

23-7536 **ORIGINAL**

IN THE
Supreme Court of the United States

DONNA M. BROWN

Supreme Court, U.S.
FILED

MAR 23 2024

OFFICE OF THE CLERK

Petitioner

v.

THOMAS USSIN BROWN

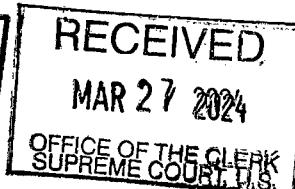
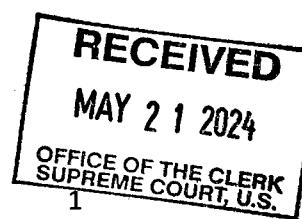
Respondents

On Petition for A Writ of Certiorari to Louisiana Supreme Court, Fourth Circuit Court of Appeals and Civil District Court Parish of Orleans

Petition for Writ of Certiorari

Respectfully Submitted

By: Donna M. Brown
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A.

QUESTION PRESENTED

1. Whether a person has a constitutional right to impugn a judgment procured by fraud and fraud on the court?
2. Whether state appellate court has a duty to vitiate a void judgment?
3. Does it violate the U.S. Constitution 14th Amendment due process when a state Supreme court affirms an appellate court's decision that neglects to review issues presented on appeal regarding a void judgment?
4. Can a judgment procured ex parte constitute a valid judgment?
5. If attorneys negotiate, draft, forge a joint stipulation agreement without authorization on behalf of litigants and file it in the record of the court to procure a consent judgment constitutes a fraud and fraud on the court?
6. Whether it constitutes an unfair and impartial trial when a judge grants a motion to strike a subpoena of duces tecum requesting relevant and admissible information from the opposing party?

TABLE OF CONTENTS

Document	Page
A. QUESTIONS PRESENTED FOR REVIEW.....	2
B. PARTIES INVOLVED.....	2
C. LIST OF RELATED CASES.....	3
D. TABLE OF CITED AUTHORITIES.....	3
E. OPINIONS BELOW.....	6
F. JURISDICTION.....	6
G. CONSTITUTIONAL AND STATUTORY PROVISIONS.....	6
H. STATEMENT OF THE CASE.....	11
I. REASONS FOR GRANTING THE WRIT.....	13
J. CONCLUSION.....	16
K. APPENDIX.....	17

B.

PARTIES TO THE PROCEEDINGS BELOW

The parties to the proceedings below were Petitioner Donna M. Brown, and Thomas Ussin Brown listed in the caption of this writ for certiorari.

C.

LIST OF RELATED CASES

There are no known cases related to this case.

D.

TABLE OF AUTHORITIES

Case Authorities	Page
1. Ackeman v. United States, 340 U.S. 193, 202 (1950).....	9
2. Armstrong v. Manzo, 380 U.S. 545, 551.....	15
3. In Brinkerhoff-Faris Trust & Savings, v. Hill, 281 U.S. 673, 680, 50 S. Ct. 451, 74 L. Ed. 1107 (1930).....	8
4. In re Murchison, 349 U.S. 133,136(1955).....	8
5. In re Village of Willowbrook, Ill. App. 2d 393 (1962).....	7
6. Kenner v. C.I.R., 387 F.3d 689 (1968).....	15
7. Klugh v. U.S., 620 F. Supp. 892 (D.S.C. 1985).....	9
8. Levine v. United States, 362 U.S. 610, 80 S. Ct. 1038 (1960), citing Offutt v. United States, 348 U.S. 11, 14, 75 S. Ct. 11, 13 (1954).....	14
9. Pennoyer v. Neff, 95 U.S. 714, (1878).....	13
10. Griffen v. Griffen, 327 U.S. 220, 665 S. Ct. 556, 90 L. Ed. 635.....	7
11. Valley v. Northern Fire & Marine Ins. Co., 254 U.S. 348, 41 S. Ct. 116 (1920).....	15
12. Williamson v. Berry, 8 HOW 945, 540 12 L. Ed. 1170, 1189 (1850).....	7

STAUTORY LAW AND OTHER AUTHORITIES

1. La. Rev. Stat: 9:2801.....	9
2. La. C.C. art. 1927.....	13
3. La. C.C. Art. 1948.....	13
4. La. C.C. art. 1953.....	14

5. FRCP Rule 60(b)(4).....	9
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OTHER AUTHORITIES

1. La. C.C.P. art. 2002.....	16
2. La. C.C.P. art. 2004.....	16

E.

OPINION BELOW

Louisiana Supreme Court affirmed the Fourth Circuit Court of Appeals. Appendix A.

The Fourth Circuit Court of Appeals remanded the case to the trial court. Appendix B.

The Civil District Court for the Parish of Orleans adjudicated a void judgment as valid.

Appendix C.

F.

JURISDICTION

The United States Supreme Court has jurisdictional authority to judicially review this case pursuant to 28 U.S.C. § 1254. The Civil District Court for the Parish of Orleans, Fourth Circuit Court of Appeals and Supreme Court of Louisiana had jurisdiction pursuant to

G.

CONSTITUTIONAL PROVISIONS

U.S. Constitution First Amendment, in pertinent parts, provisions the right to petition the government for redress of grievances. and La. Const. of 1974, Art. I §22, right to access to court. La. Const. art. I § 22 (1974), "All courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights.

On November 6, 2014, a trial was scheduled in the state district court, but Donna M. Brown deprived her of access because the attorneys fabricated and intentionally fraudulently made misrepresentation regarding a consent stipulation between the parties. On December 10, 2014, the trial judge conducted an Ex parte hearing with plaintiff's attorney, granted and signed a consent judgment. **SEE APPENDIX C.**

Under the Constitution 14th Amendment of the United States No person shall be deprived of life, liberty or property except by due process of law, and Louisiana Article I, Declaration of Rights, § 2 states: No person shall be deprived of life, liberty or property, except by due process of law.

Donna M. Brown was never noticed and afforded an opportunity to be heard by the trial court in violation of her protected interests and right to due process prior to being deprived of her property. The 14th amendment of the United States Constitution gives a right to due process of law. If someone gets a judgment against you in a state court without you having been notified, you can attack the judgment for lack of due process of law. *Griffen v. Griffen*, 327 U.S. 220, 665 S. Ct. 556, 90 L. Ed. 635.

A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights. **The law is well-settled that a void order or judgment is void even before reversal.** *Valley v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348, 41 S. Ct. 116 (1920). "Courts are constituted by authority, and they cannot go beyond that power delegated to them." If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal." *Williamson v. Berry*, 8 HOW. 945, 540 12 L. Ed. 1170, 1189 (1850).

The Fourth Circuit Court of Appeal failed to review the issues presented for review, and denied the appeal without prejudice and remanded the case for further proceedings on a totally separate issue not on appeal. The Supreme Court of Louisiana affirmed the decision of the 4th Circuit Court of Appeals in further contravention of Donna M. Brown constitutional right.

Ab initio, Petitioner contends that because the state courts failed to protect her interest and right under Louisiana and United States constitution the judgment of the trial court is void.

Nelson v. Adams, 549 U.S. 460, 462-63, a unanimous decision where the Justice Ginsberg writing for the court made it clear that a defendant has a constitutional right to answer a complaint.

In the matter sub-judice, Donna M. Brown was denied the right to answer a complaint in the district, appellate and supreme court of Louisiana.

In Brinkerhoff-Faris Trust & Savings, v. Hill, 281 U.S. 673, 680, 50 S. Ct. 451, 74 L. Ed. 1107 (1930), U.S. Supreme Court, through Mr. Justice Brandeis Stated: The federal guaranteed right of due process extends to state action through its judicial as well as through its legislative, executive or administrative branch of government. "A fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U.S. 133,136(1955).

La. Const. of 1974, Art. I § 3, No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for crime.

Failure of the judiciary to adhere to provision to the constitutional right of a person right to court to redress their grievance that is allowed to the adversary party violates equal protection of the law. Donna M. Brown was denied equal protection as conspicuously evidenced by the judgment rendered against her on December 10, 2014, almost a decade ago.

STATUTORY PROVISIONS

FRCP Rule 60(b) offers a party relief from a judgment on motion when it is “inequitable to permit a judgment to stand.” *Ackeman v. United States*, 340 U.S. 193, 202 (1950).

When the rule providing for relief from void judgment is applicable, **relief is not a discretionary matter, but is mandatory**, *Orner v. Shalala*, 30 F.3d 1307 (Colo. 1994). Judgment is a void judgment if the court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process. Fed. Rules Civ. Proc., Rule 60(b) (4), 28 U.S.C.A. Const. Amend. 5 and Amend. 14, ***Klugh v. U.S., 620 F. Supp. 892 (D.S.C. 1985)***.

H.

STATEMENT OF THE CASE

Donna M. Brown, ensuing from La. Rev. Stat: 9:2801 proceeding, after impropriety, conspiratory conduct and legal malpractice of her attorney against her, has been seeking justice in the capacity of pro se. The right of a party to represent him or herself has long been recognized in the United States, and even predates the ratification of the Constitution. § 35 of Judiciary Act of 1789, 1 Stat. 73, 92 enacted by the First Congress and signed by President Washington. Title 28 U.S.C. § 1654, provides: “In all courts of the United States the parties may

plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.”

Petitioner proceeded in state court pro se and informa pauper in accordance with 28 U.S.C. § 1915 but have been subjected to an unfair and partial tribunal deviation from rules of law in attempt to enforce her guaranteed liberty and property interests and rights secured by the constitution.

Thomas Ussin Brown retained the legal services of Chanel R. Debose of the Law Firm of Chanel R. Debose to file a Petition for Partition of Community in accordance with La. Rev. Stat: 9:2801. Petitioner retained Sharry I. Sandler of the Law Office of Sharry I. Sandler to represent her in the Partition claim. The attorneys fabricated, negotiated, and executed a joint stipulation agreement on behalf of their respective clients, and filed and maintained fabricated evidence in the record of the court to procure a judgment repugnant to the constitution of the United States and Louisiana.

- On April 12, 2012, Attorney Chanel R. Debose prepared and filed a Petition to Partition Former Community Property Owned Indivision with Verification and Detailed Descriptive List.
- Attorney Chanel R. Debose listed separate properties owned by Donna Smith as community, community property as Thomas Brown separate property with a combined value of \$89,000.00, and Thomas Brown separate liability as community liability in the amount of \$50,000.00.
- On July 19, 2012, Petitioner filed an Answer and Recoventional Demand in the Partition Proceedings.

- On December 4, 2013, attorney Debose filed a Motion to Have the Detailed Descriptive List of Thomas Brown Deemed to Constitute a Judicial Determination of the Community Assets and Liabilities with Order.
- On February 13, 2014, Attorney Chanel R. Debose requested a reset of the December 4, 2013 motion.
- On March 12, 2014, attorney Sharry I. Sandler filed Combined Detailed Descriptive List & Traversal of Donna Brown concurring with attorney Chanel R. Debose.
- On March 12, 2014, attorney Sharry I. Sandler authorized attorney Gordon S. Patton, a local attorney appearing pro hac vice, who met with attorney Chanel R. Debose and negotiated, drafted false covenants and forged Donna Smith Brown name on a written stipulation and typed her and Thomas Brown names on a joint stipulation and presented it to Judge Regina Bartholomew Woods for signature.
- On March 20, 2014, attorneys Chanel R. Debose and Sharry I. Sandler perpetuated a fabricated joint stipulation requesting Donna Brown, a permanently disabled person receiving social security benefits in the amount of \$750.00 per month, agreed to refinance her primary home, pay Thomas Brown 460.00 per month in rent, pay his separate SBA loan in the amount of \$50,000.00 with is actually \$40,000.00 in one-hundred eighty (180) days, and pay Thomas Brown \$20,000.00 in one-hundred eighty (180) days for his interest in and to any and all property that forms the basis of the Partition Suit in exchange to relinquish his ownership interest to Donna Smith Brown.
- On March 27, 2014, attorney Chanel R. Debose filed First Amended Detail Descriptive List that failed to recant fabricated assets and liability items.

- On March 27, 2014, attorney Chanel R. Debose moved to reset hearing on Judicial Determination of Descriptive List.
- On June 15, 2014, attorney Sharry I. Sandler and Chanel R. Debose file the fabricated and fraudulent Joint Stipulation a second time.
- On September 10, 2014, attorneys Sharry I. Sandler and Chanel R. Debose intentionally engaged in fraudulent misrepresentation and deceptive maneuvers to improperly obstruct justice.
- On October 23, 2014, attorney Sharry I. Sandler and Chanel R. Debose continued to intentionally engage in unlawful, unethical and tactics and practices by filing another joint stipulation without Donna Smith Brown participation or approval.
- On November 6, 2014, while awaiting trial and attorney Sharry I. Sandler arrive to court, attorney Sandler appeared, fraudulently induced, coerced and under duress instructed Donna Smith Brown that, she did not have to make an appearance in court, and Judge Regina Bartholomew Woods required her to sign the third joint stipulation agreement which was identical to the first two joint stipulation agreement fabricated and forged by Gordon S. Patton, Sharry I. Sandler and Chanel R. Debose.
- Donna Smith Brown never received notice to appear in court for any hearing set by the court or from her attorney, and Judge Regina Bartholomew Woods signed a consent judgment ex parte with Chanel R. Debose and Thomas Ussin Brown only without participation and consent or verification from Donna Smith Brown.
- The case was reallocated to (Respondent) Judge Monique E. Barial, who recused herself following motion for disqualification filed by Donna Smith Brown.

- The case was reallocated a second time before (Respondent) Judge Bernadette D'Souza, who recused herself following motion for recusal filed by Donna Smith Brown.
- The Petition for Partition of Former Community case is currently pending in the Civil District Court for the Parish of Orleans, Presiding Judge Veronica E. Henry, who is the fifth district judge to handle this case.

I.

REASON FOR GRANTING WRIT

1. The Supreme Court should grant a writ of certiorari to uphold the Constitution of the United States.

Donna M. Brown has been deprived and denied her day in court in violation of procedural and substantive due process rights and equal protection by the Louisiana judiciary system. It would be unconstitutional, unlawful, unethical and immoral to commission a court's authorization of a citizen due process violation.

No notice or opportunity to defend violates due process of law guaranteed in the Fourteenth Amendment. *Pennoyer v. Neff*, 95 U.S. 714 (1878).

2. A Writ of Certiorari Should be Granted to Prevent this Manifest Injustice.

The Louisiana District, Appellate and Supreme Court refuses to fulfill their obligation and duty of upholding judicial principles procedurally and substantively which adversely affected the protected rights of Donna M. Brown enshrined in the United States and Louisiana constitution. Under La. C.C.P. art. 1927, Petitioner never participated in any joint stipulation as intentionally and fraudulently misrepresented to the court by the attorneys. The judgment is void requiring vitiating pursuant to La. C.C.P. art. 1948.

3. The Judgment was Procured by Fraud and Fraud on the Court and Constitutes a Void.

Under La. c.c. art. 1953, Fraud is a misrepresentation, or a suppression of the truth made with the intention either to obtain an unfair advantage for one party or to cause a loss or inconvenience to the other. Fraud may also result from silence or inaction.

Fraud on the Court is where a material misrepresentation has been made to the court, or by the court. The main requirement is that the impartiality of the court has been so disrupted that it can't perform its tasks without bias or prejudice. Fraud on the court occurs where “it can be demonstrated, clearly and convincingly, that a party has sentiently set-in motion some unconscionable scheme calculated to interfere with the judicial system’s ability impartially to adjudicate a matter by improperly influencing the judge.

The Supreme Court has ruled and has reaffirmed the principle that “justice must satisfy the appearance of justice.”, *Levine v. United States*, 362 U.S. 610, 80 S. Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S. Ct. 11, 13 (1954).

Whenever any officer of the court commits fraud during a proceeding in court, he/she is engaged in “fraud upon the court”. *In Bullock v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated “Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statement, or perjury.... Where a judge has not performed his/her judicial function-thus where the impartial functions of the court have been directly corrupted.”

“Fraud upon the court” has been defined by the 7th Circuit Court of Appeal to “embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud

perpetuated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial tasks of adjudging cases that are presented for adjudication.” *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore’s Federal Practice, 2d ed., p. 512, 60:23. The 7th Circuit further stated, “a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final.”

“Fraud upon the court” makes void the orders and judgments of that court. It is also clear and well-settled that any attempt to commit “fraud upon the court” vitiates the entire proceeding. *The People of the State of Illinois v. Fred E. Sterling*, 357 Ill, 354, 192 N.E. 229 (1934) (“The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions.”), *In re Village of Willowbrook*, Ill. App. 2d 393 (1962) (“It is axiomatic that fraud vitiates everything.”). Under federal law, when any officer has committed “fraud upon the court”, the orders and judgment of that court are void or of no legal force or effect.

4. The Judgment of Louisiana District, Appellate and Supreme Court Deviate from Stare Decisis of the United States Supreme Court.

Every issue that happened subsequently to a void judgment is without merit because a void judgment can never gain legitimacy, any argument is also therefore without merit and also void. See *Armstrong v. Manzo*, 380 U.S. 545, 551, 552, the slate must be wiped clean when the right to be heard has been denied.

Petitioner Donna M. Brown invokes the doctrine of Res Ipsa Loquitar, as the judgment speaks for itself. Obviously, the judgment was signed without the participation of Donna M. Brown or her attorney of record. If not for the defiance of the judiciary, then filing for writ of certiorari would be superfluous.

La. C.C.P. art. 2002, provides for relief on the grounds of vices of form.

La. C.C.P. art. 2004, provides for relief on the grounds of vices of substance.

The trial court judgment should have been vitiated.

J.

CONCLUSION

For the foregoing reasons, the Supreme Court should grant this writ of certiorari to uphold the United States Constitution and laws defied by Louisiana Civil District Court for the Parish of Orleans, Fourth Circuit Court of Appellate and Louisiana Supreme Court in this case.

Respectfully Submitted
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CERTIFICATE OF SERVICE

I Certify on this _____ day of May, 2024, a copy of this writ of certiorari has been served on the following parties by depositing same in the U.S. mail, first-class with sufficient prepaid postage and properly addressed:

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