

NO: 22-882

In The
Supreme Court of the United States

**MERRILEE STEWART,
PETITIONER**

V.

**RRL HOLDING COMPANY OF
OHIO LLC, ET AL., RESPONDENTS**

**On petition for Writ of Certiorari to the
Supreme Court of Ohio**

PETITION FOR REHEARING

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**CONSTITUTIONAL QUESTION
NOT PREVIOUSLY PRESENTED**

Did the State Court's decision to reopen and rewrite a closed question - i.e., the final judgement of the Arbitration Award - ignore the commands of the constitutionally rooted and legally legitimate doctrines of stare decisis and federal supremacy?

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CONSTITUTIONAL AND LEGAL PRINCIPLES

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By displaying open resistance and rendering the law of arbitration less predictable, state courts have contributed to the destabilization of the national legal system’s workability *Id.* at 585.

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**CERTIFICATE OF COUNSEL
CERTIFICATE OF GOOD FAITH**

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

Respectfully Submitted,

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PETITION FOR REHEARING

Now comes Petitioner Merrilee Stewart, Pro Se (“Ms. Stewart”) with this Petition for Rehearing Pursuant to Rule 44.

Petitioner Merrilee Stewart requests rehearing and reconsideration of the May 15, 2023 court order denying the Petition for a Writ of Certiorari.

CONSTITUTIONAL QUESTION NOT PREVIOUSLY PRESENTED

Did the State Court’s decision to reopen and rewrite a closed question - i.e., the final judgement of the Arbitration Award - ignore the commands of the constitutionally rooted and legally legitimate doctrines of stare decisis and federal supremacy?

OPINIONS

Contract-formation rules wholly outside the ambit of FAA preemption “would make it trivially easy for States to undermine the [FAA]—indeed, to wholly defeat it.” *Id.* Such circumvention, the Court concluded, could not be countenanced. *Kindred Nursing Ctrs. L.P. v. Clark*, --- U.S. ---, No. 16-0032, 2017 WL 2039160 (May 15, 2017).

The FAA “preempts any state rule discriminating on its face against arbitration ...]” *Viking River Cruises, Inc. v. Angie Moriana*, No. 20-1573 (June 15, 2022).

In *Epic Systems Corp. v. Lewis* (2018), the high court held arbitration proceedings must be enforced.]

PRECURSORY DECLARATION

The Ohio State Courts' blocking and prevention of a citizen's right to seek judicial enforcement of an Arbitration Award violates the Supremacy Clause of the Constitution of the United States and ignores the doctrine of precedent established by this high court. Thus, Ms. Stewart is afforded unequal protection under the supreme law of our land solely because she resides in the State of Ohio.

The egregious violation of Federal law and disregard for the commands of stare decisis and federal supremacy, are compounded by the lower Ohio court, Judge Kim J. Brown's crafting of fraudulent documents, in direct conflict with the Arbitration Award already certified by the higher court. This unreasonable, arbitrary, or unconscionable behavior by the Judge interferes and conflicts with federal law.

A remand to federal court for Judicial enforcement of the real Arbitration Award would render the subsequently crafted fraudulent documents moot.

One would expect Federal Law to apply and protect people in the entire nation (all 50 states and the District of Columbia, and U.S. territories).

However, absent of a remand to the Federal Court for review, Ms. Stewart is required to relocate (outside Ohio) in order to be afforded the Federal jurisdiction necessary for judicial enforcement.

Ms. Stewart's guarantee of federal supremacy and equal protection under the law is eroded solely by being a resident of Ohio. Thus, Ms. Stewart prays for remand to the Federal Court where the supreme law of our land will be upheld.

CONSTITUTIONAL AND LEGAL PRINCIPLES

“The rule of law depends on the legitimacy, both real and perceived, of its commands, and state courts’ rejection of binding law undermines that legitimacy [...].” See Richard H. Fallon, Jr., *Legitimacy and the Constitution*, 118 HARV. L. REV. 1787, 1790 (2005).

By displaying open resistance and rendering the law of arbitration less predictable, state courts have contributed to the destabilization of the national legal system’s workability *Id.* at 585.

State court decisions that attempt to reopen closed questions, or implausibly apply settled law, impair a key component of the national legal system’s claim to continuing moral legitimacy.

A. The Constitution of the United States of America

The Constitution grants the Supreme Court the power to judge whether federal, state, and local governments are acting within the law.

B. Preemption Doctrine

The preemption doctrine derives from the Supremacy Clause of the Constitution which states: “Constitution and the laws of the United States [...] shall be the supreme law of the land [...].”

Article VI’s Supremacy Clause singles out state judges, providing that “the judges in every state shall be bound” by federal law. U.S. CONST. art. VI, cl. 3

i. State Decision

The Franklin County Ohio Common Pleas Court (“CPC”) Appealable Interlocutory Decision of Judge Kim J. Brown is in direct conflict with Federal law.

See RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al, No. 2022-0575, on Appeal from Ohio Tenth District Court of Appeals, No. 20AP493, from Franklin County Ohio CPC Judge Kim J. Brown Appealable Interlocutory Judgement August 26, 2020 (R.0F220, S38-S48) and the June 26, 2020 Interlocutory Judgement (emphasis) (R.0F166, H95-I6) from the March 2, 2015 case stayed since November 10, 2015, No. 15CV1842.

When a state law decision is in direct conflict with federal law, the federal law prevails. A state law can afford more rights to its residents than federal law, but is not meant to reduce or restrict the rights of a U.S. citizen.

No state law decision may violate citizens' rights that are enshrined in the U.S. constitution.

“Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason. *Cooper v. Aaron*, 358 U.S. 1, 78 S. Ct. 1401 (1958).

C. Stare Decisis

Stare Decisis refers to the doctrine of precedent, which obliges judges to make certain court decisions according to previous rulings made by a higher court in the same type of case.

The purpose of stare decisis is to promote consistent, predictable rulings on cases of similar nature.

i. The disparity between state and federal adjudication of Federal Arbitration Act (“FAA”) rights.

Congress enacted the FAA in 1925 in response to the hostility of American courts to the enforcement of arbitration agreements. The Act, in §2, provides that a written arbitration provision in a contract involving commerce is “valid, irrevocable and enforceable,” regardless of whether enforcement is sought in state or federal court.

In *Southland Corp. v. Keating*, 465 U.S. 1 (1984) a 7-2 majority held that the Federal Arbitration Act (FAA) applied to contracts executed under state law.

Chief Justice Warren Burger wrote for the majority that it was clearly the intent of Congress in passing the FAA to encourage the use of arbitration as widely as possible, that it enacted “a national policy favoring arbitration.”

As the Court said in *Allied-Bruce Terminix Co. Inc. v. Dobson* (1995), 513 U.S. 265, the intent of the FAA was to overcome the courts refusal to enforce arbitration agreements.

STATEMENT OF THE CASE

Respondent RRL Holding Company of Ohio LLC (“RRL”) wholly owns Respondent IHT Insurance Agency Group LLC (“IHT”).

IHT has contract authority with numerous local, national, and international insurance carriers to distribute products and in turn receive commissions.

IHT distributes and services insurance products through a network of contracted suppliers i.e., agents/agencies located in multiple states.

All revenue flows through and is reported by RRL.

In 2013 Ms. Stewart accepted a position as President of IHT, after the retirement of the original founder and president Norman Fountain. It is in this position, granting a first-hand look, that the systemic embezzlement scheme was revealed, along with other unethical and illegal activities.

Ms. Stewart's documented attempts to make corrections and facilitate restitution to the victims were halted by the controlling members in RRL.

The controlling members wanted to keep the money, hide the money from taxing authorities and laundered the money for their own benefit.

In December of 2014 there were four equal owners in RRL. Ms. Stewart and non-party Fritz Griffioen, Bill Griffioen and Rod Mayhill.

To ensure continuance of the systemic embezzlement scheme, the controlling members, on December 30, 2014 issued the RRL Buy/Sell Agreement valuation and notification to purchase Ms. Stewart's minority shares (25% interest) in RRL with a closing date of March 31, 2015.

Instead of closing on March 31, 2015, the controlling members filed the March 2, 2015 lawsuit in Franklin County Ohio Common Pleas Court

(“CPC”). *See RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al*, No. 15CV1842.

The RRL Buy/Sell Agreement contained an agreement to arbitrate and on November 10, 2015 the CPC Judge issued a stay order, pending arbitration.

Arbitration concluded in December 2017, with an Arbitration Award to Ms. Stewart of \$520,000 plus \$4,475 in cost. Quoted, in part below.

“§2. (ii.) & (iii.) [...] execute and deliver to RRL the Member Interest Redemption Agreement, and all related documents attached as Exhibits to the Buy/Sell Agreement (Exs. A-E) (hereinafter Closing Documents),”

“[...] close such transaction within 30 days of the Award. RRL and its remaining members are directed to finalize and present to Ms. Stewart the Closing Documents within 10 days of the Award.”

Ms. Stewart’s Final Arbitration Award was affirmed by the Ohio Tenth District Court of Appeals decision of September 27, 2018. *RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al.* Case No. 18AP118.

Despite, the fact an arbitral award is defined as “a final judgment or decision by an arbitrator” (Black’s Law Dictionary, 7th Ed (West 1999)). Also, (the federal policy behind the FAA is simply to ensure that arbitration agreements are enforceable) *see Volt Info. Scis., Inc. v. Bd. of Trs. of Leland Stanford Junior Univ.*, 489 U.S. 468, 476-77 (1989)

Instead of purchasing Ms. Stewart’s shares in 2018, the controlling members of RRL seized all the assets

of RRL for themselves and for the benefit of a new set of owners (three additional family members), established a new company, Firefly Agency LLC ("Firefly") and made RRL a dead entity. This action is a violation of law and contract and was facilitated by Shumaker, Loop & Kendrick ("Shumaker"). Despite Shumaker purporting to represent RRL, they made RRL a dead entity.

See State of Ohio Certificate, Ohio Secretary of State, Jon Husted, 1658734, Doc: 201836501222, effective 12/31/2018 RRL Dead. See also Dissenters' rights statutes. 15 W. FLETCHER, *supra* note 1, §§ 7157 (suit allowed), 7158 (injunctive remedy), & 7162.1 (damage remedy) (rev. vol. 1973). 106. *Id* § 7160. See also, fiduciaries with adverse interests, such as personal contracts with the corporation, their business judgment on that matter is presumed invalid. 3 W. FLETCHER, *supra* note I, § 921 (rev. vol. 1975). Such conflicts render the transaction voidable by the corporation. *See id* § 913.

In 2020, this same CPC Judge Kim J. Brown, Case No. 15CV1842, in concert of effort with Shumaker began crafting a Firefly Buy/Sell Agreement in favor of this new set of owners. The crafted documents are in direct defiance and conflict with the higher courts order (18AP118). *See* Ohio Tenth District Court of Appeals Case 18AP118 *RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al.*

Tenth District Court of Appeals 18AP118, quoted order:

"Therefore, it is ORDERED, ADJUDGED AND DECREED as follows: This Court hereby confirms the December 11, 2017 Final Award

in American Arbitration Association Case No. 01-16-0003-9163 in all respects, pursuant to Ohio Rev. Code § 2711.09. The terms of the Final Award (filed with the Motion as Exhibit C) are specifically incorporated by reference into this Judgment Entry. The terms of the Final Award shall be binding on the parties.”

EMPHASIS.

Shumaker disregarded the law, contract, and court order in making RRL Holding Company of Ohio, LLC a Dead Entity on December 31, 2018. Then hid the event from the courts and all creditors under the guise of a name change only. The Ohio Secretary of State did not receive proper disclosure otherwise this merger of RRL out of existence would not have been authorized. Shumaker, in facilitating the merger of RRL out of existence, facilitated the seizure and movement of all assets of Respondent RRL Holding Company of Ohio, moving those assets to a new entity, Firefly, to avoid known creditors, including Ms. Stewart’s Arbitration Award. This is a criminal act and violates the Laws of the State of Ohio.

The undisclosed change of control was done in violation of the RRL Buy/Sell Agreement and the Laws that serve to protect the known and anticipated creditors and was hidden from dissenting member Ms. Stewart. See Ohio Rev. C. § 1705.36, Ohio Rev. C. § 1705.41 (A). See also *West v. Household Life Ins. Co.*, 170 Ohio App.3d 463,469, 2007-Ohio-845 (10th Dist.). Unless a third-party's enforcement of an agreement was "contemplated by the parties and sufficiently identified" in the agreement, a third-party may not enforce an arbitration agreement between two other entities.

At no time prior to RRL merging out of existence into Firefly was Ms. Stewart or any of the known creditors provided with the statutory notice required pursuant to Ohio Revised Code § 1701.87(A).

In addition, at no time prior to RRL becoming a dead entity were any of the insurance carriers notified of this ownership change.

An ownership change requires notification to each insurance carrier and appointment authority is required before any insurance policies may be written. (Emphasis) Ohio Revised Code §3905.20 “An insurance agent shall not act as an agent of an insurer unless the insurance agent is appointed as an agent of the insurer” *Id.* at § (B) and “By appointing an insurance agent, an insurer certifies to the superintendent that the person is competent, financially responsible, and suitable to represent the insurer.” *Id.* at § (2).

All assets seized do not belong to Firefly Agency LLC and they must be returned in order to abide by the law designed to protect all creditors identified in the Crime Reports. These are the very Crime Reports which the lower court Judge Kim J. Brown was ordered to have a hearing on. See the outcome of the Case No. 19AP202 appeal where Judge Kim J Brown abused her discretion, “acted unreasonably, arbitrarily, or unconscionably”. Judgement Entry remanded for a hearing and vacated the finding and any award of sanctions and attorney fees associated with Ms. Stewart’s White Collar crime reports filed against IHT to: The Columbus Police, The Ohio Civil Rights Commission and Hartford and Liberty Mutual Insurance. However, the Judge refuses to hold the hearing ordered by the higher court.

Then in CPC Judge Kim J. Brown's courtroom Ms. Stewart was threaten jail time, charged attorney fees on behalf of Shumaker and fined money on behalf of the court. All for refusing to participate in fraud upon the court and refusing to sign the fraudulently crafted Firefly Buy/Sell documents.

Judge Brown and Shumaker's fraudulently crafted Firefly Buy/Sell documents were then presented to the higher court, Ohio Tenth District Court of Appeals (this Case No. 20AP483) as authentic RRL Buy/Sell documents.

The March 16, 2021 fraudulent statements made to the Tenth District Court of Appeals by officers of the court, Shumaker, quoted: "The reality is that the Closing Documents were form documents contained in the parties' Buy-Sell Agreement." *Id.* page 20 filed by Shumaker on 3/16/21 Case No. 20AP493.

This is perjury and in violation of Rule 11.

The Final Arbitration Award, affirmed by the Tenth District Court of Appeals in Case No. 18AP118, specifically requires the total Award is paid in full if there is a merger and RRL does not survive. The Award documents further state any subsequent uncured default grants all membership shares as active share, with full rights including voting rights.

Aside from the direct defiance of the higher court, denial of the principles of preclusion and Res Judicata, Shumaker fraudulently seeks a do-over and re-writing of an already certified award and contract. Shumaker is aided and abetted by the lower court Common Pleas Court Judge Kim J. Brown in this fraudulent endeavor.

REASON FOR GRANTING

These very words "EQUAL JUSTICE UNDER LAW" are written above the main entrance to the Supreme Court Building.

As the final Arbitrators of the Law and guardians and interpreters of the constitution, the Supreme Court of these United States has the duty and honor to step in and ensure the American people this promise of "equal justice under law".

The CPC Judge Kim J. Brown and Shumaker's attorney James R. Carnes are in violation of their oath of office.

The preceding named "Ohio" officers of the court must abide by orders of the higher court and their oath of office to "preserve, protect and defend the Constitution of the United States".

These "Ohio" officers of the court also have a duty to the law, including protection for all people.

In addition, of utmost importance is the duty to tell the truth, whether these officers are bound by "Rule 11" or the same perjury laws of our great land, they have the duty to be truthful.

CONCLUSION

Ms. Stewart submits this constitutional question, not previously presented, of great public interest as it relates to the State Court, in the State of Ohio, turning a blind eye of the Preemption Doctrines derived from the Supremacy Clause of the Constitution of the United States and stare decisis.

The “Constitution and the laws of the United States [...] shall be the Supreme law of the land [...].”

It is, after all, the law that makes all people equal (Emphasis).

The Ohio State Court’s unfettered interference with and refusal to enforce or obey the supreme law of our land is a threat to all people.

All people are guaranteed equal justice under law.

Review of this case by the Federal Court system is an essential step in the enforcement of the Constitution and the rule of law.

This case warrants remand to the Federal Court for review.

Respectfully Submitted,

/s/ Merrilee Stewart

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