

23-6835

No. 23-A401

FILED
FEB 12 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

R. Allen Stanford,

Petitioner

v.

Ralph S. Janvey, et al,

Respondent

On Petition for a Writ of Certiorari from the
United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

R. Allen Stanford,

Petitioner, *pro se*

Reg.# 35017-183

P.O. Box 1034

Coleman, Florida 33521.

QUESTIONS PRESENTED

This petition for Writ of Certiorari involves a civil enforcement complaint filed by the Securities and Exchange Commission against the globally situated Stanford Financial Group of financial services companies (wholly owned by R. Allen Stanford), a Temporary Restraining Order (TRO), and the court-appointment of an Equity Receiver who would take exclusive control of this global group of companies and all of its assets, as well as those of R. Allen Stanford, both personal and corporate; and a related 'ancillary' proceeding filed against HSBC Bank, Toronto Dominion Bank, and Independent Bank of Houston; collectively referred to as the "Bank Defendants".

The questions presented concern the statutory construction, interpretation and application of the federal venue laws, and the territorially-limited boundaries of a United States District Court as authorized by Article III of the U.S. Constitution, and codified in statute by the United States Congress; the "place where a corporation is fairly regarded as at home" and has its "principle place of business", establishing the "paradigm forum for general jurisdiction"; and the '*ultra vires*' divestiture of a District Court's original exclusive jurisdiction; substantive issues that were first raised in the 'main action' case, and then here, in this 'ancillary' "Final Judgment and Bar Order" proceeding (involving a "Bank Defendant Settlement Agreement", in the "Rostain/Trustmark Litigation" in the amount of \$1.345 billion), in both the District Court and the Court below.

The questions presented, which are compound in nature, are: (1) Whether, when filing a civil enforcement complaint (in the Northern District of Texas, Dallas Division) against a global financial services company (headquartered in the

Southern District of Texas, Houston Division) alleging violations of the federal securities laws, the United States Securities and Exchange Commission constructed, interpreted and applied the federal venue laws (28 U.S.C. 1391(b) and Fed. R. Civ. P. 66) in a sweeping and never-asserted manner that afforded itself "statutory interpretation-deference" under *Chevron USA Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984); therein allowing that agency to disregard both the congressionally-imposed and congressionally-limited mandates in the federal venue laws, as well as the corollary "principle place of business" paradigm forum for "general jurisdiction" as clearly articulated by the U.S. Supreme Court in *Daimler AG v. Bauman*, 571 U.S. 117,127 (2014), and; (2) Whether, upon appointment by the District Court for the Northern District of Texas, Dallas Division, and mandated by an Order Appointing Receiver to establish and operate his "principle place of business" there in, the Northern District of Texas, the Equity Receiver acted in an '*ultra vires*' manner when instead he promptly relocated the receivership to, and reported to the Court in his first Report of the Receiver, that he and his "team of professionals" had established their extensive operations and administrative activities within the North American headquarters of the Stanford Financial Group, situated in the Southern District of Texas, Houston Division; which was outside the District Court's territorially-limited boundaries, and thus the appointing District Court's "**host district**" congressional authority, to 'supervise' the administrative activities of its appointed Equity Receiver; and in so doing, whether that record-supported '*ultra vires*' action served to "**divest**" the appointing District Court of its original, exclusive jurisdiction, and; (3) Whether, when a timely challenge was made to the SEC's choice of venue, in the form of a 'Responsive Answer', as clearly permitted by Fed. R. Civ. P. 12(h)(1), (a) the District Court abused its discretion when it then arbitrarily held that the venue challenge had been 'waived and forfeited' by the failure to raise it in a first 'Motion

to Dismiss', under Fed. R. Civ. P. 12(b); and **(b)** whether, when raised in the instant ancillary 'Final Judgment and Bar Order' appellate proceeding, the court below then abused its discretion by refusing to even consider the District Court's decision, and; **(4)** Whether, when a record-supported challenge was made by R. Allen Stanford (in this subsequent ancillary proceeding) to the District Court's asserted "divestment" of original exclusive jurisdiction over all Stanford-related cases - arising from the Equity Receiver's ('ultra vires'), prompt relocation of the receivership and all of it's operations and administrative activities, to the Stanford Financial Group headquarters in Houston, in the Southern District of Texas (and other locations within the Southern District of Texas), each of which were also outside the congressionally-established, territorially-limited boundaries of the Northern District of Texas, as set forth in 28 U.S.C. 124(a) :

(a) placed "fairly in doubt" that District Court's Article III jurisdiction, as clarified in *Ashcroft v. Iqbal*, 556 U.S. 662 (2019), and if so;

(b) when "rejecting" this jurisdictional argument the District Court 'abused its discretion', and if so, on appeal;

(c) whether the Fifth Circuit then also 'abused its discretion' by preemptively dismissing this record-supported jurisdictional claim as "frivolous" on a diversionary 'interlocutory motion' filed by the Equity Receiver - the day after the \$505.00 filing fee was paid by R. Allen Stanford, and yet 'prior' to any review on the "placed fairly in doubt" merits of his jurisdictional claim - and therein;

(d) in a *de facto* manner, and without any regard for R. Allen Stanford's inalienable First Amendment right to petition the government for a redress of grievance, or his

equally inalienable Fifth Amendment right to due process of law, serving as an abusive affirmation of the District Court's prior refusal to consider and conduct a merits review of, this record-supported claim of the "divestment" of its Article III jurisdiction, that was clearly placed, by him, **"fairly in doubt"**.

CERTIFICATE OF INTERESTED PARTIES

The petitioner, R. Allen Stanford, certifies that the parties with an interest in this case are Ralph S. Janvey, in his capacity as Court-Appointed Receiver of the Stanford International Bank Limited, et al, the Securities and Exchange Commission, Toronto Dominion Bank, HSBC Bank, and the Independent Bank of Houston.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	2
CERTIFICATE OF INTERESTED PARTIES	5
TABLE OF AUTHORITIES	8
PETITION FOR WRIT OF CERTIORARI	9

OPINIONS BELOW	11
JURISDICTION	11
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2, 5
STATEMENT OF THE PROCEEDINGS	12
REASONS FOR GRANTING THIS PETITION	17

I. This Court should grant the Petition, vacate the judgment below, and remand for further review in light of the jurisdictional clarity in *Arbaugh v. Y & H Corp.*, 546 U.S.500 (2006), the paradigm for "general jurisdiction" in *Daimler AG v. Bauman*, 571 U.S. 117 (2013), the District Court's territorial limitations as established by Congress in 28 U.S.C. 124(a)(1), and the body of well-established law governing the administrations of Receiverships.

II. In the alternative, this Court should grant plenary review and hold, under *Arbaugh v. Y & H Corp*, *DaimlerAG v. Bauman*, and the First Amendment to the U.S. Constitution, that the Court below abused its discretion by dismissing this appeal as "frivolous", immediately after the \$505.00 filing fee was paid, but prior to any review on the merits, where the record-supported facts of the case as presented had clearly established a meritorious challenge to "improper forum manipulation", and placed the District Court's Article III jurisdiction, "fairly in doubt". And, because this case concerns a government agency (SEC) delegating to itself the power (deference) to rewrite - and "gerrymander" - legislatively-

established venue and jurisdiction laws, it represents an opportunity for this Court to revisit and add a new dimension to *Chevron USA v. Natural Resources Defense Council*, 467 U.S. 837 (1984)

CONCLUSION 18

CERTIFICATE OF SERVICE 18

APPENDIX A - Final Judgment and Bar Order in *Rotstain, et al. v. Trustmark National Bank, et al.*, ("Rotstain Litigation"), Case No. 4:22-cv-00800 (S.D. Texas), transferred to the Northern District of Texas and consolidated with the underlying "main action" case, Securities and Exchange Commission, Case No. 3:09-cv-00298 (N. D. Texas) (Docs. 3330,3331,3332) 20

APPENDIX B - Appendix B - Unpublished Order, *Securities and Exchange Commission, et al v. R. Allen Stanford, v. Ralph S. Janvey, et al, (R. Allen Stanford v. Ralph S. Janvey, et al)* Appeal No. 23-10891, (Document 25-1) 30

TABLE OF AUTHORITIES

CONSTITUTIONAL PROVISIONS AND FEDERAL STATUTES 2, 5, 6

Const. Amend. I. 4, 6, 12

Const. Amend. V. 5, 12

Arbaugh v. Y & H Corp. 546 U.S. 500 (2006) 6

Daimler AG v. Bauman, 571 U.S. 117 (2013) 3, 6, 10

Chevron USA v. Natural Resources Defense Council, 467 U.S. 837 (1984) .3, 6,

11

FEDERAL RULES OF CIVIL PROCEDURE

15 U.S.C. 78c(a)(10) 13, 14, 16

28 U.S.C. 124 (a)(1) 4, 6, 10

28 U.S.C. 455 15, 16

28 U.S.C. 1391(b) 3, 13

28 U.S.C. 1404(a) 7, 16

Fed.R. Civ. P 12(b)(3) 4, 7, 16

Fed.R. Civ. P. 12(h) 3, 13

Fed.R. Civ. P. 66..... 3, 13

PETITION FOR WRIT OF CERTIORARI

This Court should grant the Petition because the judgment below, which concerns the third in a series of five settlement agreements, totaling \$1.602 billion (collectively the "Bank Settlements"), rests on the 'improper forum manipulation' of the Securities and Exchange Commission, and the 'ultra vires' actions of the court-appointed Equity Receiver; administrative actions taken beyond the scope of the 'Temporary Restraining Order' (TRO), in defiance of the "principle place of business" 'Amended Order Appointing Receiver' (AOAR), and outside the (arguable) territorial jurisdiction of the appointing District Court; administrative actions acknowledged by the Equity Receiver in his 'First Report of the Receiver' where he stated that he and his team of professionals had established his "principle place of business" at the offices of the Stanford Financial Group headquarters in Houston, Texas, in the Southern District of Texas; administrative actions that, *ipso facto*, effectively divested the District Court of its original (exclusive) jurisdiction.

Further, the Court should grant plenary review because over the past 14 years the Securities and Exchange Commission, the District Court, and the Court of Appeals have consistently sidestepped these constitutionally important, record-supported and indisputable issues, refusing to even consider them on the merits; refusing to acknowledge the "general jurisdiction" paradigm established in Daimler AG v. Bauman, 571 U.S. 117 (2013), and the territorial boundaries and limitations of the District Court as established by Congress; conjoining the territorially-limited jurisdiction of the Northern District of Texas, with that of the Southern District of Texas, and therein disregarding the territorial limitations of the District Court insofar as its powers to supervise the administrative activities of its court-appointed Equity Receiver; instead dismissing each of these important issues, on

interlocutory motion of the Equity Receiver, and prior to any review on the merits, as "frivolous" and without merit.

At bottom, this Petition presents a knowing and indefensible violation of the federal venue statutes, the Supreme Court's paradigm for "general jurisdiction" as established in *Daimler AG v. Bauman*, 571 U.S. 117 (2013), the territorial boundaries of a federal jurisdictional statute, 28 U.S.C. 124(a)(1), and a District Court's Article III jurisdiction; the willful disregard for, and knowing failure to administer, the Receivership proceedings in this civil enforcement action in accordance with the Federal Rules of Civil Procedure and all other governing law; a record-supported judicial defiance of well-established law.

OPINIONS BELOW

The final judgment and bar order of the District Court was entered on August 8, 2023, and is reported at *Securities and Exchange Commission, et al; R. Allen Stanford v. Ralph S. Janvey*; Official Stanford Investors Committee; HSBC Bank, P.L.C.; Toronto-Dominion Bank; Independent Bank Group, Inc., Case No. 3:09-cv-00298 (N.D. Texas) (Appendix A) Order from the Court of Appeals for the Fifth Circuit (No. 23-10891) (Appendix B) United States Court of Appeals for the Fifth Circuit

JURISDICTION

The judgment of the Fifth Circuit Court of Appeals, which was entered on September 18, 2023, is reported at *Stanford v. Janvey*, No. 23-10891(5th Cir. Sep. 18, 2023). The Petitioner filed a motion in this Court requesting a 60-day extension of time to file a Writ of Certiorari, and on November 3, 2023, Justice Alito granted

this motion and extended the due date to February 15, 2024. The jurisdiction of this Court rests on 28 U.S.C. 1254(1)

CONSTITUTIONAL PROVISIONS INVOLVED

The First Amendment to the United States Constitution states, in relevant part, that "Congress shall make no law abridging the freedom to petition the Government for a redress of grievance".

The Fifth Amendment to the United States Constitution states, in relevant part, that "no person shall be deprived of life, liberty, or property, without due process of law."

STATEMENT OF THE PROCEEDINGS

On February 16, 2009, representatives of the Securities and Exchange Commission's Fort Worth Division Office approached U.S. District Judge Reed O'Connor at his personal residence in Dallas, and presented him with a prepared civil enforcement Complaint against Robert Allen Stanford, the Stanford International Bank, Ltd. (SIBL), the Stanford Group Company (SGC), and other affiliated entities within the global group of financial services companies, Stanford Financial Group (SFG), which was incorporated and headquartered in Houston, Texas. These representatives of the SEC also presented Judge Reed O'Connor with companion requests for a Temporary Restraining Order (TRO), and for appointment of an Equity Receiver, who would take immediate control of SFG, and all assets of those companies as well as those of its owner, Robert Allen Stanford, both personal and corporate.

NOTE: Stanford Financial Group, which was headquartered in Houston, Texas, and wholly owned by Robert Allen Stanford, employed more than 5,000 professionals worldwide. It had domestic affiliate offices throughout the United States, and foreign offices located in Europe, Mexico, Latin America, South America, and Antigua.

The Allegations -

The Complaint focused on the Certificates of Deposit (CDs) issued from the Stanford International Bank, Ltd., in Antigua, which the SEC alleged were fraudulent, and "securities" under 15 U.S.C. 78c(a)(10) of the federal securities laws, and asserted that jurisdiction was proper in the Northern District of Texas - notwithstanding the fact that the SEC-regulated broker-dealer Stanford Group Company was headquartered and "at home" in Houston, in the Southern District of Texas - because certain of the (never identified) CD transactions had occurred there in the Northern District of Texas. This overbroad and erroneous assertion failed to comply with the mandatory specificity requirements in Fed. R. Civ. P. 9(b), as well as the explicit venue requirements in 28 U.S.C. 1391(b), and Fed. R. Civ. P. 66. The Complaint also gave no indication, either in the body of the Complaint, or by inference, that the SEC's actual target was the parent company, Stanford Financial Group, located in Houston, in the Southern District of Texas.

Pursuant to Fed. R. Civ. P. 12(h), the Petitioner, Robert Allen Stanford, timely-filed a 'Responsive Answer' to this Complaint, which included a denial of each of the allegations, and a challenge to the SEC's choice of venue in the Northern District of Texas; whereas, in addition to the non-compliance with Fed. R. Civ. P. 9(b), Fed.

R. Civ. P. 66, and 28 U.S.C. 1391(b), the SEC should have filed their civil enforcement action in Houston, Texas, in the Southern District of Texas, where the SEC-regulated Stanford Group Company was well known to the SEC to be headquartered and "at home".

These failures became more obvious still, when on February 17, 2009, the day after securing from Judge Reed O'Connor the approval to proceed with their civil enforcement Complaint, an all-encompassing Temporary Restraining Order, and the drastic court appointment of an Equity Receiver...he and the other judicial officials in the Northern District of Texas then watched on live television, with the rest of the world, as agents of the SEC, U.S. Marshals, FBI, and Houston police all descended on, raided and began searching and seizing items from SFG's headquarters in Houston, Texas - a Stanford entity that not only was not mentioned anywhere in the Complaint, and one located outside the territorial boundaries of the Northern District of Texas, but one also beyond Judge O'Connor's legislatively-limited authority. .

At that point...as Judge O'Connor comprehended the sobering reality that he had been purposefully deceived by the SEC officials and just authorized a restraining order against a global multi-billion dollar company with drastic and irreversible consequences, having accepted as truthful their stated and/or implied assertions that: **(1)** the Certificates of Deposit issued from Stanford International Bank, Ltd in Antigua, were 'fraudulent' and being sold in the United States through another Stanford (broker-dealer) affiliate, Stanford Group Company; **(2)** that these Certificates of Deposit were "securities" under the federal securities laws - 15 U.S.C.78c(a)(10) -, **(3)** that while "certain of the transactions" were alleged to have occurred in the Northern District of Texas (even though there were no identified or identifiable victims) and most importantly **(4)** that this all-encompassing

restraining order was being executed on an unnamed Stanford entity, in a "foreign" district outside his territorial limitations, where he had no legislatively-approved authority...Judge Reed O'Connor promptly recused himself under 28 U.S.C. 455 and passed this "poisonous" case on to the next District Judge in rotation, Judge Sam A. Lindsay.

Shortly thereafter, when this second District Judge, who was equally aware of the same highly-publicized media coverage, just as quickly realized that Judge O'Connor's narrowly-scoped and territorially-limited "search and seizure" authority, in the combined TRO and AOAR - which was obviously unlawful from the start - was being used as a colonial-era "general warrant" - authorizing the virtually non-constrained freedom for the government to roam the countryside and search and seize at will - he also recused himself under 28 U.S.C. 455 and the case was then passed on to a third District Judge, David C. Godbey.

With it then clear to all the Judges in the Northern District that this "hot potato" passing had to end, Judge David C. Godbey realized that it was left to him to somehow make all of these clear and convincing venue and jurisdictional violations appear legitimate. And so, with total and abusive disregard for the jurisdictional facts, and controlling law, and the Constitution's 'separation of powers', he went to work denying all challenges, no matter their merit...beginning with Robert Allen Stanford's timely-filed 'First Responsive Answer'; followed by Robert Allen Stanford's subsequent and timely-filed 'Motion To Dismiss' under Fed. R. Civ. P. 12(b)(3), 'Or In The Alternative Motion To Transfer Venue under 28 U.S.C. 1404(a)', wherein he cited to the "considered at home" paradigm for general jurisdiction in **Daimler AG v. Bauman**, 571 U.S. 117 (2013)

Nonetheless, with a 'collegial mandate' to protect the "mistaken" actions of fellow U.S. District Judge Reed O' Connor, no matter the merits of any challenge, no matter the well-established law, and no matter the unconstitutional impropriety, Judge David C. Godbey has, from 2009 and for the past 15 years, used every tool in his judicial toolbox - as well as blatant "judicial alchemy" regarding the definition of a "security" under 15 U.S.C. 78c(a)(10), rewriting and broadening in an ad hoc manner, Congress' express and unambiguously-limited intent in the statutes' "context clause"; detaching it from the listed qualifiers in order to encompass the expressly-excluded cash for cash/debt obligations sold from Antigua by Stanford International Bank, Ltd. - in order to provide this multi-billion dollar and internationally-important case with the appearance of jurisdictional soundness...and a righteous pursuit of justice.

Continuation of the Improper Venue and Divested Jurisdiction Cover-Up

Shortly after the SEC filed its civil enforcement action in 2009, a group of CD depositors in Stanford International Bank, Ltd., who had suffered financial losses in the wake of the SEC's actions, filed a multi-billion dollar ancillary action, under the Texas Uniform Transfer Act (TUFTA). This putative class action lawsuit was lodged against five of the international banking institutions with which Stanford International Bank, Ltd. had conducted financial services business. This ancillary action, which was initially filed in a Texas state Court, would eventually wind its way through the complex multi-district civil litigation process, and ultimately be consolidated with other such ancillary actions and transferred to U.S. District Court in the Southern District of Texas, Houston Division, by the Judicial Panel of Multi-District Litigation (JPMDL).

During this protracted process, the court-appointed Equity Receiver here, representing the Stanford Receivership Estate, moved to intervene on behalf of the other CD depositors in Stanford International Bank, Ltd.

Multi-Billion Dollar Settlement Agreement

After more than a decade of complex litigation, and just prior to a trial date set by the Court, the parties agreed to enter into a 'Settlement Agreement' whereby, collectively, the five banking institutions ("Bank Defendants") would pay the Plaintiffs a total of approximately \$1.602 billion.

At that point, this enduring putative class action case was once again transferred by the JPMDL, for purposes of conducting settlement agreement proceedings, to Judge David C. Godbey in the Northern District Court in Dallas, Texas. There it was consolidated with the original civil enforcement action filed by the SEC, and a three-part 'Scheduling Order' was issued for the individualized agreements with Trustmark Bank, Toronto Dominion Bank, Société Générale Bank, HSBC Bank, and the Independent Bank of Houston. These 'Scheduling Orders' provided opportunities for other uninvolved individuals to make 'Written Objections' and 'Requests To Appear' at the Final Approval Hearings.

In accordance with these 'Scheduling Orders', Robert Allen Stanford filed a series of three 'Written Objections' and a single 'Request To Appear By Electronic Means', in *seriatim*, wherein he once again challenged the legitimacy of the consolidated proceedings on jurisdictional grounds, grounds that were fully supported by the Equity Receiver's own entries in the official record. Judge David C. Godbey denied each of these filings, and Robert Allen Stanford timely-filed 'Notices of Appeals' and timely-paid the filing fees.

The Equity Receiver, Ralph S. Janvey, then filed interlocutory 'motion(s) to dismiss' each of these appeals, referring to the jurisdictional issues presented as "frivolous", and the Fifth Circuit granted each of these motions immediately upon the full payment of the \$505.00 filing fee, and prior to any review on the merits.

This Petition is focused on the third of these unconstitutional pre-review dismissals.

REASONS FOR GRANTING THIS PETITION

This Petition should be granted because the Fifth Circuit's decision here to sidestep and dismiss an appeal, which presented important venue and jurisdictional issues, immediately upon receiving payment of the \$505.00 filing fee, and prior to any review on the merits - jurisdictional violations that were supported by the official record and that, by any measure were placed "fairly in doubt" - represents an abuse of discretion and opened the door to widespread violations of constitutional 'due process' protections and other important rights; violations that should not be tolerated.

Moreover, because this case concerns a government agency (Securities and Exchange Commission) delegating to itself the power (deference) to rewrite - and effectively "gerrymander" - legislatively-established venue and jurisdictional laws, it represents an opportunity for this Court to revisit and add another dimension to *Chevron USA v. Natural Resources Defense Council*, 467 U.S. 837 (1984)

CONCLUSION

For the foregoing reasons, this Court should grant the Petition and grant plenary review.

Respectfully submitted,

R. Allen Stanford

Robert Allen Stanford

Petitioner, *Pro Se*

Date: February 12, 2024

CERTIFICATE OF SERVICE

I, Robert Allen Stanford, *pro se*, do hereby swear under penalty of perjury, 28 U.S.C. 1746, that on this 12th day of February 2024, I served a copy of this Petition for Writ of Certiorari, by U.S. Mail, on the:

Solicitor General of the United States

Room 5614

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