

No. 22-253

In the
Supreme Court of the United States

CHRISTINE CHUI,
Petitioner,
v.

BENJAMIN CHUI, ET AL.,
Respondents.

**On Petition for Writ of Certiorari to the
Court of Appeal of the State of California**

SUPPLEMENTAL BRIEF FOR PETITIONER

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QUESTIONS PRESENTED FOR REVIEW

1. Whether our government can deprive real properties from parties (including wards in guardianships) on complex matters in chambers without any notice, evidentiary hearing, or due process;
2. Whether our government's officers, including judges, court appointed guardians ad litem, and lawyers can bind real parties to a settlement, by precluding real parties to participate in four inseverable versions adding or modifying 25 new material terms, in chambers, without any knowledge, consent, or participation from real parties, after the settlement was rejected 5 times by the Court, Respondents, and wards.

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INTRODUCTION

Petitioner Christine Chui (“Christine”) hereby submits this supplemental brief to call this Court’s attention to a new intervening matter that has developed in the Court of Appeal. SUP. CT. R. 15.

Specifically, after filing their replies on December 1, 2022, Christine and her children Jacqueline and Michael (“Petitioners”) received the Court of Appeal’s opinion on the case No. B308574 (“the Opinion”) in which it found (1) that the trial court’s order to strike Jacqueline and Michael’s petitions to remove their Guardian ad Litem Jackson Chen (“GAL Chen”) should be reversed; (2) that GAL Chen should be immediately terminated; and (3) the order granting GAL Chen’s petition to disqualify Michael and Jacqueline’s retained counsels is dismissed. App. 11-19.

This opinion has a significant bearing on whether the settlement terms imposed by GAL Chen, without any of Petitioners’ consent or participation, are valid and whether the published decision, which deprived Petitioners’ “property” and “liberty” to defend their family’s good name and pursue justice by exposing GAL Chen’ fraud without due process and their retained lawyers (who should have not been disqualified) is constitutional.

Christine respectfully requests that this court summarily reverse the judgement on an invalid settlement, which conflicts with our constitution and this Court’s precedents, for the benefit of millions of

people who face fiduciary's exploitation in guardianship and settlement proceedings in this \$250-billion-industry. Christine's Pet. for Writ. of Cert. 36-39.

STATEMENT OF RELEVANT FACTS

On March 3, 2020, Christine's petition to remove GAL Chen filed on April 11, 2019, was denied, without any evidentiary hearing. App. to Christine's Petition for Writ of Cert. 28.

On June 15, 2020, Christine's children, through their retained counsels, filed their petitions to remove Chen as the guardian ad litem. App. 4-5.

On June 24, 2020, the trial court enforced the settlement from GAL Chen by precluding participation or evidentiary hearings from Christine, Christine's children and their retained lawyers to expose GAL Chen's fraud. It ruled: "[A] minor is unable to hire an attorney. It is unclear how [the Overing and Hawekotte firms] can represent these minor children. Neither has sought this [c]ourt's consent to do so." App. 5.

On October 20, 2020, the trial court granted GAL Chen's petition to disqualify the Overing Firm and Hawekotte Firm from representing Christine's children and struck their petitions to remove GAL Chen. App. 6.

The trial court further struck Christine's children's verified repudiations (App. to Christine's

Reply Br. 17, 25) and motions to vacate the settlement, after disqualifying their counsels. App. 53-80, 81-86.

On March 9, 2021, Petitioners sought clarification on the order which forced the appointment of a guardian ad litem on Jacqueline, who had since turned 18. App. 7-8. Yet, the trial court confirmed that GAL Chen remains appointed for adult wards. App. 8.

On June 21, 2021, both Jacqueline and Michael became adults and appealed that order.¹

On July 14, 2022, the Remittitur was issued to enforce GAL Chen's proposed settlement against his adult wards (App. for Christine's Petition for Writ of Cert. 22-24) without Petitioners' consent, participation, or evidentiary hearings.

On December 1, 2022, the Appellate Court reversed the trial court's orders to disqualify counsels retained by Christine's children and to strike Christine's children's petitions to remove GAL Chen. App. 16-19. It further ordered to terminate GAL Chen. *Id.*

¹ Jacqueline and Michael were born on March 08, 2003, and May 22, 2004, respectively. Just like Respondents, unless specified, citations here are based on Michael's opening brief at the Appellate Court.

ARGUMENT

I. Summary Reversal Is Appropriate Since the New Opinion Recognized a Direct Violation of Amendments No. 1, 5, and 14

Summary reversal is appropriate where a lower court decision is “so clearly erroneous, particularly if there is a controlling Supreme Court precedent to the contrary, that full briefing and argument” is unnecessary. Stephen M. Shapiro, et al., *Supreme Court Practice* § 5.12(a) (10th ed. 2013).

A. The Opinion Evidenced That the Lower Courts Had Denied Due Process Enshrined by Amendments No. 5 and 14 to Petitioners for 10 years

Courts historically lacked jurisdiction over a defendant “where he has not been served with process nor had a day in court.” *D’Arcy v. Ketchum*, 52 U.S. 165, 174 (1850). Rendering a judgment over such a defendant would be “an illegitimate assumption of power.” *Id.* See also *Pennoyer*, 95 U.S. at 733 (for a court to render “a determination of the personal liability of the defendant, he must be brought within [the court’s] jurisdiction by service of process within the State, or his voluntary appearance”); *Flower v. Parker*, 9 F. Cas. 323, 324 (Story, Circuit Justice, C.C.D. Mass. 1823) (“No legislature can compel any persons, beyond its own territory, to become parties to any suits instituted in its domestic tribunals.”).

Here, the Court of Appeal recognized that GAL Chen “has never met or spoke with” Christine’s children or “sought their input concerning the agreement.” for the past 10 years (App. 4) and the refusal to allow Michael and Jacqueline to appear through their counsels of choice created an “irrational anomaly.” App. 15.

As the Opinion summarizes, the trial court went out of its way to refuse the removal of GAL Chen, even after Jacqueline and Michael turned the age of majority. App. 8. Disturbingly, GAL Chen demanded Christine’s children to pay for his and his lawyers’ fees. App. 4.

Notably, GAL sought to deprive rights and interests by his scotched earth litigation. App. 4-7. The new opinion evidenced the importance of not duplicating GAL Chen’s false statement that ‘the sky is green’ without cross examining him. For an example, the footnote No. 10 which reads: “Chen successfully petitioned the trial court to remove Christine as guardian ad litem in the underlying trust litigation” is factually incorrect. App. 15.

Indeed, when enforcing the settlement on June 24, 2020, the trial court reconfirmed Christine’s fiduciary roles as the court’s appointment Guardian Ad Litem on BP 145642. 29 AA T-98 14471:23–24. It also ruled that Chen’s petition to remove Christine is denied and that she is not removed from any existing role as the Guardian or trustee. 29 AA T-98 14464:11-13-15.

Importantly, Christine is also the trustee for Michael’s Irrevocable trust, which was to hold all assets for Michael, pursuant to material term no. 5. App. to Christine’s Pet. for Writ. Of Cert. 13.

All these roles mandate Christine participate and marshal assets for her children, pursuant to Probate Code sections 2401 and 2590. App. to Christine’s Pet. for Writ of Cert. 184.

Yet, GAL Chen precluded petitioners’ participation and imposed 30 terms (App. to Christine’s Pet. for Writ. Of Cert. 22-24), in which he conflated trust assets, looted the entire \$35 million relinquished by Christine from Christine’s children, and swept an \$100 million estate trafficking fraud under the rug. Michael’s Appellants’ Opening Brief, 54-82, 87-92.

The Fourteenth Amendment guarantees “due process of law.” As evidenced by Christine (Christine’s Pet. for Writ. Of Cert. 18-22) and Michael’s reply (App. 24-25), Christine’s children made 10 requests for evidentiary hearings, through Christine, their Trustee, Guardian of Estate and the Guardian Ad litem, since GAL Chen and the trial court refused to hear them and their retained lawyers:

1. On July 31, 2018, Petitioners first sought an evidentiary hearing. (1 RT 149:3–14.)
2. On August 29, 2018, Petitioners stated that an evidentiary hearing is required.

(Respondents' App. T-9 1531:26–28, 1532:1–2.)

3. On September 12, 2018, Petitioners brought the request on evidentiary hearing. (C. App. 1 RT 168:13–16.)
4. On September 27, 2018, Petitioners specifically argued that they had been denied an evidentiary hearing. (C. App. 3 AA T-15 1993:4–5.)
5. On December 14, 2018, Petitioners again made the request for an evidentiary hearing. (C. App. 1 RT 236:5–10.)
6. On December 17, 2018, Petitioners sought the relief for due process. (C. App. 8 AA T-29 2764.)
7. On March 27, 2020, Petitioners raised the issues of being denied an evidentiary hearing and their rights to cross-examine GAL Chen. (C. App. 24 AA T-88 11265:15–16.)
8. On March 13, 2020, Petitioners stated the need for an evidentiary hearing. (C. App. 23 AA T-82 10131:2–14.)
9. Christine made her request face-to face for the judge to allow her children's presence for the evidentiary hearing, which was rejected. 7 RT 1376:15–22.

10. Lastly, Christine's children filed their verified repudiations (App. to Christine's Reply Br. 17, 25), petitions to remove GAL Chen, (App. 53) and motions to vacate the settlement, (App. 53-89) which required evidentiary hearings.

Yet, all their 10 requests) were denied, stricken or removed from the docket by the trial court, a direct violation of Amendments No. 5 and 14. App. 24-25, Christine's Pet. for Writ. Of Cert. 18-22. The opinion is unconstitutional due to lack of due process.

B. The Opinion Evidenced That the Lower Courts Had Violated Amendment No. 1 toward Petitioners for 10 Years

The Opinion stated, "although Jacqueline is 19 years old, the court continues "to impose a [guardian ad litem] upon [her]." App. 13.

The Opinion reversed the trial court's order to disqualify Christine's children's lawyers and to strike Christine's children's petitions to remove GAL Chen, filed on June 15, 2020, 9 days before the trial court enforced the settlement. App. 4-5, 11-19.

Indeed, neither any judge nor GAL is the party of the settlement. GAL Chen has never spoken with Christine's children for the past 10 years. App. 4. He testified that he did not know about his wards' claims (2 AA T-8 907:15–17), that he had not read the experts' reports, and that he did not know any claims that his

wards might have. (3 RT 605:26–28; 606:1; *see also* 19 AA T-55 7501:23–28; *see also* Michael’s Pet. for Reh’g 22–23.) Without Petitioners’ participation, GAL Chen waived Christine’s children’s rights to accountings (20 AA T-64 7962:6-21), rights to an appeal (20 AA T-64 8005), rights to object to his Petition (*id.*), and rights to an \$100 million claim against Respondents. 20 AA T-64 8004. Yet, the judge, who has never reviewed 300 boxes of trust records, issued his ruling to enforce the settlement solely based on GAL Chen’s false declarations.

Christine’s children, who were adults when the remittitur was issued, had no claims against them. They should have their voice on whether to settle with Respondents and freedom to pursue justice by prosecuting \$100 million claims against Respondents (19 AA T-55 7509:11–18, 20 AA T-73 8611) through their lawyers, who should have never been disqualified.

This Court repeatedly held that prisons are not beyond the reach of the Constitution. No “iron curtain” separates one from the other. *Wolff v. McDonnell*, 418 U.S. 539, 555 (1974); *Hudson v. Palmer*, 468 U.S. 517, 523 (1984). Likewise, Petitioners should not face “Iron Curtain” created by their GAL or Judge to chill their voice at the Court. The First Amendment protects speech “by ensuring its full expression even when the government participates.” *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2446 (2022). Because the right to procedural due process is “absolute”, see *Boddie v. Connecticut*, 401 U.S. 371, 375 (1971).

II. The Summary Reversal Is Warranted Since the Opinion Evidenced that the Settlement Imposed by Non-Party of GAL (Who Should Have Been Removed) Violates This Court’s 200-Year-Precedent on a Just Settlement

On numerous occasions, this Court has summarily reversed lower court decisions that conflict with a prior holding of this Court. *See, e.g., White v. Wheeler*, 136 S. Ct. 456, 458 (2015) (per curiam) (summarily reversing decision that “contravene[d] controlling precedents from this Court” concerning standard of review applied to state court convictions under the Antiterrorism and Effective Death Penalty Act); *Tolan v. Cotton*, 572 U.S. 650, 659-60 (2014) (per curiam) (summarily vacating decision that “reflect[ed] a clear misapprehension” of “precedents” concerning the legal standard for summary judgment); *Marmet Health Care Ctr., Inc. v. Brown*, 565 U.S. 530, 531 (2012) (per curiam) (summarily vacating decision that “misread[] and disregard[ed] the precedents of this Court” interpreting the Federal Arbitration Act).

An unacceptable settlement offer-like any unaccepted contract offer-is a legal nullity, with no operative effect, the recipients’ rejection of an offer leaves the matter as if no offer has ever been made. *Campbell-Ewald Company v. Gomez*, 136 S.Ct. 663, 670 (2016) (adopting Justice Kagan’s dissent in *Genesis Healthcare Corp. v. Symczyk*, 133 S.Ct. 1523, 1528 (2013)).

Indeed, this Court has made its 200-year-precedent that if an acceptance contains conditions not embraced in the offer or adds new terms thereto, there is no required meeting of the minds and thus no enforceable contract. *See Minneapolis & S.L. Ry. Co. v. Columbus Rolling-Mill Co.*, 119 U.S. 149, 151 (1886).

Here, Petitioners detailed that the lower courts added 25 terms (by the non-parties of GAL, judges, and lawyers) which 4 of 6 real parties (Christine, her children, and Margaret) never consented to (Christine's Pet. for Writ. Of Cert. 13-19) and the settlement was revived without Christine's consent, after being rejected by the trial court, Respondents and Christine's children 5 times. Christine's Pet. for Writ. Of Cert. 29-32.

Notably, Christine's children's verified repudiations (App. to Christine's Reply Br. 17, 25) and motions to vacate the settlement (App. 38-40, 53-86) were stricken, due to GAL Chen's disqualification of their lawyers, which is now reversed. App. 11-19.

Only summary reversal will address the significant threat to the rule of law posed by the decision below and preserve Justice and constitutional rights of millions of wards in the Guardianship and Settlement proceedings in this \$250 billion industry. Christine's Pet. for Writ. Of Cert. 36-38.

III. The Findings in the Opinion Necessitates an Investigation of Ongoing “Fraud on Court” to Ensure Justice and Equal Protection

This Court ruled: “if such fraud has been concealed, time will not run in favor of the defendant until the discovery of the fraud, or until, with reasonable diligence, it might have been discovered.” *Meader v. Norton*, 11 Wall. 442, 458 (1870); *Prevost v. Gratz*, 6 Wheat. 481 (1821); *Michoud v. Girod*, 4 How. 503, 561 (1846); *Veazie v. Williams*, 8 How. 149, 158 (1850).

“Fraud upon the court is fraud which is directed to the judicial machinery itself... It is where the judge has not performed his judicial function.” *Bullock v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985). In *Kenner v. C.I.R.*, 387 F.3d 689 (1968), the Seventh Circuit further stated, “a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final.”

“[A] process of law which is not otherwise forbidden must be taken to be due process of law if it can show the sanction of settled usage [That which], in substance, has been immemorial-ally the actual law of the land.” *Hurtado v. California*, 110 U.S. 516, 528-29 (1884). When interpreting the Fourteenth Amendment, this Court treats “1868, when the Fourteenth Amendment was adopted,” as the “crucial time” and asks whether the procedure in question was “an established part of the American common law.” *Burnham*, 495 U.S. at 611.

Here, through his false declarations of conflating trust assets, GAL Chen effectively stole the entire \$35 million relinquished by Christine from his wards with the Court's imprimatur, due to lack of Petitioners' cross examinations to expose his fraud. See Michael's Appellant's Opening Br., 54–82, 86–93. The lower Court's decision did not even mention whereabouts of the irreplaceable, priceless, and sentimental family heirlooms, including a World War II medal, honoring the extraordinary service as a general of the great grandfather of Christine's children, jewelry containing 100 carats of diamond, jade, ruby, and antique furniture, which Christine had intended for her children due to GAL Chen's false declaration. 31 AA T-84 7284.

Mr. Fox detailed new evidence on GAL Chen's conspiracy with Benjamin from Benjamin's late wife (App. 41-48) and GAL Chen's concealment on his business relationship with Respondent Esther. (App. 48-52.)

Indeed, the removal of GAL Chen's petition was filed on June 15, 2020, 9 days prior to the settlement being enforced and 2 years prior to remittitur being issued. App. 4. GAL Chen, who should have been removed then, imposed 25 terms which 4 of 6 real parties, including Christine and her children never agreed to. Christine's Pet. for Writ. of Cert. 13-18.

Further, the Opinion explicitly stated that GAL Chen should have been terminated once Christine's children became adults. App. 17-18. Notably, prior to the remittitur issued on July 14, 2022, both children

were adults and had relentlessly objected to the settlement terms imposed by GAL Chen. App. to Christine's Reply Br. 17, 25, App. 53-86. Now it's time for Petitioners to prosecute an \$100 million estate trafficking fraud perpetuated by Benjamin and the terminated GAL. App. 41-52, 53-80, 81-86.

Without summary reversal, the published opinion will set a bad precedent upon which nonparties of judges, GALs and lawyers are able to dictate settlement terms by precluding real parties' participation, consent, and cross examinations. Christine's Pet. for Writ. of Cert. 13-18. Due process for our mothers and children to expose their fiduciary's fraud, here and throughout the millions of people in this \$250-billion-industry should be guaranteed by our Constitution. Christine's Pet. for Writ. of Cert. 36-39.²

² In 2004, the California Commission on Judicial Performance issued a public admonishment against Judge Letteau, a former supervising judge of LA probate courts, because of "a troubling pattern of repeated violation of ethical duties that are fundamental to the fairness...of the judicial process..." Here, 15 years later, Judge Cowan, changed his ruling 180 degrees three days after being sued by the Disney family, in which Christine's counsel was a named witness. Christine's Pet. for Writ. of Cert. 22-26. Moreover, Judge May, who replaced Judge Cowan, has openly stated that he would follow Judge Cowan's legal path and Judge May's ruling is now reversed. Due Process and Equal Protection enshrined by our Constitution should not be at any GAL or Judge's discretion.

CONCLUSION

For the above reasons, Petitioners respectfully request this Court consider the new Opinion and to grant the summary reversal.

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