

Case No.

22A187

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

AUG 25 2022

OFFICE OF THE CLERK



JOSHUA C. PLUMB and KAMERON F. PLUMB, ET AL

Appellants/Defendants, *Pro Se*

Petitioners,

v.

U.S. BANK NATIONAL ASSOCIATION, ET AL

Respondents.



On Appeal from the Washington State Supreme Court
Case No: 100394-3

October Term 2021-2022

APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE UNITED STATES

RECEIVED

AUG 29 2022

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SUPREME COURT, U.S.

Joshua C. Plumb and Kameron Plumb
Pro Se Petitioners
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Yakima, WA 98908
(509) 965-4304

To the **Honorable Justice Elena Kagan** of the Supreme Court of the United States:

In accordance with Rule 13.5, we pro se petitioners (Joshua and Kameron Plumb), request an extension of time of 60-days, up to and including November 6, 2022, within which to file our Petition for Writ of Certiorari. The current due date for this petition is September 6, 2022. The order entered by the Washington State Supreme Court on June 8, 2022, affirmed, without discussion, the order of the Court of Appeals, which denied us relief on September 2, 2021. This application for an extension of time is being filed at least 10 days prior to the due date per Rule 13.

The Washington Supreme Court's denial of Petitioners' petition for review is attached hereto as Exhibit 1. The Appellate Court Order which this decision affirmed is attached as Exhibit 2.

The requested extension of time is justified and necessary for the following reasons:

1) If this extension of time is not granted, we will not be able to hire an attorney to represent us. Currently, we do not have the funds necessary to hire an attorney. The same issue exists regarding docket fees, booklet printing costs and shipping costs. However, we *will* be able to afford these things after funds are disbursed from a trust that our grandmother created prior to her death, which we are beneficiaries of. We are waiting for this trust to close and expect disbursement to happen within the next 4 to 5 weeks. (Please see the Declarations of Joshua Plumb attached hereto as Exhibit 3.)

Until then, we cannot access those funds. The trustee of our grandmother's trust is currently working with an estate lawyer and a CPA to make sure everything is done right. A detailed accounting needs to be completed, in addition to capital gains tax issues being taken care of and paperwork being signed by the trustee and each beneficiary involved, ensuring each beneficiary is informed and agrees with everything. The timing of disbursement is beyond our control.

2) We need to hire an attorney to represent us. Without the assistance of an attorney, we lack the legal experience to properly research, simplify and competently articulate each element of this case, particularly the constitutional issues. The law is often filled with important nuances, technicalities and subtle distinctions that non-professionals fail to understand. The lack of understanding can be fatal to an otherwise meritorious case. The assistance of a lawyer greatly increases our chances of survival.

3) We have found a competent attorney, a member of this court bar, who is willing to represent us. He is experienced in the issues we are raising, which includes constitutional matters. For the first time in the roughly 9 years that we have been fighting for justice against an unscrupulous bank, if the extension of time is granted, we will finally be able to afford being represented by an attorney.

4) The attorney will only represent us if this extension of time is granted. If an extension of time is not granted, the attorney does not have time to prepare the petition for writ of certiorari due to his overwhelming workload, schedule and existing obligations to other current clients.

5) No prejudice to respondent's concerns will result from this requested extension. If a 60-day extension of time is granted, it will not prejudice the bank in any meaningful way.

6) Great prejudice to us will result if the extension is not granted. This case represents the difference between our having a home and being homeless. Prior to our mother's unexpected death in the hospital in December 2021, she was at all times a co-defendant with us in this case. She was our chief researcher and spent years defending against the bank's unscrupulous actions. Late last year, when she began to experience bleeding, infection and increasing levels of pain, she refused to allow us to take her to the emergency room at the hospital, because she knew that the hours we would spend in the hospital would result in us missing our filing deadline. At which point our case would be over, and we would be homeless. She required that we postpone taking her to the emergency room. We rushed to complete the filing, filed it on time and subsequently took her to the hospital.

Ultimately, her condition worsened, then a series of mistakes ended up happening, including a nurse later pulling out a tube from my mom's back, requiring surgery to fix, then a mistake was made during surgery, resulting in complications that cause her premature death. She was the kindest person we have ever known.

Without our mother's help, we find ourselves at a greater disadvantage than we were before. Our mother was our chief researcher, and knew the location of valuable research on her computer, which we have still been unable to locate. Without an attorney, we feel there our chances of arguing this case properly has almost no likelihood, despite our case being meritorious.

7) This case involves important questions affecting the public interest. Many members of the public are either now facing foreclosure, or will be facing foreclosure due to the economic fallout of years of COVID-19 restrictions, closing businesses, increasing inflation, rising fuel/energy costs, and other market factors which financial experts predict are likely to lead to a greater future economic downturn. At this critical point in our nation's economic history, vulnerable members of the public need protection from opportunistic banks, who seek to increase their profits by abusing the courts, as has happened in our case.

National banks can increase profits by maximizing the volume of foreclosure cases moving through the courts. To increase this volume, some banks try to cut corners. As happened in our case, the bank files a foreclosure lawsuit prematurely, prior to the bank becoming the holder of the underlying promissory note. The bank plans to obtain the note at a later date, and figures that as long as that happens prior to final judgment, no one will be the wiser. The people they are foreclosing on are generally in financial difficulty, and cannot hire a lawyer, so have no idea something wrong is happening.

In order for the bank to invoke the jurisdiction of the courts and gain standing, the bank must tell the court from the outset of the case that it IS the holder of the note, and is therefore entitled to enforce the provisions of the note. The bank must create the illusion that it has suffered an injury in fact when it requests relief from the court. The bank knows it is lying to the court. The bank has many opportunities to correct any errors, has a duty to

correct any genuine mistakes, and is in a position to know that its claims are false, but chooses to suppress that information and mislead the court in order to maintain the case. Thus, in order to maintain a premature lawsuit, the bank must embrace fundamental dishonesty and commits fraud on the court.

The bank in our case is unrepentant. This is not isolated behavior. The same bank has argued before multiple state courts that it should be allowed to correct its lack of standing after-the-fact, by obtaining the promissory note at a later date, then substituting itself as the true party in interest. Our Washington state courts agreed with the bank at the superior court level and allowed this, then our higher courts refused to overturn the lower court, despite many opportunities.

When the same bank argued the same argument before the Ohio Supreme Court, the Ohio Court rejected the bank's position entirely. The Ohio Court reasoning that a party that has no standing to be in court has no standing to move the court to do anything, including substituting itself as the true party in interest. The Ohio court went into many other reasons as well. Currently, only six state supreme courts have ruled on this matter, all in favor of upholding standards and requiring foreclosing banks to have standing when the case is filed, and not allowing them to obtain standing by substituting themselves as the true party in interest after-the-fact. Other states, like ours, have allowed the bank's behavior, despite opportunity to correct it.

Unfortunately, the retirement funds of judges are heavily invested in the same banks they are not ruling against, which creates the appearance of a conflict of interest, and decreases the likelihood of this matter being resolving on its own in a timely fashion in state courts. As state courts are being influenced not to rule against banks on this matter, this leaves the public defenseless against said abuse and fraud on the court committed by unscrupulous banks.

We believe our courts should not allow any party who has suffered no injury in fact to file a premature lawsuit in anticipation of suffering an injury, to commit fraud on the court by falsely claiming it is the injured party, to maintain its case through deception, then to be later allowed to substitute itself as the true party in interest after it becomes "injured" along the way.

Uncorrected, that behavior undermines public confidence in the courts and gives the impression of a double-standard. Failing to address this matter emboldens banks to commit further abuses, as they know that even when they are caught red-handed, nothing will be done. That is not in the public interest. Judicial economy is not more important than upholding basic judicial standards. Otherwise, proceedings become a formality. Standards are simply ideals that one pays lip service to, but ultimately don't matter enough to hold a bank to the same standard that members of the public are held to.

The public does not benefit from an egregious erosion of legal standards, and willful dishonesty by banks. If this court does not move to stop this, these things will continue to occur. Nothing positive is gained by postponing addressing this issue. The public interest is not served by failing to grant us an extension of time to make our case. Now is the best time to address it, prior to further economic downturn, which will expose even more Americans to abuse by the banks.

8) Our Constitutional rights were violated. The constitution states that no one will be deprived of life, liberty or property without due process of law. No property is more fundamental than one's home. We were deprived of our home without due process. Despite our pleas, we were never allowed to go to trial. We were prevented from obtaining essential discovery and eliciting testimony necessary to establish our defense. This denial of due process prejudiced our ability to defend ourselves. If we are granted the requested extension, our attorney will highlight additional unconstitutional issues in greater detail and clarity than we are able to.

The circumstances described above has created a situation that could deprive us of justice through no fault of our own. Failing to grant an extension of time would not be in the interests of justice.

Wherefore, we the petitioners (Joshua Plumb and Kameron Plumb, et al) respectfully request that an order be entered extending the time for filing a petition for writ of certiorari in this matter to and including November 6th, 2022.

The Supreme Court has certiorari jurisdiction over this case under 28 U.S.C. § 1254(1).

Respectfully submitted this 25th day of August 2022,

By /s/ Joshua C. Plumb
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Rule 13 states, "An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific reasons why an extension of time is justified."

EXHIBIT 1