

IN THE SUPREME COURT OF THE
UNITED STATES

Mike R. Serna, and
Emma R. Serna,
Petitioners, case no. 22A1032
v.
William Cooksey, et al.,
Responders.

PETITION FOR REHEARING
RECOVERY OF PROPERTY CONFISCATED BY STATE COURT
AND VIOLATION OF FOURTH, AND FOURTEENTH AMENDMENT
BY THE RESPONDERS AND THE GOVERNMENT

COMES now, the Petitioners, Mike Serna and Emma Serna, petitioning this Honorable high Court to hear the violations of the above United States Constitution Amendments committed by the Responders and the New Mexico State Government, for their benefit and deprivation to the Petitioner's of all their essentials to thrive in this world.

ACTION IN RULE 44 INVOLVING A CONSTITUTIONAL QUESTION WHEN
THE UNITED STATES IS NOT A PART OF THE ISSUE PRESENTED
BRIEF STATEMENT OF VOID JUDGMENT OF 2015
THAT MADE THIS AN AMENDMENT VIOLATION

In 2015, after an arbitration on case cv-2007-06641 consolidated with case cv-09594 the district court judge made an erroneous judgment, invalid, and gave the judgment to a non-litigant, which followed the arbitrators ruling in which stated the said judgment was adopted as is according to the arbitrator's ruling. The final judgement read: David and Margaret Webster, receiving the judgment, and issued against Serna and Associates, LLC and Serna and Associates Construction Co. which Ms. Serna does not own either company, and no motion was ever held to address the need for such changes. Therefore, the judgment was never legally changed, altered, or modified. Federal Rule of Civil Procedure 17(a)(1) requires that "[a]n action must be prosecuted in the name of the real party in interest. See, *In re Jacobson*, 402 B.R. 359, 365-66 (Bankr. C.D. Cal. 2008). The name of Ms. Serna's company is; Serna & Associates Construction Co., LLC, and the company was not sued or has a judgment against it. The judgment was a void judgment, and the judge continued to sign writs of garnishment and a writ of execution. A Void Judgment is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." *Ex parte Seidel*, 39 S.W.3d 221,225 (Tex. Crim. App. 2001). A Void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment.

A court cannot confer jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, and can be attacked at any time, in any court, provided that the party is properly before the court. See, *Long v. Shorebank Development Corp.*, 182F.3d 548 (C.A. 7 Ill 1999).

One of the Responders, David and Margette Webster, with the assistance of William Cooksey, the Bank's Attorney, and their then attorney, counsel, Daniel White, conspired together to have the bank go along with their scheme, and allow Margette Webster be Margaret Webster, therefore, the Bank, BBVA Compass Bank, gave all of the Petitioners' savings account funds, and a mortgage payment of \$10,000.00, and through mortgage payments made by the Petitioner's in a Bank HELOC the Bank would continue to send

the Petitioner's monthly payments directly to Margette Webster. Ms. Webster had now collected over \$61,000.00, and the judgment was for only \$57,000.00, and was made out to a party member that was not a party member. The Bank and the Petitioner attorneys avoided the 12 U.S. Code 2605 rule on servicing mortgage loans, and continued to deplete the Petitioner's Bank accounts.

VIOLATION OF THE FOURTH AND FIFTH AMENDMENT

In 2022, in lawsuit cv-2019-04800 the Responder's again filed a lawsuit, this time against Mike, individually and Emma Serna, the trustee of the Mike R. Serna Irrevocable Living Trust. The judge granted a judgment, based on Webster invalid Transcript of judgment, and the Judgment used was the one from 2015, invalid and a Void judgment, worth \$57,000.00. The judge, Judge Benjamin Chavez granted the Webster this amount, and foreclosed on the Irrevocable Living Trust Property, which legally belongs to the Irrevocable Trust. The deputies illegally came out to our residence, and before 8 A.M. threw us out of property without clothes and medicines and needed leg braces, Glycoma medicine all for the Responders greed. The weather was very cold and Ms. Serna was thrown out like a convict, and the Fourth Amendment protects people from searches and seizures by the government. No excessive force shall be used without a warrant and this search and eviction was not legal. The "Irrevocable Living Trust" did not give the right to abuse either Petitioner. Mr. Serna had had surgery and was still in bed and was told he had 3 minutes to put on his clothes. Mr. Serna lost the use of his one leg in surgery and lost the other when he was 3 years old to Polio, and he uses a walker to get around and takes a while to get dressed. They called him name and told him if he did not get dressed right now the deputies would throw him out on his driveway. The deputies forced their way to grab Ms. Serna and was told to leave in her nightgown.

We are forced to find a roof over our head, food, and clothing and everyday toiletry, and the

The Petitioners called and filled a claim with their Title Insurance Policy that Insured the land, construction of the house, and the final structure of a single family dwelling. The reason for this claim was that the ~~assessor's manager~~ wrongly or fraudulently entered the property was always David and Margette Websters, which was an erroneous assumption with no proof of evidence. The Title Insurance Policy will email us the proof that they were there in all ~~closings~~ of each transaction, and the Websters are fraudulently stealing the property. the Second Title Insurance Policy Claim is for the HELOC we borrowed money to remodel the house. This loan is still open, and the Property legally belongs to the "Mike R. Serna Irrevocable Living Trust" which we set up on May 07, 2015, and this was to protect all the assets and though we filed a second asset schedule in November, 2017, because of changes, the property still belongs to the "Irrevocable Trust." The second Title Policy Claim, verified that the property belongs to the Irrevocable Trust.

The "Irrevocable Trust" was not sued or has a judgment against. Judge Benjamin Chavez did perform a foreclosure on January, 2021, on the property of the "Irrevocable Trust" and it was a wrongful foreclosure. Amendment II only reads states immune from lawsuits for out-of-state citizens and foreign individuals.

The Judge violated Amendment 14 by taking property violated due process of the Law, acts of tyranny, he was bias and prejudice deprived of a fair trial. In *Id.* At 907 (quoting *Aetna Life Ins. Co. v. La Voie*, 475 U.S. 813, 825 (1986)).

The judge hired a "Special Master", to agree with everything he said and did, and the Special Master wrote out his Special Warranty Deed to award the two Websters the Property of the "Irrevocable Trust" and stated that Mike and Emma Serna agreed that the property should go to the Websters. A told lie and untruthfulness as there is no documentation that agrees with the "Special Masters" erroneous presentation, and the Special Master, himself notarized the Special Warranty Deed,

and this is why I had to alert and bring in the Two Title Policy Companies into the picture. The Mike R. Serna Irrevocable Living Trust deserves an Order granting it its rightful property, and Emma Serna as the Trustee has the right to Motion this Court to transfer the Property back to the Irrevocable Trust, and reset the taxes to the right amount. The assessor's office filed the Webster's name on the property and doubled the taxes in order to give David and Margette Webster half of the money collected on the taxes. Conspiracy is prevalent in this case.

This case comes down to the fact that in the first case cv-06641 the judge was cruel and malicious with Ms. Serna, and Ms. Serna complained about Judge Nan Nashes' egregious treatment that when any district court judge would rule in any case with Serna in it it would be a personal sting against a judge and therefore the Judge could not deal and would not deal with his personal feelings for both sides, and directed the anger and frustration, bias and prejudice, and therefore, would not hear, observe any motion, pleading, etc. that Serna would present. All were stricken from record, and the Serna's have paid a huge price. The judge took our Money, our home, and though the belongings, food, medical devices were not part of the case or a writ, David and Margette Webster ate what they could, threw out what they did not want, stored other items, and stole what they could.

RELIEF

1. We deserve our home back.
2. Reimbursed for all our belongings.
3. For Lodging as we were displaced.
4. Gas for our two vehicles.
5. Meals.
6. Laundry, and other essentials

House and property at 10812 Olympic, St., N.W. Albuquerque, NM 87114 Bernalillo County, Lot 1, Block 10, Paradise Hills, is legally owned by the "Irrevocable Trust" and we have a right To live there and not be evicted, and yet the judge and the Special Master, who took the Property with lies, and falsehood, and the fairness of the proceedings he did not disclose the evidence that would have solved the case the Special Master preferred to conspire with the judge and the Responders and sold the property to the two Websters for money they had already collected without a valid judgment.

The violation of the due process clause, lawsuit was for a illegal or unconstitutional acts that continued from 2015 through 2023. States courts cannot nullify federal law and government cannot abuse individual, steal their property for their friends and themselves. This was a Tyrannical government, and took from an Entity and gave to his friends. The Websters never had an interest in this property. The Serna's bought the land, built the house, and lived on the Property for over thirty year, since October, 1993. The government does not want to return the right of ownership to the Sernas. We were not told what we did wrong, we asked, and the trial judge told us do you want to pay the Websters again or I will foreclose on your property. The trial judge would not listen to any thing and did not care that he was violating 30A Am Jur. Judgments "44, 45" 1 Freeman on Judgments 1d20c. NM Statute Chapter 44, Section 44-7A-21.

RELIEF

1. Abolish the Responders and the governments ways
2. Institute new government.
3. The government became destructive when he illegally threw us out of our home without just cause.
4. Constant Emotional Distress.
5. Money stolen by a forged judgment and not one cent recovered.
6. Court fees from all the Courts state and federal.
7. Compensatory fees.

8. Reimbursed for loss of home, belongings, etc. without a valid judgment by the Responders and the government, family pictures, records, the bust of the Blessed Virgin Mary, Mike full leg braces, glycoma prescriptions, and medically needed Prescriptions, food.

This is all worth more than a billion dollars, but I will allow to use your good sense and what Deems right and proper to this Court. We have suffered so others can gain illegally.

Respectfully submitted,



Emma Serna, Mike Serna

Petitioners

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2-17-2024