

No. 23-7392

ORIGINAL

In The

SUPREME COURT OF THE UNITED STATES

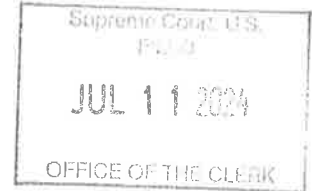
ELAINE MICKMAN

Petitioner

vs.

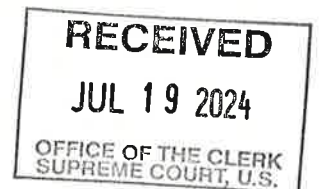
PHILADELPHIA PROFESSIONAL
COLLECTIONS, LLC. and
WHITE and WILLIAMS, LLP

Respondents



MOTION FOR RECONSIDERATION FOR PETITION
FOR WRIT OF CERTIORARI from the June 17, 2024
Denial for the December 5, 2023 Rehearing Order from the
Third Circuit Court of Appeals No. 22-2598& 23-1263

Elaine Mickman, pro se
1619 Gerson Dr.
Narberth, PA 19072



(1.)

INTRODUCTION AND BRIEF HISTORY

Petitioner respectfully motions Reconsideration of the June 17, 2024 decision on the grounds of overlooked legal errors, conflicting decisions, and public interest. The lower court erred in their summary action and failed to adequately consider material facts and legal principles essential to due process and a fair adjudication of an appeal. **Petitioner was denied due process at every juncture** since the initiation of Respondent's state court matter which created Petitioner's independent causes of action at the Federal Court. The Respondent's state court case should have been barred for time statute expiration, dismissed for lack of jurisdiction, and should have collapsed by the weight of unsubstantiated evidence and Respondent's testimony admission of violating laws and procedure. Respondent's misrepresented material facts, violated laws, and in their subterfuge pattern placed fraud on the state court to obtain an *in limine* order that *stifled Petitioner to ensure she was deprived the fundamental right to defend herself with relevant material evidence for a fair trial December 2018 and post-trial hearing March 2019 which thereby ensured Respondents would prevail regardless that their suit was statute time barred, included **fraud, and they violated applicable state and federal laws.

* *"Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. Earle v McVeigh, 91 US 503, 23 L Ed 398."* ** *"Fraud destroys the validity of everything into which it enters." Nudd v Burrows (1875) 91 U.S. 426, 23 Led 286, 290.*

(2.)

Respondent, PPC, sued Petitioner outside her *jurisdiction June 2015 for breach of contract when no contract existed. Respondent sought money for an “alleged” unverified bill by presenting an “Assignment” which was proven illegitimate by testimony. The state court matter concluded August 2021. Petitioner’s deprived rights for a fair trial gave rise to independent causes of action filed against the Respondents in U.S District Court September 2021. U.S. District Court erred or overlooked laws, mischaracterized material facts, and misapplied time statutes back-dated to when the state court suit was filed rather than tolling when the causes of action occurred or were discovered 3 ½ yrs. later. Court rulings reflect prejudice against a pro se Petitioner and the preferential treatment to assist the industry, corporations, and “elites”, a reminder of the *Lochner* era. The 3rd Circuit Court relied on U.S. District Court’s ruling and dismissed Petitioner’s appeal via Summary Action which is not intended by the rule. The 3rd Circuit misapplied law for which their procedural discrepancy denied Petitioner’s right to a full appeal and due process. Granting Reconsideration for review will ensure the Supreme Court provides clarity and guidance for lower courts and future cases.

**In the case Management v Williams PA Supreme Court 2007..."A void judgment is one that the court does not have the power to enter." " It cannot become valid through the lapse of time. Comm. ex rel. Penland v. Ashe, 341 Pa. 337, 341, 19 A.2d 464, 466 (1941) "It is certainly true that a void judgment may be regarded as no judgment at all; and every judgment is void, which clearly appears on its own face to have been pronounced by a court having no jurisdiction or authority in the subject matter." "A void judgment can never acquire validity through laches. Crosby v. Bradstreet Co., 312 F.2d 483 2nd Circuit... "where the court vacated a judgment as void 30 years after entry."*

(3.)

Motion for Reconsideration should be Granted based on the presence of conflicts among courts, significant legal questions, or issues of substantial public interest being overlooked which creates a pattern of miscarriage of justice.

A.- All reasonable inferences are to be drawn in favor of the non-moving party for summary actions, but the 3rd Circuit procedurally misapplied summary action to Petitioner's appeal by adopting U.S. District Court's ruling which relied on Respondents' filings that obfuscated Petitioner's claims by propagating the "sham" state case, which Petitioner was stifled and precluded from defending, to U.S District Court to further **legally "cripple" and deny Petitioner due process.**

Petitioner was denied the fair administration of law in US District Court which dismissed the case pending outstanding Discovery and subsequently Petitioner was deprived the right to due process for a full Briefing Circuit Court appeal as intended by rule which is a procedural discrepancy and the unfair non-uniform application of law. The implications of the Court's decision is of significant Public Interest and contains conflicting decisions creating legal uncertainty and errors contrary to *Holland v Peoples Bank & Trust Co., 3 So. 3d 94, Mississippi Supreme Court, 2008*, which highlights procedural discrepancies and errors in granting summary judgment. While *Standard Oil Co. of N.J., Appts. V. U.S., 221 U.S. 1, 31 S. Ct. 502, 55 L. Ed. 619, 1911*, discusses regulation of maintaining

(4.)

fair competition with monopolies, it also emphasizes the importance of uniform federal laws and identifies *"mischief, in the administration of the law in the Federal courts."*

Gary Baskin and Beulah Baskin v Eugene Parker and Curtis Smith 602 F. 2d 1205, Fifth Circuit Court of Appeals, 1979-09-24 discusses Supreme Court rulings across different circuits, emphasizing the *"need for uniformity"*.

O'Connor v First Court of Appeals 837 S.w. 2d 9, Texas Supreme Court of Appeals addressed the interpretation of *"appellate rules and the importance of maintaining uniformity in appellate decisions."* *"...interpretation of Rules.... consistent with practice in the federal circuit courts of appeals.."*

Sparf v United States, 156 U.S. 51, 15 S. Ct. 273, 39 L. Ed. 343, 1895, discusses the necessity of a uniform exposition and interpretation of U.S. law, emphasizing the role of courts in enforcing laws uniformly and impartially.

"The sole end of courts of justice is to enforce the laws uniformly and impartially."

B.-There remains the "left-open" decision and conflict on tolling which undermines fairness, consistency, the Rule of Law, and allows for arbitrary and manifest abuse of discretion. U.S District Court overlooked or erred by denying Petitioner *Equitable* or *Continuing* Tolling of time-statutes when:

(5.)

1) The statutes should have been tolled at the time of the action, yet the Court misapplied statutes when causes of action had not arisen within the statute meaning; and 2) Petitioner was precluded from filing independent causes of action until the conclusion of the state court matter. In fact, courts permitted equitable tolling of the 4-year limitation statute for civil RICO cases on one of three grounds: 1. fraudulent concealment; 2. continuing tort or conspiracy; or 3. pendency of another court action.

Holmberg v Armbricht, 327 U.S. 392, 66 S. Ct. 582, 90 L. Ed. 743, 1946 established that federal courts may apply equitable tolling in cases of fraud, emphasizing the public interest in allowing claims to proceed when the plaintiff was unaware of the violation. "This equitable doctrine is read into every federal statute of limitation." The statute of limitations tolling in the context of federal policy and equitable tolling principles argues *"a failure to toll the limitation period in this case will conflict seriously with the broad..no conflicting federal policy to protect."* ***Johnson v Railway Express Agency, Inc., 421 U.S. 454, 95 S. Ct. 1716, 44 L. Ed. 2d 295.***

Connie M. Tolle Touch, Inc., 977 F.2d 1129 Seventh Circuit, involves applying equitable tolling in the context of a claim dismissal and discusses the discovery rule and equitable estoppel.

(6.)

"Tolle argues that the doctrine of equitable tolling acts to toll her claim for the... application of the discovery rule, equitable tolling, and equitable estoppel in the fraudulent concealment..." U.S. District Court dismissed Petitioner's suit while Discovery was outstanding.

Young v United States, 535 U.S. 43, 122 S. Ct. 1036, 152 L. Ed. 2d 79, 2002

discusses the tolling of the statute of limitations...emphasizing public interest in allowing claims to proceed when the plaintiff was unaware of the violation.

"The equitable tolling doctrine is fundamentally about fairness and ensuring that plaintiffs are not unjustly prevented from asserting their rights."

Heck v Humphrey, 512 U.S. 477, 114 S. Ct. 2364, 129 L. Ed. 2d 383 addresses the application of equitable tolling in the context of federal habeas corpus petitions and Section 1983 claims and *"concluded that a federal doctrine of equitable tolling would apply to the § 1983 cause of action while state challenges..."*

Petitioner's section 1983 was not "ripe" until the conclusion of the state court matter of which her rights to defend and present her case were order-deprived and stifled by the Respondent's employment of legal force by the court *under color of law*. ***Funk v Cable, 251 F. supp. 598, District Court, M.D. PA,*** discusses applying *"Section 1983 in the context of deprivation of rights by employing legal processes."*

(7.)

"Pursuant to Section 1 of the Civil Rights Act of 1871, 42 U.S.C.A. § 1983.."

"Plaintiff alleges that defendants... probable cause with the result that he was deprived of his rights, privileges and/or immunities secured by... 1983 as:

'One who uses a legal process, whether criminal or civil, against another to accomplish...' and "legal force of the court is employed to deprive individuals of their rights."

Petitioner's section 1983 claim against Respondents involved their employing the legal force of the court *under color of law* to deprive Petitioner her rights at the December 2018 trial and March 2019 post-trial hearing, but Petitioner's claim was not "ripe" until the August 2021 case conclusion.

Gaito v Strauss, 249 F. Supp. 923 W.D. PA, involves a Section 1983 claim for alleged deprivation of constitutional rights and discusses the applicability of equitable tolling. *"42 U.S.C. §§ 1983 and 1985(2, 3) for alleged deprivation of his constitutional rights... equitable intervention in state criminal..."*

Ball v Woods, 402, F. 803, District Court N.D. involves Section 1983 claims for alleged deprivation of constitutional rights and discusses applying equitable tolling for *"three civil actions for damages under 42 U.S.C.A. § 1983.*

(8.)

Landgraf v USI Film Products, 511 U.S. 244, 114 S. Ct. 1483, 128 L. Ed. 2d 229, addresses the retroactivity of new laws and their impact on existing legal rights and remedies "where legal rights have been invaded, and a federal statute provides for a general right to sue for such... applied in a case that was pending on appeal at the time the statute was enacted."

The underlying state case Petitioner was sued involved new case law in February 2019 by a 3rd Circuit decision holding that any entity regularly collecting debts is subject to debt collection laws. The state court disregarded the 3rd Circuit's new "holding" at a March 2019 Post-Trial Hearing which resulted in allowing the Respondents to flout, bypass, and circumvent applicable laws material and relevant to the case outcome in addition to the lack of any sustainability to justify the *in limine* "stifle" order which state Court should have vacated if they applied the 3rd Circuit "holding". U.S. District Court erred by dismissing Petitioner's 1983 claim based on Respondents not being an Official regardless that Respondents are liable by their employing the legal force of the court under the "color of law" which deprived Petitioner's rights. U.S. District Court erred stating Petitioner was time-barred September 2021 when state court didn't conclude until August 2021. U.S. District court should have fairly applied "Continuing" or "Equitable" Tolling.

(9.)

The 3rd Circuit should have advanced Petitioner's appeal for full Briefing.

Summary Action is not intended by the rules and denied Petitioner due process.

Miriam G. Carroll v Mount Clemens, John Beeding, Jr., Harry Diehl, Jolyne Fisher, and Rex A. Burgess, 139 F.3d 1072 Sixth Circuit, discusses application of *Younger* abstention in the context of a federal action seeking monetary damages and illustrates complexities and conflicts in legal interpretations regarding denial of equitable tolling when *Younger* abstention precludes timely action.

Rotella v Wood, 528 U.S. 549, 120 S. Ct. 1075, 145 L. Ed. 2d 1047, 2000, discusses the statute of limitations for civil RICO claims and the discovery rule, emphasizing the importance of timely litigation to serve public interest.

"The purpose of equitable tolling is to ensure that the plaintiff is not, by dint of circumstances beyond his control, deprived of a reasonable opportunity to assert his claim."

In Conclusion, Petitioner presented significant legal questions, legal errors or misapplication of law, and impact to Public interest. The 3rd Circuit's summary dismissal of Petitioner's appeal is substantially prejudice, deprives her of a fair opportunity to present or refute significant legal and factual issues, is a miscarriage of justice, and undermines the integrity of the judicial process.

(10.)

Further impact of the 3rd Circuit's decision includes setting a troubling precedent for summary dismissals of appeals without adequate review or consideration of appeal merits. This case presents important questions for the U.S. Supreme Court to review regarding the lack of due process, application of uniform rules and tolling statutes which have implications of Public Interest.

For the foregoing reasons, Petitioner respectfully requests that the Court Grant Reconsideration for *Petition for Writ of Certiorari* to remand to the 3rd Circuit for full Briefing.

Respectfully Submitted,



July 11, 2024

Elaine Mickman

CERTIFICATE

This hereby verifies Petitioner is filing the foregoing Motion for Reconsideration in good faith and for good cause with belief the Court overlooked significant genuine grounds for granting Petition for Writ of Certiorari.

Respectfully Submitted,



July 11, 2024

Elaine Mickman

1619 Gerson Dr.

Narberth, PA 19072

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ELAINE MICKMAN

: 23-7392

Petitioner

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PHILADELPHIA PROFESSIONAL :

COLLECTIONS, LLC. and

WHITE and WILLIAMS, LLP

Respondent

CERTIFICATE OF SERVICE

This verifies the Motion for Reconsideration was served to the following:

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