

ORIGINAL

22-5773

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
OCT 03 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Roland Ma
Defendant-Petitioner

-vs-

Gallery Belltown Condominium Association
Plaintiff-Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of the State of Washington

PETITION FOR WRIT OF CERTIORARI

Presented By:

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QUESTION(S) PRESENTED

- (1) Whether both the State's supreme court and the State's trial court erred by entering a *sua sponte* vexatious litigant order, without notice and an opportunity to object ; and,
- (2) whether reversal is required because the vexatious order is overly broad

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:

RELATED CASES

OPINIONS BELOW

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 _____ to the petition and is

reported at _____; 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 is unpublished.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 _____ to the petition and is

reported at _____; 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 is unpublished.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 page 11 of this petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the Court of Appeals attached 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 is unpublished.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 _____.

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 07/13/2022. A copy of that decision appears at Page 11.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Sua sponte vexatious litigant order against the undersigned **defendant** to defense the allegations against him were arbitrary and capricious and grossly discriminatory, and were therefore in contravention of the equal protection clauses of the federal and state constitutions (U.S. Const. amend. 14; Const. art. 1, § 12), as well as the uniformity provisions of the fourteenth amendment to the state constitution.

This Court should reverse the sua sponte vexatious order in the case law of *In Re: De Long v. Hennessey*, 912 F.2d 1144 (9th Cir. 1990)

Summaries written by judges *In Re: De Long v. Hennessey*, 912 F.2d 1144 (9th Cir. 1990)

Holding that vexatious litigant orders "must be narrowly tailored to closely fit the specific vice encountered." *Hammler v. Hudson*, No. 2:16-cv-1153-JAM-EFB P (E.D. Cal. Mar. 13, 2018)

Holding that prior to ordering pre-filing restrictions a litigant must be given notice, an opportunity to oppose the order, that the Court must create an adequate record for review, and that the Court must make a finding of frivolousness. See *Sage Home Mortg., LLC v. Roohan*, Case No.: 17-cv-1613-AJB-JMA (S.D. Cal. Sep. 22, 2017)

Finally, finding due process violation where plaintiff "was not provided with an opportunity to oppose the order before it was entered" See *Smith v. U.S.*, 386 F. App'x 853 (11th Cir. 2010)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Sua sponte vexatious litigant order, without notice and an opportunity to object is overly broad must be reversed as they were arbitrary and capricious and grossly discriminatory, and were therefore in contravention of the equal protection.

The state trial court should also consider the case law of *De Long v. Hennessey*, 912 F.2d 1144 (9th Cir. 1990), and "there can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights." *Sherar v. Cullen*, 481 F. 2d 946 (1973)

STATEMENT OF THE CASE

The undersigned Pro Se Petitioner has been battling the Plaintiff ("association") for some time now. The root cause is petitioner's electrical work on petitioner's own unit without the association's authorization as stated in the CC&Rs¹, and the association determined it is too hazardous to be occupied. The association obtained injunctive relief that barred petitioner from entering the premises² while the association made the necessary repairs. Petitioner filed the underlying motion to show cause why petitioner could not return home. The trial court denied the motion in October 2021, siding with the association that the petitioner created an unsafe conditions and that extensive repairs were needed. The undersigned Petitioner and his expert witness, Mark Lawless of CSMI disagree. The court later ordered the association to provide temporary housing for petitioner, the association had denied to provide temporary housing for petitioner. The undersigned Pro Se petitioner moves for discretionary review, but Court Commissioner Masako Kanazawa denied discretionary review and affirmed by the 3-judge panel, RAP 17.7, mainly due to Commissioner Kanazawa observed the trial court agrees it has been taking too long, the trial court had ordered the association should take some responsibility by providing housing, and denied the motion for second reconsideration. The Petitioner then seeks discretionary review in the Supreme court. RAP 13.3(a)(2), (c), (e).

¹ In State of Washington, only licensed electrical contractors may perform electrical work. Property owners may apply for a permit signing the affidavit before beginning electrical work. The permit in fact was purchased on 3/8/2022, which is before beginning of all the electrical work.

² Later the association moved for injunctive relief that barred petitioner around the premises, including see his healthcare providers in Suite 106, or pick up any mail sent to his mailbox.

REASONS FOR GRANTING THE PETITION

Sua sponte vexatious litigant order, without notice and an opportunity to object is not just overly broad, arbitrary and capricious and grossly discriminatory, and in contravention of the equal protection, but most importantly burden of proof should never be on defendant himself, *sua sponte* vexatious litigant order should only be applied to Plaintiff, but should never be used as a tool against **defendant** exercising his due process rights.

REASONS FOR GRANTING THE WRIT

The Supreme court will review moot case if it involves matter of continuing and substantial public interest. See *Soter v. Cowles Publ'g Co.*, 162 Wn.2d 716, 749-50, 174 P.3d 60 (2007). The association asks that petitioner be sanctioned under RAP 18.9(a) and the Court issue a vexatious litigant order aimed at barring petitioner from engaging in frivolous and harassing litigation. After consideration of the fact that petitioner's motion for discretionary review is so deficient respondent could have saved itself the trouble of filing an answer, the request for sanctions is denied. The undersigned Pro Se Petitioner moves for review by the 3-judge panel, RAP 17.7. The Chief Justice then ordered the undersigned Pro Se petitioner may not file any future filings in this Court without first obtaining permission from the Supreme Court Clerk. Permission should be requested by filing a separate document of no more than two pages explaining the probable merit of the filing. This ruling and motion of seeking permission to object are denied, without objection being filed, the undersigned defendant have to pay the opposing counsel a large attorney's fee.

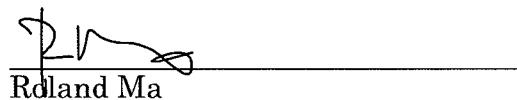
CONCLUSION

The merit clearly presented is any *sua sponte* vexatious litigant order against the defendant to defense the allegations against him is against the constitution and laws. As "there can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights." See *Sherar v. Cullen*, 481 F. 2d 946 (1973).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Ronald Ma