

No. 24-5148

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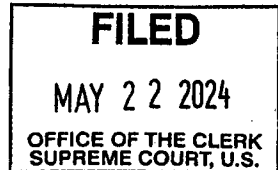
IN THE  
SUPREME COURT OF THE UNITED STATES

ALEXANDER HARVIN,

*Petitioner,*

JP MORGAN CHASE BANK, N.A., et.al.

*Respondents*



On Petition for a Writ of Certiorari  
To the United States Court of Appeals  
For the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

In 2014 Petitioner challenged the validity of an Assignment of Security Deed that was filed in the land records of Rockdale County, Georgia. The District Court held that the assignment was a contract that Petitioner was not a party to, O. C. G. A. § 9-2-20, Petitioner could not challenge the legality of the Assignment. The 11<sup>th</sup> Circuit Court of Appeals affirmed.

Fast forward to 2018, Respondents under the guise of foreclosure acquired Petitioner's residence. The Assignment of Security Deed was the foundation that caused Petitioner to lose his home—Petitioner has never been in debt to Respondents. Petitioner filed an action in 2018 citing RICO violations, the district court held that res judicata bars any challenge to the 2018 foreclosure, the 11<sup>th</sup> Circuit Court of Appeals affirmed, holding that res judicata bars the filing of claims which were raised or could have been raised in an earlier proceeding.

1. The first question presented is could the Petitioner have raised the issue of wrongful / illegal foreclosure in the 2014 court proceedings?

The State Courts of Georgia have developed a process which guarantees that the foreclosing entity will always win any challenge to the foreclosure by the homeowner. Federal Courts must follow suit because this process has been defined as Georgia Law. No homeowner in Georgia who has filed a legal challenge to a foreclosure has ever won in Georgia's state or federal courts.

The process works in this manner: (a) the homeowner files an action against the foreclosing party in Superior Court, (b) the lawyer for the foreclosing entity files a motion to dismiss

arguing that the Assignment of Security Deed is a contract, which the homeowner is not a party to, (c) discovery is denied pending resolution of the motion to dismiss (d) without hearing any testimony or viewing supporting evidence that confirms the Assignment is a contract, the state court judge always declares the document is a contract and acting under color of law invokes O. C. G. A. § 9-2-20, telling the homeowner he / she has no standing to challenge the Assignment of Security Deed, in Georgia the foreclosing party always gets a free house, and the federal courts always affirm.

2. The second question presented is whether the application of O. C. G. A. § 9-2-20 by Georgia's state and federal judges acting under color of law deny homeowners their constitutional rights to Due Process and Equal Protection of law?

In Georgia ninety-nine-point nine percent of all judicial challenges to non-judicial foreclosures are initiated by pro se litigants. Georgia's state and federal courts consistently tell these pro se litigants that the Assignment of Security Deed is a contract that you have no standing to challenge, and they routinely tell the pro se litigant that they will not be allowed to pursue any form of discovery.

3. The third and final question presented is when the state or federal court applies O. C. G. A. § 9-2-20, and halt discovery, is this a violation of the constitutional right to unhindered access to the courts?

In many of these cases the state court judges allow the lawyer representing the foreclosing party to draft the order denying relief and the judge signs it.

### **LIST OF PARTIES**

All parties do not appear in the caption of this case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. JP Morgan Chase Bank, N. A.
2. Nationwide Title Clearing, Inc.
3. Wargo & French, LLP
4. Kutak Rock, LLP
5. Aldridge Pite, LLP

## **RELATED CASES**

1. Harvin vs JP Morgan Chase Bank, N. A. et.al.

Case # 1: 21-CV-03355-MHC

U. S. District Court

2. Harvin vs JP Morgan Chase Bank, N. A., et., al.

Case # 22-11643-F

11<sup>th</sup> Circuit Court of Appeals

2. There has been protracted litigation between Harvin and some of the opposing parties.

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## **PETITION FOR A WRIT OF CERTIORARI**

Alexander Harvin, appearing pro se, petitions for a writ of certiorari to review the judgment of the U. S. Court of Appeals for the Eleventh Circuit.

## **OPINIONS BELOW**

The opinion of the court of appeals, Appendix A, is unpublished and was filed on April 12, 2023. Rehearing denied, Appendix B, on March 21, 2024. The opinion of the district court, Appendix C, is unpublished, filed on March 22, 2022.

## **JURISDICTION**

The court of appeals entered its judgment on April 12, 2023. On March 21, 2024, the Eleventh Circuit entered an order denying a timely filed petition for rehearing, per curiam. On May 28, 2024, the Clerk of the U.S. Supreme Court extended the time to file a petition for writ of certiorari to July 29, 2024.

Petitioner invokes this Court's jurisdiction under 28 U. S. C. § 1254 (1).

## **CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED**

The 14<sup>th</sup> Amendment to the United States Constitution, as applied to the States, provides that "No state shall make or enforce any law that shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property, without due process of law, nor



shall any state deny to any person within its jurisdiction the equal protection of laws.”

### **STATEMENT OF THE CASE**

This case raises an important question concerning the right of homeowners in the State of Georgia to judicially challenge a document commonly referred to as an “Assignment.” This document is the foundation for non-judicial foreclosure in Georgia. Citing O. C. G. A. § 9-2-20, State and Federal courts have held that the Assignment is a contract and because the homeowner is not a party / beneficiary to the contract, the homeowner has no standing to challenge the Assignment.

This Georgia statute is rigorously enforced, and its application guarantees that the foreclosing entity will always prevail, even if there is evidence of fraud, or evidence that the contract never transferred title of the homeowner’s property to the foreclosing party.

The evidence attached to the complaint filed in the District Court clearly shows that the Assignment did not transfer a secured interest / title in Petitioner’s property to Respondent Chase. The District Court and the Eleventh Circuit Court of Appeals chose to disregard the evidence. Respondents in their reply to this

petition for writ of certiorari will not mention the evidence attached to the complaint.

Contrary to O. C. G. A. § 9-2-20, there is O. C. G. A. § 11-9-203 (b)(1), which says: “a security interest is enforceable against the debtor and third parties with respect to the collateral only if: (1) “value has been given.”

Subsection (2) of the statute says that the debtor (homeowner) has rights in the collateral (property) or the power to transfer rights in the property to a secured party.

Clearly, Georgia law, 11-9-203 (b)(1)(2), gives the homeowner the right to challenge the Assignment on this basis that (1) Respondent Chase has not paid value for the right to enforce a secured interest in the property, (2) the homeowner has rights in the property., and (3) the assignment did not transfer title / a secured interest in the property to Respondent Chase.

In reference to the exhibits attached to the complaint filed in the district court it is very clear that the Assignment did not transfer a secured interest in my property to Chase, nor did the Assignment convey title in my property to Chase.

The evidence attached to the complaint filed in the district court shows that:

1. In 2011, Petitioner filed suit against Wells Fargo Bank, N. A., JP Morgan Chase Bank, N. A., and others. Wells Fargo appeared as successor by merger to Wachovia Bank, N. A., as successor by merger to Southtrust Mortgage Corporation. In court pleadings Wells Fargo as the owner of the

mortgage conceded that, “Wells Fargo no longer maintains an interest in the subject property [Petitioner’s] property.”

2. Also in 2011, JP Morgan Chase Bank, N. A., was the servicer responsible for forwarding mortgage payments to Wells Fargo. When Wells Fargo conceded that it no longer held a secured interest in Petitioner’s property, two critical things occurred: (a) JP Morgan Chase Bank, N. A. position as servicer for the loan was terminated, and (b) MERS position as the lienholder for the secured interest in the property was terminated.
3. In 2013 Respondent Nationwide Title Clearing, Inc., created and filed in the public land records an “Assignment of Security Deed” that alleges that MERS acting on behalf of an un-named party sold a secured interest in Petitioner’s property to Respondent Chase.
4. In 2016 Petitioner filed suit against Nationwide Title Clearing, attorney Jeremy Ross appeared as counsel for NTC. Within court pleadings attorney Ross conceded that Chase hired NTC and required that NTC create an Assignment of Security Deed that appears to give Chase a secured interest in Petitioner’s property.
5. In 2018 using the Assignment of Security Deed as foundation, Respondent Chase non-judicially foreclosed on Petitioner’s property.
6. Petitioner has never had a loan or mortgage with Respondent Chase.
7. In 2021 Petitioner filed a civil complaint for money damages and other relief against Respondents on the basis that each respondent was in

violation of federal and state RICO statutes, and for civil conspiracy associated with a foreclosure action.

Petitioner's reference to the Assignment of Security Deed was mentioned as a supplemental fact to the central theme of the complaint, which was the violation of the RICO statutes. *Slorp vs. Lerner*, 587 F. App'x 249 (6<sup>th</sup> Cir. 2014).

The reality is that Georgia courts, federal and state, have elected to invoke O. C. G. A. § 9-2-20 as a method of clearing cases from their docket. Most cases filed in state and federal courts concerning issues related to foreclosure are filed by pro se litigants—Georgia courts have effectively declared that homeowners in Georgia have no rights that the judiciary is bound to respect or acknowledge. With judicial might Georgia courts do not allow pro se litigants to pursue discovery in their challenge to the wrongful taking of their homes.

Under 11<sup>th</sup> Cir. Case law, the district court and the court of appeals must consider any document / exhibit attached to the complaint. *Hoefling vs City of Miami*, 811 F.3d 1271 (11<sup>th</sup> Cir.2016).

Yet in this case, neither the district court nor the court of appeals mentioned the effect of the exhibits attached to the complaint filed in the lower court. The failure of these courts to acknowledge the evidence of fraud and RICO violations associated with the foreclosure violates the basic tenets of Due Process and Equal Protection of law. Homeowners have a possessory interest/ right in their property that is sufficient to invoke Due Process and Equal Protection safeguards that

would allow a legal challenge to contest whether an Assignment has transferred a secured interest in the property to the foreclosing party, and whether the foreclosing party has paid value for the right to enforce a secured interest.

Some form of evidentiary hearing / limited discovery is mandatory before a person is deprived of their property. This right is a basic aspect of the duty of judges acting under color of law to follow a process of decision making that is fair to all concerned parties when they act to deprive a person of their property.

In February 2012, the Georgia attorney general, and forty-eight other attorney generals from various states, the District of Columbia, and the federal government entered into the National Mortgage Settlement Agreement. This agreement acknowledged that foreclosing entities such as Respondent Chase were using false, forged, fabricated, documents to initiate foreclosure. The State of Georgia received millions of dollars in lieu of the settlement.

JP Morgan Chase Bank, N. A., continues to use fake, fabricated documents to acquire property under the guise of foreclosure in Georgia. The judiciary in Georgia, state and federal acting under color of law have told homeowners that they can never challenge the documents used by foreclosing parties to acquire property via non judicial foreclosure. This practice of judges giving free houses to entities such as Respondent Chase must cease.

## REASONS TO GRANT THE PETITION

The decision below is flatly inconsistent the Due Process of law and Equal Protection of law clauses of the 14<sup>th</sup> Amendment to the U. S. Constitution.

Most courts have held that assignments are contracts, and as a general matter, are regulated by the common law of contracts. *6A C. J. S. Assignments § 123 (2014)*. The district court and the court of appeals held that because Petitioner mentioned the word “assignment” within his complaint, res judicata denied his assertion that the foreclosure violated federal and state RICO statues. Georgia’s O. C. G. A. § 9-2-20 should not be read so broadly as to preclude all homeowners from challenging the validity of mortgage assignments. The deep issue concerning every challenge to an assignment is whether the assignment (contract) effectively passes legal title / secured interest to the assignee. The homeowner is not seeking to enforce the terms of the contract, he / she simply wants to know did this contract transfer legal title of their property to the foreclosing party.

If the contract / assignment is out of order the foreclosing party should not be allowed to take property under the guise of foreclosure. Courts have a duty to determine whether assignments transfer legal title to the foreclosing entity—but state and federal courts in Georgia have, for the sake of expediency concluded that it is better to simply give a free house to the foreclosing party. This practice of giving free homes to banks is unacceptable and unethical.

Petitioner's complaint alleges that the assignment of security deed was fraudulent, and that JP Morgan Chase Bank did not hold title at the time of foreclosure.

O. C. G. A. § 11-9-203 (b)(1)(2) provides sufficient standing to challenge the assignment, this statute states that a secured interest cannot be enforced unless the party seeking to enforce a secured interest has paid value, in laymans terms Respondent Chase has not paid value to anyone for the right to enforce a secured interest. Subsection (2) declares that the debtor has rights in the property aka collateral.

Georgia law clearly provides that Petitioner has rights in his property therefore he has standing to ask a court to ascertain whether the assignment has transferred legal title.

Petitioner's complaint alleges that the Respondents used various schemes to mislead state and federal courts to deceive those courts into concluding that the assignment of security deed was an actual contract between Chase and some unknown party. The intent of this scheme was to fraudulently deprive Petitioner of his home through an illegitimate foreclosure sale. The foundation for this scheme revolved around a fraudulent assignment of security deed and a related foreclosure action. The objective of this scheme to defraud was to obtain title to Petitioner's home via foreclosure.

The evidence attached to the complaint supports the aforesaid. In their response to this request for certiorari review Respondents will not tell this Court: (1) How and when did Chase become the "owner" of the mortgage? (2) What is the name of the party Chase paid value to, in return for a secured interest in Petitioner's property?

### CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'A. Harvin', is written over a horizontal line.

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