

22-7499
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Supreme Court, U.S.
FILED

MAR 04 2023

OFFICE OF THE CLERK

JUDY THORPE,

Plaintiff-Petitioner,

vs.

ROSEMARIE CIPPARULO, ESQ. and WEISSMAN & MINTZ ,LLC
Defendants-Respondents.

On Petition for Certification to the
Supreme Court of New Jersey

PETITION FOR WRIT OF CERTIORARI

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Respectfully submitted by:

Judy Thorpe
Pro Se Petitioner
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February 24th, 2023.

(i)
QUESTION(S) / ISSUES PRESENTED

- i. Whether it was manifest error and significantly prejudicial for the Supreme Court of New Jersey to Deny Certification and Not Fairly and Equitably Review the Erroneous Decisions of the Appellate Division and the Trial Court.

(ii)

LIST OF PARTIES

Petitioner submits that all parties appear in the caption of the case on the cover page, and are listed below for the Court's reference:

Petitioner: Judy Thorpe

Respondents: Rosemarie Cipparulo, Esq.

Weissman & Mintz, LLC

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APPENDIX “B” Order Denying Petition for Certification. Supreme Court of New Jersey. Dated January 10, 2023

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IN THE
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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits as it appears at Appendix C to the petition and is found at *Judy Thorpe v. Rosemarie Cipparulo, Esq. and Weissman & Mintz, LLC* No. A-0418-20 dated May 17, 2022. Supreme Court of New Jersey No.087191.

JURISDICTION

The date on which the highest state court decided the merits of the case was May 17,2022 A copy of that decision appears at Appendix C.

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a), which provides: "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States."

CONCISE STATEMENT OF THE CASE

On or about April 6, 2005, Petitioner, a long-standing forensic nurse, 25-year pioneer of the State of New Jersey. Transferred to the New Jersey Juvenile Justice Commission as a regional supervisor of nursing services, where she successfully directed nursing services in seven secure environments for a newly developing medical department. In this role, Petitioner coordinated the operations and patient care activities of a multi-site healthcare delivery system, serving approximately 2,000 patients. In 2008, Petitioner was unlawfully and wrongfully terminated from her position. Petitioner references and incorporates the May 23,2022 reconsideration and clarification of the May 17,2022 Appellate Decision. *See Appendix A and the August 28,2018 Opinion of Philip L. Faccenda. See Appendix D.*

Arbitration was held in the matter on December 10, 2009. The unfavorable arbitration opinion and award was not communicated by Ms.Cipparulo . In fact, Respondents never advised to appeal the arbitration ruling. The rule of Professional Conduct mandate that lawyers keep clients reasonably informed about the state of their matters and promptly comply with reasonable request for information. *Matter of Johnson, 105 N.J. 249 (1987) R.P.C1.3.*

As a result of Respondents' negligent representation of Petitioner, On or about February 10,2016, Petitioner through her then lawyer filed her Complaint against Respondents in the Superior Court of New Jersey, Law Division, Monmouth County. In said action, Petitioner alleged causes of action for professional negligence, legal malpractice, breach of contract, breach of fiduciary duty, fraud and/or other causes of

action allowed by law. Instead of answering the complaint, Respondents immediately filed their motion to dismiss

Oral arguments on the motion to dismiss was set and had on June, 2016 and the motion to dismiss was denied. The trial court issued its oral ruling on July, 2020 and granted the motion to dismiss. Petitioner timely appealed to the Appellate Division, under Docket No. A-0418-20, which affirmed the lower court's order of dismissal on May 17, 2022 and on May 23, 2022 Petitioner sought reconsideration and clarification. *See Appendix A.* Petitioner then sought certification from the New Jersey Supreme Court, which was denied on January 10, 2022. *See Appendix B.*

PETITIONER'S PRO SE STATUS

Indigent and unrepresented litigants have a right to the fair and impartial review of their claims and defenses. An important issue of fairness in our judiciary is raised in this case, in the course of which Petitioner has been a victim of grave injustice and has been forced to represent herself as an indigent, pro se litigant.

Petitioner thus respectfully requests that the statements of her case be given due and equitable consideration, with reasonable lenience, with respect to precedence set by existing case law, to include but not be limited to, the standards of perfection and defense against dismissal. See *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 595, 30 L.Ed.2d 652 (1972) and *Conley v. Gibson*, 355 U.S. 41 at 48 (1957).

Here, as argued below, the Superior Court and Appellate Division applied the wrong law. Litigants have a right to a fair and impartial review of their claims and

defenses. This case raises an important issue of fairness in our judiciary, especially in circumstances such as here, where an aggressive lawyer is actively defending against claims put forth by a pro se litigant.

REASONS FOR GRANTING THE PETITION

It was manifest error and significantly prejudicial for the Supreme Court of New Jersey to Deny Certification and Not Fairly and Equitably Review the Erroneous Decisions of the Appellate Division and the Trial Court.

The Superior Court's order denying Petitioner Complaint and order of dismissal and the subsequent Appellate Division's affirmance of same constitute manifest error. Further prejudicial to Petitioner is the fact that the Supreme Court of New Jersey denied certification and refused, even after Petitioner proffered sufficient evidence in support of reconsideration, to grant certification upon reconsideration and reargument.

"Manifest error" is one that "is plain and indisputable, and that amounts to a complete disregard of the controlling law." *Guy v. Crown Equip. Corp.*, 394 F.3d 320, 325 (5th Cir. 2004) (quoting *Venegas-Hernandez v. Sonolux Records*, 370 F.3d 183, 195 (1st Cir. 2004)); See *Black's Law Dictionary* 563 (7th ed.1999). Other authorities have defined manifest error as "an error that is obvious and indisputable, that warrants reversal on appeal. It is an indisputable error of judgment in complete disregard of the facts of the case, the applicable rule or law and credible evidence."

See uslegal.com.

The trial court denied Petitioner's complaint, and the Appellate Court affirmed the denial in its May 17, 2022 Opinion. The New Jersey Supreme Court subsequently denied certification.

The appellate courts, in upholding the dismissal and denial of complaint have relied on the trial court's reasoning. *See Appendix D Opinion* Philip L. Faccenda Petitioner submits that the finding was clearly erroneous and prejudicial.

Petitioner's Complaint, accompanied by exhibits, when given a generous reading, clearly suggest a cause of action for legal malpractice. Respondents failed to assert expert testimony and reports as crucial material evidence related to the unwarranted psychological fitness evaluation performed on Petitioner in or around August of 2008; failed to secure depositions of key expert witnesses in support of Petitioner's claims and defenses; and failed to properly investigate expert testimony key to Petitioner's claims and defenses. Additionally, Petitioner proffered sufficient allegations in the complaint that supported the facts. The trial court was under an obligation to follow the standard of review on a motion to dismiss. This was not done, and it was manifestly erroneous and unjustly prejudicial to Petitioner for the New Jersey Supreme Court to deny certification and further review of this case.

The lower courts does not have the license to misapply well established law and standards of review, which clearly allow the liberal granting of the Petitioner her rightful opportunity to proceed with her complaint.

As officers of the Court, Respondents had an affirmative duty in the Arbitration case to actively prosecute and defend Petitioner's claims. They failed to

do so. Respondents had an affirmative duty to advise Petitioner of all possible legal options. They failed to do so. Respondents had an affirmative duty to represent Petitioner's best interests in the course of litigation. They failed to do so. It is only when Officers of the Court are held to the professional standards which govern the practice of law will litigants truly believe in the notion of a fair and impartial judiciary dedicated to justice and the pursuit of truth.

Accordingly, the petition for Writ of Certiorari should be granted.

CONCLUSION

For the reasons herein, the petition for writ of certiorari should be granted.

Dated: February 24th, 2023.

Respectfully submitted,

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