

No. 22-5482

IN THE
SUPREME COURT OF THE UNITED STATES

WILLIAM PAUL BURCH,
PETITIONER

v.

HOMEWARD RESIDENTIAL, INC

RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO
THE COURT OF APPEALS FOR THE FIFTH CIRCUIT

20-11239

PETITION FOR REHEARING

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November 2, 2022



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III. PREAMBLE

Pursuant to Rule 44.1 of this Court, Petitioner William Paul Burch (Burch), respectfully petitions for a rehearing of the denial of a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit's opinion creates a basis for denial of due process based on an unconstitutional ruling of a bankruptcy court judge with an undeniable bias against Burch. The Fifth Circuit's ruling in this case is just one example of the well-founded fear and intimidation by hundreds of thousands of United States citizens and bankruptcy debtor lawyers of bankruptcy judges. There are almost no appeals from Bankruptcy Courts, not because the bankruptcy court judges are perfect but because the bankruptcy judges rely on fear and intimidation to retain their non-Article III judgeship power and due to a lack of financial resources of the debtor. Left unrestrained the bankruptcy courts continue their anti-therapeutic jurisdiction actions. Just as weak prosecution has led to an increase in blue color crime, a lack of prosecution of white color crime, even in civil cases, has led to much greater harm to citizens and their property rights as guaranteed in the Fifth and Fourteenth Amendments to the United States Constitution. This has brought terrible consequences to the Middle- and Working-class citizens to the undeserving benefit of financial institutions, Bankruptcy Trustees, and lawyers.

IV. PETITION FOR REHEARING

The original certiorari petition asked this Court to resolve five issues of first impression: (1) does the thirty-day window for removal begin when the defendant is served with the pleadings and summons or sixteen months later after a mandate is issued by the State Court of Appeals? (2) Should the decision on removal from a state court to a federal court by a defendant only be allowed by the state court judge, a federal district court judge, or any federal judge? (3) If a state district court judge has issued a judgment can a non-Article III federal bankruptcy judge dismisses the case under a 12(b)(6) motion and vacate the judgment in light of the Rooker-Feldman Doctrine? (4) Should a Plaintiff in a case that had been removed to federal bankruptcy court be notified of a pending hearing and, if the case is appealed, tell the district court judge when asked that an appellant has filed a motion to proceed in forma pauperis when they have received a copy of the motion and entered it on their docket? (5) Should a circuit court dismiss an appeal and sanction an appellant without consideration of the merits of a case and without proper consideration of the in forma pauperis motion because the bankruptcy court issued a questionable vexatious litigant sanction?

The Fifth Circuit's holding that all appeals should be dismissed if a bankruptcy court judge has sanctioned a Plaintiff by declaring the Plaintiff a vexatious litigant without examining the merits of the case or the merits of the vexatious litigant sanction is simply a means for the courts to become accessories in fact to the illegal actions of a mortgage company taking property in defiance of

multiple court orders. Allowing an obviously bias judge to continue his reign of terror on a citizen (See SCOTUS 22-5778) even though Burch is correct in his position is an insult to the constitution.

The basis for rehearing of the petition for Writ of Certiorari is that the Federal courts refuse to give due process to bankruptcy cases that have been illegally dismissed by an obviously biased bankruptcy judge. The Fifth Circuit has dismissed all cases related to Burch based on an unsupported, unconstitutional vexatious litigant order (SCOTUS 22-5254) that the bankruptcy court did not tie to appeals courts. The Fifth Circuit, in a bid to not have to look at the merits, chose to deny Burch's due process rights by sua sponte cut and pasting the same dismissal and sanction on each case. After the bankruptcy court took all of Burch's income by converting the case illegally from an almost finished Chapter 11 plan to a still outstanding Chapter 7 plan (SCOTUS 22-5901), Burch no longer had any income and had to go on Social Security to be able to eat. The Fifth Circuit in their hast to rid themselves of multiple bankruptcy cases took the easy way out in support of a bias judge with \$500 per case sanctions totaling \$5850. Burch currently only has four dollars per month (\$4) extra, and that has dwindled due to inflation. Burch must reduce his food just to pay for these court cases. He is 71 years old with multiple health issues and cannot work. It will take 1,461 months or 125 years to pay off these sanctions. The sad part is Burch is absolutely correct on the merits. The bankruptcy judge went so far as to grant immunity (Bankruptcy adversary case

number 18-04176) for lying in court and on Motions so as to have Burch's income and millions of dollars in assets taken away from him by the bankruptcy judge.

V. WHY DEBTORS ARE DENIED DUE PROCESS ON APPEAL

According to the United States Courts Statistics & Reports Table F-2, in the twelve months ending June 30, 2022, there were **380,634** cases filed. Of that number in Table B-1 there were only **570** original bankruptcy appeals to circuit courts out of **40,403** total appeals of all causes. These appeals include advisory cases as well as case filings. At the same time there were (Table C-1) 293,462 civil cases filed, and **18,425** appeals filed. There were (Table D-1) 69,466 criminal cases filed with **21,408** appeals. Considering that there are three basis for due process, life, liberty, and property, and that almost all bankruptcy appeals are about property, either the non-Article III bankruptcy judges are far superior to the district court judges or something else is going on. "The moment the idea is admitted into society, that property is not as sacred as the law of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence," (John Adams, Defense of the Constitution of the United States (1787)). Apparently, appeals courts, including the Supreme Court of the United States, have little interest in hearing issues that effect **380,634** of the **743,562** cases filed in the year ending June

30, 2022. With **fifty-one percent (51%)** of case filed being bankruptcy cases yet only **one point four percent (01.4%)** of the appeals were from bankruptcy courts.

To figure this out, look at the realities of bankruptcy. Bankruptcy Courts are unique animals that, by their very nature, create an area ripe for abuse, aristocratic attitudes, and malfeasance. In a simple Chapter 7 bankruptcy it is a matter of a balance sheet. You list your assets on one part and then your liabilities. After you subtract the liabilities from the assets anything left goes to the debtor. If there is nothing left, then you reduce the amount of money the creditors receive.

Most of the cases Burch filed were state law issues illegally removed to the bankruptcy court and accepted by a highly bias judge. This case is a textbook example of what a rogue judge can do to destroy a person for appealing cases in his court. A bankruptcy case itself is not an adversarial process. In most cases, the process consists of the bankruptcy petitioner presenting documentation and information to a bankruptcy trustee through a procedure set by the U.S. Bankruptcy Code.

There are multiple reasons for adversary cases. Most advisory cases are filed in the bankruptcy court on an issue or dispute arises that requires resolution by the bankruptcy court. A creditor, the trustee, or the debtor may raise the issue by filing an adversary proceeding with the bankruptcy court. The court resolves the dispute as a separate action within the bankruptcy case. The underlying bankruptcy case does not close until the adversary proceeding ends with settlement or a court decision.

Adversary proceedings require different knowledge and skills than the bankruptcy case itself. The Federal Rules of Bankruptcy Procedure govern adversary proceedings. **FRBP Rule 7001** includes a list of ten types of proceedings that must be filed as adversary proceedings. **No case** filed by Burch, including this one, is included on the list.

There is a bit more to the traditional bankruptcy than that, but this is the premise. The pool that judges for the bankruptcy courts come from are bankruptcy lawyers. Most bankruptcy lawyers only handle **Chapter 7** and **Chapter 13** bankruptcy plans. It is very rare that a lawyer will handle a **Chapter 11** bankruptcy. Extremely few lawyers who handle bankruptcies know much about state real estate law. Sadly, even fewer know anything about appeals. That means that there is an average of just one appeal per bankruptcy judge in the United States per year.

Because of Judge Mullins bias toward Burch, Burch had five percent of all bankruptcy court appeals in the United States in the year the appeals were filed. Of these sixty percent were late removals from state court (sixteen months in this case) and all but the cases on closing the **Chapter 7 (SCOTUS 22-5901)** were cases where the bankruptcy court lacked jurisdiction.

According to the almost one-hundred bankruptcy attorney's Burch talked to (Burch was appointed by the Texas Supreme Court as a Public Director of the State Bar of Texas in 2006), the reason attorneys do not want to appeal a bankruptcy case is that they have to appear in front of the judge again and they are afraid of

retaliation. It is very rare that any bankruptcy case is moved to the Supreme Court of the United States. So, it is rare that a major issue is brought to the attention of this court.

The issue of bias is important when it concerns a bankruptcy judge because it usually pertains the third leg of the **Fifth and Fourteenth Amendments** which is property. By a bankruptcy judge being or appearing to be bias regarding property citizens are made to believe that you cannot get a fair shake on property because it usually involves large mortgage companies or banks. The debtor is normally broke at this point, having had all their money removed from them. This petition is important to the Citizens of the United States and the judiciary in that it can help in restoring confidence in the judiciary by making judges follow the constitutions of the United States and the various states as well as the rules put into law by the legislature and the Supreme Court of the United States, and it will help in reducing the opportunity of lenders and lawyers to take advantage of our citizens.

VI. ACTIONS IN THIS CASE WHERE LAWS WERE VIOLATED

This case is a perfect example of what happens in a bankruptcy court if you have appealed the judge's ruling.

1. There was an agreement in the first bankruptcy that was violated by the Respondent (HRI) in that HRI did not return the Georgetown property as agreed and evicted a wounded Marine who was not behind on his rent.
2. The lien was extinguished per *Elixir Indus., Inc. v. City Bank & Trust Co. (In re Ahern Enterprises, Inc.), 507 F.3d 817 (5th Cir. 2007)* and **11 U.S. Code § 1141(c): (i)**
3. This case was won by Burch and a judgment of over \$1,400,000 granted.
(TX District Court case number 348-307179-19)
4. One year and four months after the case was filed in the state court and over fourteen months after the judgment was awarded, the case was removed to the bankruptcy court erroneously claiming that Burch had sued the wrong party. The HRI council did not take notice that American Home Mortgage Acquisition had changed their name to Homeward Residential, Inc. (HRI)
5. A hearing was held without notifying Burch in which the judgment was vacated, and the case dismissed by the bankruptcy judge. (**FRCP Rule 5**)
6. Reconsideration was refused.
7. On appeal, the bankruptcy court withheld the fact that Burch had filed a Motion, with affidavit, to proceed in forma pauperis. (Motion on **docket number 17** Bankruptcy adversary case number 18-04176) and the Affidavit (**docket number 18** Bankruptcy adversary case number 18-04176).

8. HRI never contested the pauper's bond in state court, thus making it valid in all appeals. (TRCP Rule 145., TX. Const. art. 1 § 13, TX Const. art 1 § 19., In re Villanueva, 292 S.W.3d 236, 246 (Tex.App.-Texarkana 2009), Barshop v. Medina County Underground Water Conservation Dist, 925 S.W.2d 618, 636-37 (Tex. 1996))
9. The District court inquired as to whether Burch had filed a Motion to proceed in forma pauperis and was falsely informed by the Bankruptcy Court that no such Motion had been formed, so he dismissed the case for lack of prosecution. (United States District Court case number 4:20-cv-01226-O)
10. Burch filed for reconsideration of the District Courts ruling, which was denied.
11. The Fifth Circuit dismissed the case and sanctioned Burch for a total of \$5,850 because he refused to withdraw his appeals and because the bias bankruptcy judge had (illegally) declared Burch a vexatious litigant which was not to apply to appeals.

VII. STATEMENT OF JURISPRUDENTIAL IMPORTANCE

Therapeutic jurisprudence (TJ) studies law as a social force (or agent) which inevitably gives rise to unintended consequences, which may be either beneficial

(therapeutic) or harmful (anti-therapeutic). It envisions lawyers practicing with an ethic of care and heightened interpersonal skills, who value the psychological wellbeing of their clients as well as their legal rights and interests, and to actively seek to prevent legal problems through creative drafting and problem-solving approaches. In this case anti-therapeutic jurisprudence due to the actions of the HRI and their representative on behalf of HRI cost Burch over one million dollars. HRI refused to follow the first bankruptcy plan and tried to foreclose on Burch's homestead even though the lien was void. They convinced the bankruptcy court to illegally vacate a state court judgment and dismiss the case. The bankruptcy court further supported the illegal court actions by not truthfully telling the district court that a Motion to proceed in forma pauperis had been filed. The Fifth Circuit proceeded to dismiss the case without considering the Burch brief and instead ruled on an unconstitutional bankruptcy court ruling. The actions of HRI and the federal courts are the definition of anti-therapeutic jurisdiction. Burch is not the only one taken advantage. Judging by the fact that only 1.4% of bankruptcy cases are appealed there have been millions of citizens denied their **Fifth and Fourteenth Amendment** rights of due process.

IIX. REASONS FOR GRANTING THE PETITION

The issues presented in this petition has a negative effect on millions of citizens every year resulting in billions of dollars in illegal property seizures. Giving

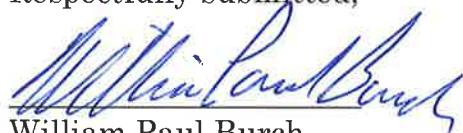
due process for life and liberty but denying it for property is creating distrust of the system of justice in the United States. When you cannot even rely on the Supreme Court or a Circuit Court to deliver justice and protect citizens rights to property then, as John Adams wrote, "The moment the idea is admitted into society, that property is not as sacred as the law of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence." Ultimately this and all the other related cases should be remanded to a Senior Judge in the Dallas (Not Fort Worth due to prejudice of bankruptcy judge) for final distribution to the state courts and/or conclusion for some cases in the Federal Court.

IX. CONCLUSION

For the foregoing reasons and those written in the original petition, Burch respectfully requests that this Court issue a writ of certiorari to review the Order of the Court of Appeals for the Fifth Circuit.

DATED this 2nd day of November 2022

Respectfully submitted,


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WILLIAM PAUL BURCH
PETITIONER

v.

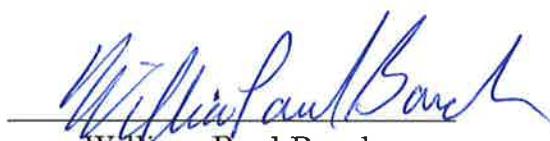
HOMEWARD RESIDENTIAL, INC
RESPONDENT

CERTIFICATE OF COMPLIANCE WITH RULE 44

I, William Paul Burch, Pro Se, hereby certify that this petition is restricted to the grounds specified in Supreme Court Rule 44 and is presented in good faith and not for delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 2, 2022



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PROOF OF SERVICE

I, William Paul Burch, do swear or declare that on this date, November 2, 2022 as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, e-mail, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 2, 2022



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