

22-6198

No. \_\_\_\_\_

ORIGINAL

Supreme Court, U.S.  
FILED

JUN 28 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Darrel Thorn — PETITIONER  
(Your Name)

vs.

Racetrac Petroleum — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court of Appeals For the 5th Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Darrel Thorn  
(Your Name)

405 north 3rd. St Ponchatoula La. 70454  
(Address)

Ponchatoula, La. 70454  
(City, State, Zip Code)

985-269-1435  
(Phone Number)

### **Questions Presented**

This case raise the question whether the procedural treatment currently to Pro-Se Litigants by federal courts comports with due process or whether more leiniciency is required to preserve the litigants meaningful opportunity to be heard?

Particularly given the leiniciency typically afforded Pro-Se litigants that unfortunate series of events should not deprive petitioner of his day in court. As the court recognized on several occasions ovigating the appellate process without a lawyer's assistance is a perilous endeavor for a lay person. (Halbert V. Michigan, 545 U.S. 605, 621 (2005).

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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[ ] is unpublished.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[ ] is unpublished.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 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[ ] is unpublished.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 \_\_\_\_\_ 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[ ] is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was February 13, 2022

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 \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

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).

## **STATEMENT OF THE CASE**

This is a civil personal injury case brought by the appellant Darrel Thorn appearing in proper person, pro-se litigant. (see 28 USC1654)

On May 9, 2019 The plaintiff-appellant entered the Racetrac store going South West and immediately slipped and fell in a puddle of water on the floor going South down one of the aisle and fell backward hitting his head on an object while going down and then hitting his head again on the wet concrete floor (

A Racetrac worker saw the plaintiff fall and came over and told me to stay down, don't get up. The plaintiff-appellant told her he could not get up if he wanted to. The worker then went and got the manager and she told the plaintiff the same thing stay down don't get up. The plaintiff told her the same thing, he could not get up if he wanted too.

The Manager then called an ambulance to take plaintiff to the Hospital at North oaks hospital in Hammond, La.

The plaintiff-appellant treated with Dr. Margret Winkler for six months for his injuries. Dr. Winkler had a C-T scan done on the plaintiff head and the C-T scan showed that plaintiff had a stroke in the left side of his head.

Dr Winkler also found injury to plaintiffs Neck, Shoulders, back, hip, knee and foot. Dr. Winkler also found Spinal Cord injury (See Dr. Winklers report at ROA. 1).

The plaintiff had already established the *prima-facie* for liability. All the plaintiff needed to do is get the film of the accident from defendants.

The plaintiff had already Subpeonaed the film of the accident in State Court but defendants never responded before Ex parte Removal to Federal Court. (See ROA. 1).

The district court never ordered defendants to comply nor did defendants ever answer the Subpeona. Afterwards, the plaintiff again filed Notice of Subpeona of the film in the district court but the district court denied plaintiff request (See ROA. 175)

The plaintiff-appellant again filed in the District Court on a Motion to compel Discovery to get the film but was denied again (See ROA. 258). In defendants Motion for Summary Judgement defendants finally decide to turn over the film and tried to use it in their favor.

The plaintiff-appellant contends that the district court abused its discretion in this case by not allowing leniency and guidance to pro-se litigants (See 28 USC 1654). The plaintiff was under the knowledge that he had 30 days from the date of the motion to file an opposition. Without contacting me or sending correspondance letting plaintiff know the court was using local rules which is shorter. The district court granted summary judgement to defendants (See ROA.68).

The plaintiff contends that this case should be left for a jury to decide. The plaintiff demanded a jury trial (See ROA.26)

The district court did not grant one of plaintiff's motions. The district court could have at least granted plaintiff's motion for a protective order, just to appear to be fair and impartial (See ROA.27,28).

The district court nor defendants never once discussed with me about any Notice of Removal until after the case was removed to Federal Court. (Ex parte meeting See ROA. 1).

Ex parte meetings went on a lot with defendants and the Court in this case. (See ROA. All).

## **SUMMARY OF THE ARGUMENT**

FRCP 56, States that Summary Judgement should be granted only if there are no genuine issue of a material in dispute.

The Plaintiff-appellant contends that the district court erred in granting Summary Judgment to defendants-appellee because there are genuine issues of material facts in dispute. If not, Summary Judgement should be in favor of the plaintiff-appellant

The district court erred on clearly erroneous assessment of the evidence. The plaintiff contends that there are no evidence on the record that would support granting Summary Judgement to defendants

Also, the plaintiff-appeiiant always used the 30 day guidelines to answer motion. Here, the district court used local rules which is shorter (See ROA )

## Argument

1. Review is for an abuse of discretion
2. This Court reviews a district court's decision for an abuse of discretion  
(United States v. Cooley, 590 F.3d 293,295 (5<sup>th</sup> Circuit 2009)).

A district court abuses its discretion if it bases its decision on a error of law or clearly erroneous assessment of the evidence. (United States v. Henderson 636 F.3d 713,717 (5<sup>th</sup> Circuit 2011)).

La RS 92800.6 states that a Merchant owes a duty to persons who uses his premises to exercise reasonable care to keep his aisles, passageways and floors in a reasonable safe conditions. This duty includes a reasonable effort.

We can see from the film that Plaintiff-Appellant slipped in water left on the floor by defendants. We can see from the film a water trail of footprints leading from the entrance of the store, all the way up to the counter. We can see from the film that defendants did not make a reasonable effort to keep his aisles, passageways and floors safe.

We can see from the film that defendants did not place signs where Plaintiff fell at. The signs were placed where plaintiff could not see them. The signs should have been placed in front of the water puddle.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

**The 5<sup>th</sup> amendment of the united states constitution**

**Due process of the law**

**The 8<sup>th</sup> amendment of the united states constitution**

**The 6<sup>th</sup> amendment of the united statesconstitution**

## **REASONS FOR GRANTING THE PETITION**

**The lower courts failed to apply the law 28USC1654 when dealing with Pro-Se Litigants. The lower courts failed to use leniency and guidance when it comes to Pro-Se Litigants.**

**The lower court granted summary judgment to defendants by using state court rules instead of federal court rules. There is no way a pro-se litigants can write a opposition in 8 days. This was totally unfair, bias and prejudice.**

**The pro-se litigant should have had his day in court!**