

Supreme Court, U.S.
FILED

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No. 24-212

IN THE
SUPREME COURT OF THE UNITED STATES

LEWIS ARCHER

Petitioner,

vs.

AMERICA'S FIRST FEDERAL CREDIT UNION and
JPM DREAM HOMES and INVESTMENTS, LLC

Respondents.

On Petition for A Writ of Certiorari To
THE SUPREME COURT OF ALABAMA

PETITION FOR WRIT OF CERTIORARI

LEWIS ARCHER
3024 Lloyd's Lane
Mobile, Alabama 36693
251 367-8904

First Question

1. Does the reversal of the ORDER of Sept. 1, 2021, [without due process], that granted Lewis Archer and his family the deed to their home of 30 years violate Mr. Archer's right to due process of law under Section 1 of the 14th Amendment to the Constitution of the United States of America?

Second Question

2. Does the reversal of the ORDER of Sept. 1, 2021, [without due process], that granted Lewis Archer and his family the deed to their home of 30 years violate Mr. Archer's right to equal protection of the laws under the equal protection of the laws clause of Section 1 of the 14th Amendment to the Constitution of the United States of America?

Third Question

3. Does the Alabama Supreme Court setting aside Alabama Code §12-3-10 concerning the Alabama Court of Civil Appeals not having original jurisdiction over matters in excess of \$50,000, such as the Archers' home which was transferred to JPM Dream Homes LLC. for \$150,000, violate Mr. Archer's right to due process of law under Section 1 of the Fourteenth Amendment to the Constitution of the United States of America?

Fourth Question

4. Does the Alabama Supreme Court setting aside Alabama Code §12-3-10 that states that The Alabama Court of Civil Appeals does not have original jurisdiction over matters in excess \$50,000, such as the Archer's home which was transferred to JPM Dream Homes LLC. for \$150,000, violate the equal protection of laws clause under Section 1 of the Fourteenth Amendment to the Constitution of the United States of America?

Fifth Question

5. Does the Alabama Supreme Court setting aside Alabama Code §12-2-7(6) concerning transferring cases in excess of \$50,000 to the Alabama Court of Civil Appeals for jurisdiction to exist, such as the Archer's home which was transferred to JPM Dream Homes LLC. For \$150,000, violate Mr. Archer's right to due process of law under the Fourteenth Amendment to the Constitution of the United States of America?

Sixth Question

6. Does the Alabama Supreme Court setting aside Alabama Code §12-2-7(6) concerning transferring cases in excess of \$50,000 to the Alabama Court of Civil Appeals for jurisdiction to exist, such as the Archer's home which was transferred to JPM Dream Homes LLC. For \$150,000, violate Mr. Archer's right to equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States of America?

Seventh Question

7. Does the fact that there is “no defense for Federal Mitigation wrongdoing by lenders in non-judicial State court” while such defense naturally exists in federal court, violate the Equal protection clause of the Fourteenth Amendment?

Eight Question

8. Does the fact that there is “no defense for Federal Mitigation wrongdoing by lenders in non-judicial State court” while such defense naturally exists in federal court, violate the Federal “Supremacy Clause” in the Second paragraph of Article VI of the US Constitution?

Ninth Question

9. Since a lender can stretch its RESPA abuse such as Dual-Tracking over many months or years to use up the victim’s three-year Statute of Limitation Period, in this case 19 months of dual-Tracking followed by a non-judicial state court procedure stretched for 2 years, should

Equitable Tolling of the Statute of Limitation be applied in
RESPA (Real Estate Settlement Procedure Act) cases?

PREAMBLE TO THE NINE QUESTIONS

After reviewing this Court's Case No. 20-1525, *Lewis Archer, Petitioner v. America's First Federal Credit Union*; reviewing also, the U.S. Court of Appeals for the Eleventh Circuit's Case No. 19-15182, *Lewis Archer and Shearie Archer v. America's First Federal Credit Union*; reviewing also, The U.S. District Court for the Southern District of Alabama's Case No.1:19-cv-00258-TFM-MU;reviewing also, a Magistrate Judges Report from that U.S. District Court; reviewing also The Alabama Court of Civil Appeals Case No. 2180136, The Mobile, Alabama Circuit Court issued a valid ORDER on Sept. 1, 2021 that interpreted its own Judgment/Writ of Possession Order from June 25, 2018, 3 ½ years prior, as NO ACTION / No Jurisdiction, effectively granting the Archers the deed to their home of 30 years ending a long legal battle.*[Appendix A]*.

Three and a half months later, without affording the Archers due process of law, the Mobile, County Circuit Court issued a new order reversing its interpretation, put the Archers out of their home of 30 years and gave it to America's First Federal Credit Union which then, transferred the deed to the Archer's home of 30 years to investor JPM Dream Homes and Investments, LLC for \$150,000. This prompted this legal action.

On July 12, 2024, The Alabama Supreme Court, setting aside its own rules of due process of law concerning matters in excess of \$50,000, such as the Archer's home, ¹Alabama Code § 12-3-10, certified an April 19, 2024 judgment of The Alabama Court of Civil Appeals affirming a July 25, 2023 decision of the Mobile County Circuit Court. It did so without jurisdiction being transferred to the Alabama

¹ (*The Court of Civil Appeals shall have exclusive appellate jurisdiction of all civil cases where the amount involved, exclusive of interest and costs, does not exceed \$50,000...)* Alabama Code§ 12-3-10

Court of Civil Appeals as required by law. ²*Ala. Code § 12-2-7(6).*

In addition, navigating through this entire legal process revealed that thousands of families are being put out of their homes by way of a RESPA (Real Estate Settlement Procedure Act) loophole found in Non-Judicial foreclosure State Courts such as Alabama. According to this loophole, a mortgagee's failure to comply with federal loss-mitigation regulations cannot be asserted as a defense in an ejectment action in Non-Judicial State Courts. In addition, there is currently a conflict among U. S. Circuit Courts of Appeals concerning Equitable Tolling of the Statute of Limitation in RESPA cases such as this one. This is yet to be addressed by the U. S. Supreme Court.

² *The Supreme Court shall have authority to (6) To transfer to the Court of Civil Appeals, for determination by that court, any civil case appealed to the Supreme Court and within the appellate jurisdiction of the Supreme Court*

CORPORATE DISCLOSURE

Petitioner- does not have a parent corporation and is not a publicly held corporation.

- *Lewis Archer v. America's First Federal Credit Union and JPM Dream Homes and Investments, LLC* Jointly and Severally No. CV-2023-900926 Circuit Court of Mobile County, Alabama, July 25, 2023.
- *Lewis E. Archer v. America's First Federal Credit Union and JPM Dream Homes and Investments, LLC*; CL-2023-0564, The Alabama Court of Civil Appeals. Judgment entered April 19, 2024.
- *Ex parte Lewis E. Archer, Petitioner v America's First Federal Credit Union and JPM Dream Homes and Investments LLC*; No. SC 2024-0272, Supreme Court of Alabama, Judgment entered July 12, 2024

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below

OPINIONS BELOW

Notwithstanding the plea by both Respondents of the necessity to adhere to Ala. Code § 12-3-10 and Ala. Code § 12-2-7(6) in order for due process to exist in this appeal *[Appendix D, sixteenth page, ¶1]*, the Supreme Court of Alabama on July 12th 2024, nonetheless, adopted the April 19th 2024 decision of the Alabama Court of Civil Appeals of a July 25th 2024 decision of the Mobile County Circuit Court.

JURISDICTION

The decision of the Supreme Court of Alabama was
on July 12th, 2024.

The jurisdiction of this Court is invoked under 28
U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

1. 14th Amendment to the United States Constitution, Section 1.

“nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. US Constitution Article VI Paragraph 2

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding

STATEMENT OF THE CASE

This case should not have been necessary. The Mobile, Alabama Circuit Court had already granted the Archers the Deed to their home of 30 years with the NO ACTION / No Jurisdiction Order of Sept. 1st, 2021, (Appendix A), which interpreted its own judgment/writ of possession order from 3 ½ years prior. The Court did so after reviewing this Court's, case United States Supreme Court Case No. 20-1525, *Lewis Archer, Petitioner v. America's First Federal Credit Union*; reviewing also, the U.S. Court of Appeals for the Eleventh Circuit's Case No. 19-15182, *Lewis Archer and Shearie Archer v. America's First Federal Credit Union*; reviewing also, The U.S. District Court for the Southern District of Alabama's Case No.1:19.cv.00258.TFM.MU; reviewing also a Magistrate Judges Report from that U.S. District

Court; reviewing also, The Alabama Court of Civil Appeals Case No. 2180136.

Urged by Respondent AFFCU, The Mobile, Alabama County Circuit Court reversed its Sept. 1, 2021 order three and half months later without affording the Archers their due process, necessitating this legal action to reclaim the Deed to the Archer home of 30 years.

Both Respondents, America's First Federal Credit Union and JPM Dream Homes and Investments, LLC., made it clear in their briefs to the Alabama Court of Civil Appeals that it is without original jurisdiction to hear this appeal concerning the Deed to the Archer home of 30 years that is valued much over \$50,000 per Alabama Code §12-3-10, without Jurisdiction being transferred to it as required by Alabama Code §12-2-7(6) as the Alabama Supreme Court has done twice in the past. Appendix

D, sixteenth page, ¶1]. They plead to the court to observe those two Alabama Codes as it has done twice in the past in order for jurisdiction to exist. The Alabama Court of Civil Appeals nonetheless proceeded with its decision without adhering to its due process, jurisdictional Codes.

The Supreme Court of Alabama setting aside both, [Alabama Code §12-3-10 and, Alabama Code §12-2-7(6)] as well, affirmed the Alabama Court of Civil Appeals decision prompting this Petition to the United States Supreme Court.

REASON FOR GRANTING THE PETITION

“A petition for a writ of certiorari will be granted only for compelling reasons.” Sup. Ct. R. 10. There are not only “compelling reasons” for this Court to hear this case. Amazingly, this case falls within all of the examples listed in Rule 10 (b), (c) and possibly (a)! See Rule 10(a)-(c) (listing the categories

indicative of "the character of the reasons the Court considers").

Rule 10 (b): "a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals"; The Supreme Court of Alabama's affirmation simply ignores the Petitioners federal right to due process and equal protection guaranteed under the Fourteenth Amendment Section 1 of the U. S. Constitution.

Rule 10 (c) "a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be settled by this Court," The no defense for Federal loss mitigation abuse in non-judicial State court that lenders use to deprive thousands of homeowners of their homes and the unsettled law amongst the 12 Federal Circuit

Courts of Appeals concerning tolling of the Statute of Limitation in RESPA cases is simply exploited early before it reaches the U.S. Supreme Court! This way, it can be cleverly said to the U.S. Supreme Court that it will not change the outcome of the case!

Rule 10 (a) *“has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power;”* The Supreme Court of Alabama simply affirmed and gave its approval of the Mobile County Circuit Court and the Alabama Court of Appeals ignoring due process after the valid Sept. 1, 2021 Order had already granted the Archers the deed to their home of 30 years.

Granting this petition will not only help the Archers to get the due process and equal protections

afforded by the Constitution of the United States and remain in their home of 30 years that they more than paid for, it will motivate and encourage regular citizens, especially seniors to fight for justice afforded by the Constitution for what they work so hard for during their entire lives; their homes!

A favorable outcome for questions 7 through 9 will literally give thousands of homeowners across this nation in the non-judicial foreclosure states such as Alabama, the fair chance that they currently do not have in order to fight for their homes.

It will remove the no defense for Federal loss mitigation abuse in non-judicial State court that lenders use to deprive thousands of homeowners of their homes. It will also help the courts appellate jurisdiction by resolving the existing conflict among U. S. Circuit Courts concerning the potential to

Equitably toll the Statutes of Limitation of RESPA cases such as this one.

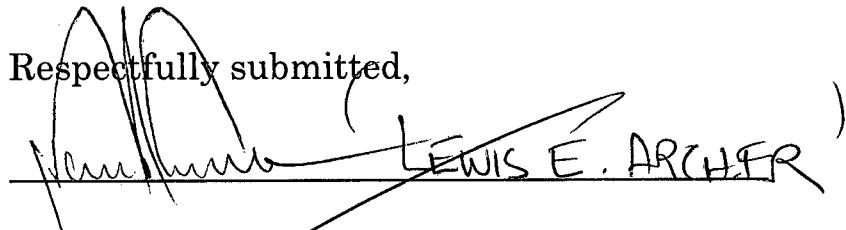
CONCLUSION

We pray that this honorable court grants this Petition for Writ of Certiorari review as this will assist the Supreme Court of Alabama with uniformity concerning its Codes and keep citizens such as the Petitioner from being deprived of due process and equal protection afforded under the law.

The Petitioner prays that the United States Supreme Court takes into consideration that this issue is of importance to thousands of homeowners far beyond the petitioner involved. Many abuses by lenders have surfaced in recent years. Additionally, it is unsettled law amongst the 12 Federal Circuit Courts of Appeals concerning tolling of the Statute of Limitation in RESPA cases such as this one.

The petition for a writ of certiorari therefore
should be granted.

Respectfully submitted,


LEWIS E. ARCHER

Date: 8/23/2024