting clear and convincing cases that it had granted a Writ of Certiorari previously on the same Cases as

Petitioner's case, but Petitioner received a different Outcome. For example: According to Georgia Court of Appeals Opinion on case A11A1035 Georgia Transmission Corporation v. Worley Nov 23, 2011, 312 Ga. App 855: stating "GTC now appeals arguing that the Superior court's consolidation of the cases without GTC's consent constituted legal error." Here Court of Appeals of Georgia ignored previous cases they reviewed and reversed the judgment which this case had the same issue and statutes as Petitioner, but Petitioner received a different outcome. Another case Williams v. Becker 294 Ga. 411, 754 S.E.2d 11 (2014). According to Court of Appeals of Georgia Opinion which states "father argues that the award of Attorney fees under O.C.G.A...§9-15-14 was improper because the trial court failed to hold an

evidentiary hearing and to make the findings required for an award under statute. We Agree.” Because the trial court failed to hold an evidentiary Hearing and to make the findings required for Attorney fees award under O.C.G.A...§9-15-14. We vacate the Award for an attorney fee made pursuant to that statute and remand this case for further proceedings.” Here Court of Appeals of Georgia ignored its own precedent of a case it Reviewed and reversed the judgment which this Case had the Same issue and statute as Petitioner’s case, but Petitioner received a different outcome. Here is another case Cameron et Al v. Miles 311 Ga. Ct. App. 753, (2011) ...Court of Appeals of Georgia stated: “and while it is generally true that the absence of a transcript is essential to the resolution on appeal. But here the trial court’s error appears on



the face of its Summary order, making a review of the transcript unnecessary to warrant a reversal on this enumeration of error.” Here Court of appeals of Georgia ignored its own precedent of a case they reviewed and reversed the judgment which these cases had the same issues and statute as Petitioner’s case but again Petitioner received a different outcome.

On May 3, 2022, Petitioner filed a Writ of Certiorari to Supreme Court of Georgia presented clear and convincing Evidence of previously reviewed and reversed cases as Petitioner’s case. On February 7, 2023, Supreme Court of Georgia Ignored its own precedent of previously reviewed cases with the same issues and statutes as Petitioner’s case and denied Petitioner’s Writ of Certiorari. Here are more examples of cases Similar case precedent with issues

same as Petitioner's case but Petitioner received a different outcome. *Williams v. Becker* 294 Ga. 411, 754 S.E.2d 11 (2014). According to Supreme Court of Georgia opinion "this appeal challenges an order for awarding attorney fees under O.C.G.A...§9-15-14 for post-divorce litigation. Because the trial court did not hold an evidentiary hearing on the Motion for attorney fees and did not make the required findings specifying the Improper conduct justifying the fee award, we vacate and remanded." Here Supreme of Georgia ignored its own precedent of a case they reviewed and reversed the judgment which these cases had the same issues and statute as Petitioner's case but again Petitioner received a different outcome. Here is yet another case reviewed and reversed by Supreme Court of Georgia that had the same Precedent, issues and statutes as Petitioner,

but Petitioner received a different outcome. Amayo

v. Amayo 301 Ga. 660 802 S.E. 2d 245 (2017).

Supreme Court of Georgia opinion stated “because the trial court failed to make the required findings of facts to support the award of attorney fees under

O.C.G.A...§9-15-14 we vacate the \$1,080 award for

attorney Fees remand the case for reconsideration

consistent with this opinion.” Here Supreme of

Georgia ignored its own precedent of a case they

reviewed and reversed the judgment which these

cases had the same issues and statute as Petitioner’s

case but again Petitioner received a different

outcome.

### **REASONS FOR GRANTING PETITION**

If this Court do not set a precedent, who will stop this Injustice by Supreme Court of Georgia and Court of Appeals of Georgia from mistreating Defendants who have the same issues and statutes as Petitioners case but received a different outcome than Petitioner received? This case is of major importance and great concern for not only Petitioner but to ALL previous, current and future Defendants because it raises fundamental issues of whether Georgia Courts can be relied upon to uphold a Constitutional right to present a Full and fair defense and have liability rest on the merits of Claims and the inconsistent rulings by Court of Appeals Of Georgia and Supreme Court of Georgia on different cases with the same issues but receiving

a different outcome. Rockdale Magistrate Court order does not state a hearing to consolidate and transfer the cases were conducted or that Process of Service was conducted on Petitioner because a Hearing WAS NOT conducted, and consent WAS NOT given by either party in violation of O.C.G.A... §9-11-42 and O.C.G.A... §9-11-4. Rockdale Magistrate Court consolidated and transferred the case by conducting a hearing, without the consent or permission of both parties and without process of service on the Petitioner. There was insufficiency of service. Rockdale Superior Court order did not state an Evidentiary hearing was conducted or whether Process of service was conducted on Petitioner because there were evidentiary hearing and there was insufficiency of service.

Here are several other cases that were reviewed and reversed by Court of Appeals of Georgia and Supreme Court of Georgia: Payne v. Harbin 254, Ga. App 402, 562 S.E.2d 772 (2002); Atlanta J's, Inc. v. Houston Foods, In 237 Ga. App.415, 514S.E.2d 216 (1999); Williams v. Becker, 294 Ga. 411, 754 S.E.2d 11 (2014); Hall v. Hall, 335 Ga. App. 208, 780 S.E.2d 787 (2015).

Additionally, this Writ of Certiorari should grant Because Court of Appeals of Georgia and Supreme Court of Georgia violated their own longstanding case precedent setting Case decisions and well-established Statutes of cases they have reviewed in violation of O.C.G.A... §9-11-42 and O.C.G. A...§9-15-14 which this Court can exercise its supervisory powers.

The Petitioner hope to ensure that clear, basic Well-settled Principles of Georgia Contract Law are consistently apply and that they are not eroded or muddled by misapplication or misconstruction.

When such principles are correctly applied by the trial court, Court of Appeals of Georgia and Supreme Court of Georgia, the Petitioner have an interest in ensuring that those rulings are upheld.

**CONCLUSION**

For the forgoing reasons, the Petitioner respectfully requests that the Petition for a Writ of Certiorari be granted.

Respectfully submitted,

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