

24-5193

No. _____

ORIGINAL

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JUN 07 2024
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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

James Clifford — PETITIONER
(Your Name)

vs.

Carla Walker, YACCO INC. RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals Eighth Circuit (Thomas F. Eagleton)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

James Clifford
(Your Name)

3316 N. 3rd St. Upper
(Address)

Milwaukee, WI 53212
(City, State, Zip Code)

301-653-3321
(Phone Number)

JAMES CLIFFORD,
))
Plaintiff,))
v.))
Carla Walker, Yarc Inc. et al.,))

Federal Questions for Writ of Certiorari

Now comes the Plaintiff James Clifford respectfully your Honor. Federal Questions for Writ of Certiorari

(1.) Does the failure of the Appellate Court to recognize and address a procedural error, especially the entry and subsequent denial of default judgment outside the time limits set by the district court constitute the fundamental principles of due process and fair adjudication under the Fourteenth Amendment of the Constitution of the United States?

(2.) Is the federal standard for default judgments the same across all circuits in the federal court system? If the standards are the same, what are the differences between the Fifth Circuit and the Eighth Circuit courts regarding default judgments? Why might the Eighth Circuit's standard differ from the Fifth Circuit's standard when rendering a default judgment?

(3.) Does the Supreme Court recognize the uses of racially derogatory language, such as the word "nigger," as strong evidence of discriminatory intent or hostile environment in discrimination cases?

(4.) How can pro se plaintiff effectively address due process violations under the 14 amendment particularly related to racial discrimination outlined in Title VII and Title VIII under Civil Rights Act of 1964 and 1968, within the Eighth Circuit, despite diligently following all legal procedures to the best of his knowledge and ability, in pursuit of Justice?

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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

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 2/23/2024.

[] No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 3/26/2024, and a copy of the order denying rehearing appears at Appendix A.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

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

James Clifford petitioner

v

Yarco Inc, Carla Walker respondent et, al

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States. The petitioner respectfully prays that a Writ of Certiorari issue to review the judgment of the Western District Court of Missouri in the Eighth Circuit entered in this case on Aug.3,2022.

The Appellate Court deprived plaintiff of due process by failing to provide the plaintiff with the fair opportunity to have his claims properly adjudicated, by relying on decision made by Eighth District Court.

Statement of case

District Court Errors of Not Granting Default Judgment

In the 8th circuit court, Clifford versus Walker, after filing the HUD complaint in November of 2021 and initiating the federal lawsuit on January 27,2022, the plaintiff moved for a default judgment on March 1,2022 citing the defendant's failure to meet Court issued response deadlines; nor did they contest the default judgment. However, Eighth District Court, Judge Fenner, denied the default judgment on March 15,2022, which was **eight days prior to the defendants even submitting a Notice to Appear.**

The defendants did not respond to any Court ordered deadlines until March 23, 2022 when the defendant's attorney filed a motion to appear, 56 days after the initiation of the lawsuit.

The Default Judgment motion was filed March 1,2022, after defendants did not respond to being served by the U.S. Marshal's on Feb 15,2022. When no response was given Judge Fenner did not rule on the motion until March 23, 2022, after the defendant's attorney filed their Notice to Appear.

The issue at hand is that the defendants made their presence known 56 days after the actual complaint was filed, and missed 3 different court deadlines.

The rules of Federal Court Procedure state that once the complaint is filed by the petitioner, the respondents should appear within 14 to 21 days of set complaint unless directed by the courts.

Judge Fenner had shown no direct instruction for allowing the defendants to show up late, and allowing them to miss set deadlines, depriving the plaintiff of his due process rights under the 14th amendment, and failed to rule on the default judgment which should have been granted before March 23, 2022, before the defendants entered their notice to appear.

In the 5th Circuit Court *James Clifford vs Bryan Construction case 10-cv-1352* a ruling for default Judgment was granted by Judge Hornsby and Judge Stagg in September, 2012.

Under Objections, in the Memorandum Order, Judge Hornsby states "A party's failure to file written objections to the proposed findings, conclusions and recommendations set forth above, within 14 days after being served with the copy, shall bar that party, except upon grounds of plain error, from attacking on appeal unobjected-to proposed factual findings and legal conclusions accepted by the District Court. (Last paragraph, page 2) See Douglass v. U.S.A. 79F.3d 1415 (5thCir. 1996) (en banc)

For the reasons outlined above, the petitioner respectfully requests this honorable Court to consider the application of rule 55 of the Federal Rules of Civil Procedure regarding the failure of the respondent to respond within the prescribed time frame, thereby warranting a default judgment in favor of the petitioner. Additionally, the petitioner invokes rule 60 to seek relief from the lower court's denial of the default judgment, citing exceptional circumstances and procedural irregularities that were not reviewed by the court.

The Fifth Circuit Court gave a detailed Memorandum Order of Default Judgment on the same matter that the plaintiff James Clifford has been asking for, Judge Fenner and the Eighth Circuit Court for, under Civil Rule 55 and Rule 60. Judge Fenner's decision seems unjust toward the plaintiff because everything that

the defendants had presented came after the fact of a request for Default Judgment.

This case represents a miscarriage of justice that should not go unnoticed. Any defense entered by the defendants should be stricken from the record, including Summary Judgment, which demonstrates bias from Judge Fenner. Judge Fener's states, "the plaintiff is black and Walker is a woman of color," (pg5., para3) is irrelevant to the actual complaint. **(Appendix D)**

District Court Errors in Summary Judgment

The decision made by Judge Fenner contains several biased, flawed, and inconsistent errors. One significant issue is related to the default judgment filed by the plaintiff before the defendants responded with their notice of appearance, 56 days later. The default judgment was denied without any explanation provided to the plaintiff and no published opinion to clarify the reasoning.

*1) Judge Fenner states "He dropped his Discrimination claim." That is inaccurate. (Pg. 5.) (D.) **(Appendix E)**

*2. Judge Fenner says that "the State Court's decision in the Unlawful Detainer case precludes this court from reconsidering the legitimacy of the eviction." Importantly, the Plaintiff did not seek consideration regarding the eviction in the Lower Court, and secondly, the eviction issue was unrelated to the original Discrimination Complaint filed. (Pg.10.) (Last para.)

*3) The Summary Judgment should have been overturned due to several factors including false information contained within it. This case arises from a decision from the Eighth District Circuit court which ruled against the plaintiff based on a purported failure to establish facts supported by exhibits. The plaintiff had submitted a detailed motion for a statement of facts, explicitly citing and describing each relevant exhibit. Despite this, the lower court concluded that the facts were not adequately supported leading to an unjust ruling. **(Appendix F)**

*4) Judge Fener's decision states "to extents plaintiff exhibits index (Doc.95.) Reasonably indicates a cited exhibit controverts one of the Defendant's stated facts." (Pg. 2.) (Para. 1.) Then goes on to say "Plaintiff has no evidence Walker

knew of this lawsuit before mid-February." (Pg.6., Para.,2.). Judge also stated "Plaintiff verbally told Walker he was instructed not to speak to her because of the Federal Case against her." (Pg.,5 (D) Para 1.).

The district Court violated plaintiffs due process by failing to apply the correct legal standards in evaluating the summary judgment motion and in not giving proper weight to the Discrimination claim that plaintiff originally filed.

The court also denied the plaintiff of his due process rights to a fair hearing and the opportunity to present evidence and arguments, by imposing filing restrictions. **(Doc 75)**

The District Court relied solely on the defendant's Summary Judgment motion, related to the unlawful detainer, prevented plaintiff from fully presenting his discrimination case and having to defend it against the motion. The District Court should have considered both the Federal Discrimination complaint and the State Unlawful Detainer issue separately rather than conflating the two. **Parallel Proceeding is doing both the State and Federal cases during the same time, Clifford adhered to all court order deadlines in both cases, whereas the defendants missed every Federal court order deadline till they put their Notice of Appearance in,56 days after the original complaint was filed.**

The lower court judge consistently referred to the HAKC policy/rule throughout his decision. Judge Fenner states "a guest can remain in the assisted unit no longer (14) consecutive days or total of (30) days during any 12-month period, despite the absence of a signed contract. In the HUD investigation, while being asked questions by EOS Gall, EOS Gall asked defendant Walker **"how is this policy communicated with the tenants?"** Defendant Carla Walker says **"the HAKC policy is not in the lease, we have a 5 consecutive day corporate wide policy."** **(Redacted FIR HUD Report) (Pg 15 no.11.)** That HAKC policy is not in any lease signed nor in HUD Addendum by the plaintiff James Clifford **(Appendix G)**

The District Courts abused its discretion by failing to apply the correct law or by basing its decision on a clearly erroneous finding of a material fact. It rested its decision on the information provided by the defendant which Walker the property manager committed perjury, not only in her deposition but the HUD investigation by EOS Gall.

*10/28/2021 the Plaintiff James Clifford was on the phone with friends when passing the office, the Defendant's Carla Walker and Maurice Walker referred to the Plaintiff James Clifford as a "Lil nigger". The Plaintiff's initial response was calling them "Uncle Tom Sons of Bitches." Michael Ruffin, David Gross, and Nabeel Khiyar were on the phone during the interaction, the phone records, page 145 of the AT&T records will support the facts. **(Appendix F)**

*10/28/2021 Immediately following the incident Plaintiff called and spoke with Dennis Watts at Yarco Inc advising him Plaintiff would be taking legal action. Plaintiff also called HUD in Washington D.C. left a message, they were closed. The Plaintiff was still on the phone with the same witnesses as reflected by the same phone record.

*11/02/2021 Plaintiff called to file a HUD complaint in Washington, D.C. spoke with an intake specialist. Someone from the Kansas City office will get in touch with him.

*11/05/2021 HUD FHEO Specialist Ms. Rainey called plaintiff back from the KC, KS. office, explained what occurred and filed a Complaint.

*11/29/2021 the Plaintiff James Clifford received a charge number from HUD as an official Complaint. Ms. Rainey informed the Plaintiff at that time the Defendant Carla Walker was avoiding the Complaint. Plaintiff stayed in contact with Ms. Rainey till 02/17/2022 when HUD Investigator EOS Gall took over.

*12/02/2021 Plaintiffs apartment building had a building wide inspection replacing the smoke detector batteries and furnace filters. Defendants Carla Walker, Maurice Walker, and maintenance man Michael Rivers came to the Plaintiffs apartment to do the change. Later that day the Plaintiff signed and emailed Ms. Rainey the charge number papers back, and by end of day the Plaintiff received a Lease Violation from Defendant Carla Walker saying "second Lease Violation for Unauthorized Guest staying longer than the allowable time frame per HAKC and or your Community Policies" and Lease Violation for suspected vandalism and drug activity.

12/09/2021 The Plaintiff declined to meet with the Defendant due to the Defendant Carla Walker's disrespectful treatment, which included racial derogatory name-calling. After missing the meeting, the Defendant Walker

knocked on Plaintiff's door, Plaintiff then informed her he was advised not to talk to her because there was a Federal Lawsuit against her. Later that day the Defendant returned with a letter acknowledging the Plaintiff's stance, and within the same letter, stated her intention to forward it to her RPM. (Dennis Watts) **(Appendix F pg4).**

*01/24/2022 Plaintiff went to Western District Courthouse in Kansas City to file a Federal Discrimination case against Carla Walker and Yarco Inc.

*01/27/2022 Granted permission to proceed and act as Pro Se.

*01/31/2022 Plaintiff posted paperwork from the Court on the front door of his apartment at 11:00 AM. Later that day Plaintiff received another lease violation for "Unauthorized Guest" staying longer than the allowable time frame per HAKC and or community policies. This notice also included a warning that management would be forwarding Lease Violation to legal for further actions.

*02/03/2022 Plaintiff went to the Courthouse to file a legal motion to have the Defendant's served by the U.S. Marshals in accordance with Federal Civil Rules of Procedure. Upon arriving at the Courthouse, the Defendants Carla Walker and Maurice Walker entered the Plaintiff's unit under false pretenses with a work order that was never generated by the Plaintiff at any point while residing at St. Michaels. The Plaintiff called the Kansas City Police department to address the matter. The Plaintiff was informed of these actions by witness's Marie Craig and Plaintiff's girlfriend Latisha Brown. The Defendants claimed that changing the battery in a "chirping" smoke detector" was an "emergency" and reason to enter without notice, (was not chirping) Since the Plaintiff's smoke detector battery was changed on 12/02/2021, the smoke detector battery never chirped when the Plaintiff resided there. Plaintiff received another "Lease Violation" for derogatory language towards management, and for Unauthorized Guest staying longer than the allowable time per HAKC and or Community Policies, and management forwarding to Legal for further actions.

*2/10/2022 the Plaintiff received the first ten day notice to vacate from the Defendant's. Plaintiff viewed it as Retaliation because this is the first time the he was made aware of their intentions to put the him out.

Judges Fenner's reliance on the HAKC Policy/Rule in his decision lacks a proper contractual basis, as it was never signed by the plaintiff. The 4 Lease Violations Judge Fenner refers to, citing the HAKC Policy/Rule, similarly lack a proper contractual foundation. EOS Gall requested assistance from the defendant's attorney in locating the HAKC policies in effect for the Complainant. (pg. 20., last Para.) Mr. Schlinder stated he too had difficulties finding the policies when he previously tried to locate them. He mentioned that he had to seek help from HAKC to identify and confirm the correct policy and he would forward it to EOS Gall. (Redacted FIR HUD Report (P.20.) (Last. Para)

This raises a fundamental question: If the HAKC Policy were clearly stipulated in the lease agreement, why would both Mr. Schindler and EOS Gall face challenges in locating it, necessitating external assistance? The inclusion of essential policies in the lease should ensure straightforward access, and the need for additional help suggests potential shortcomings in the lease documentation or communication of policies.

The States Unlawful Detainer case and the Federal Discrimination case are separate legal issues. Since the Unlawful Detainer Case has been resolved. The Plaintiff James Clifford believes the reliance of this matter has resulted in an erroneous outcome. I respectfully ask the Court reevaluate the appropriateness and consideration in the context of Federal Discrimination claim. There are several factors the Courts should consider, the Defendants have misled the Federal Court with State level ruling, never on the subject matter of Racial Discrimination. Even if the interpretation is not correct it still falls under the same umbrella of Discrimination. The Plaintiff James Clifford never dismissed his Discrimination claim, nor put it in writing. Plaintiff never had the opportunity to have Due Process under the Ninth and Fourteenth Amendment, under the Constitution. The District Court should not have allowed its inclusion in the first place, since it had no bearing in this matter; only in Retaliation against the Plaintiff James Clifford since the original HUD Complaint was signed 12/03/2021. And upon filing this matter with the Federal Court on Jan.24,2022 when the Federal Complaint was

filed and granted. The Unlawful Detainer was filed much later than Plaintiffs HUD Complaint and Federal Lawsuit. The Unlawful Detainer has been resolved, the real issue is when the defendant, Property manager, Carla Walker, and Employee Maurice Walker referred to the Plaintiff James Clifford as “Lil Nigger” in a veteran living community on Oct.28,2021.

The Plaintiff has consistently maintained his stance on this matter, an aspect that remains unaddressed. Specifically, that Defendant Carla Walker obstructed Ms. Rainey, from HUD, in addressing the initial complaint of Racial Discrimination. Despite several calls from Ms. Rainey to the plaintiff, inquiring about the certified mail of the complaints that were sent, and the Defendant's presence in the office.

Defendant not only refused to answer the calls but actively created a diversion from the genuine issue at hand, the Discrimination Complaint. This diversionary tactic seems designed to shift focus from the unprofessional conduct and the use of a Derogatory Racial Slur directed at the Plaintiff. Plaintiff takes these actions very seriously.

Avoiding communication with HUD regarding a complaint could and should be considered pretextual behavior if it appears to be a deliberate effort to conceal or divert attention from the underlying issues, Not only did Defendant obstruct the HUD investigation, she also actively contributed to its delay, raising concerns about the transparency of the proceedings.

Your Honors, in (Doc.95.), there is a notable inconsistency in the Defendant's statements. Despite the Defendant's assertion of Discovering the HUD complaint in 02/2022, a letter from the defendant Carla Walker on 12/09/2021 explicitly references the Federal Case and advises against communication. The contradictions in the Defendants statements raise significant questions about the accuracy of their assertions.

In the Defendants' deposition on 09/16/2022 when asked “And approximately when did you become aware of the HUD Complaint that Mr. Clifford filed?” she replied “it was February after my maintenance team was walking around the building and saw something posted on plaintiffs' door”. (Pg.116. No.23-25.) And when asked “When were you aware of the Federal Lawsuit that he filed for

Discrimination?" she replied "when my attorney told me." Asked "and when did your attorney tell you?" she replied "sometime in February" then asked "So in February you became both aware of the HUD Complaint and the Federal Lawsuit?" she replied "Yes sir" (Pg.117. No.3-10.)

In the same Deposition on 09/16/2022, ((pages 104 to 114) illuminate the Defendants potential Retaliation and Discrimination, notably on page 4, the Defendant Carla Walker acknowledges identifying other tenants having had Unauthorized Occupants, setting the stage for a comprehensive discussion spanning pages ((104 to 114) about Unauthorized Guests. Within this dialogue, specific instances emerge that suggest potential Retaliation manifesting through adverse treatment and Discrimination.

This also should be noted, the Plaintiff James Clifford never spoke with the Defendant Carla Walker or her employee/tenant Maurice Walker after 10/28/2021 once they called Plaintiff a "Lil Nigger." The Defendant also stated "no one is above her." Only when the police were called, did the plaintiff had limited communication, due to the derogatory name calling by the Defendant Carla Walker and entering the Plaintiffs unit without consent or legal notification.

The Plaintiff was following the instruction that was given by the FHEO Ms. Rainey not to interact or communicate with Carla Walker since there was hostility between both parties. All other interactions were noted to the Federal Court as the actions transpired. The Plaintiff respectfully requests the court to take notice that after every filing at the Federal Courthouse, there was a "Lease Violation" in Retaliation that followed within 24-48 hours.

In response to the defense's motion for Summary Judgment in the Federal court, we acknowledge the prior State court decision in the unrelated Unlawful Detainer case and the issues addressed therein. However, we emphasize crucial distinctions between the matters adjudicated in the State court and the substantive Discrimination claims in the federal case. Specifically, The State court eviction was grounded in an alleged policy which crucially does not exist in our leases. On the Federal front it is imperative to highlight the impediments faced in presenting this Discrimination case adequately. Regrettably, the Plaintiff was not offered the opportunity to fully present the Discrimination case, and the nuances of the Discriminatory practices were not addressed as they should have been in the

Federal District Court Proceedings. These omissions underscore the critical differences between the matters adjudicated in the State court and the unresolved Discrimination claim at the Federal level.

Importantly, the issues decided in the State court had no relevance to or bearing on the Federal Discrimination claims, as they were entirely unrelated. The defense's reliance on Collateral Estoppel is misplaced, as the application of this doctrine is inappropriate given the lack of connection between the State and Federal matters, moreover, the attempt to reassert the identical issues raised in the Unlawful Detainer case as part of their defense in the Federal Case was not only repetitive, but also invoked the doctrine of Collateral Estoppel. The issues already conclusively determined in the States Unlawful Detainer Case should prevent their reintroduction in the Federal proceedings. This not only promotes judicial efficiency but also upholds the principles of fairness and consistency in legal proceedings. Additionally, we raise serious concerns that the plaintiff Due Process Rights may have been Violated, especially if the Court neglected to consider the timeline and relied solely on Defendants Summary Judgment. Additionally, filing restrictions hindered Plaintiffs ability to submit various documents in response to the Defendants motions. It is imperative to recognize the distinct nature of the Federal Discrimination claim. The State Court decision, unrelated to the Federal case, should not be determinative of these Federal issues.

The Defendant Carla Walker should not be using racial slurs; especially as a Property Manager that has a responsibility to the tenant's wellbeing and not create a hostile environment towards the plaintiff. The attorney representing the Defendants offered a settlement before the conclusion of the States Unlawful Detainer case. The offer of settlement serves as a significant factor adding weight to the merits of the Plaintiff's case.

In *Sims V Century Kiest Apartments (567S.W2d526) (1978)*. In this case it refers to *Edwards vs Habib* (The notion that the effectiveness of remedial legislation will be inhibited if those reporting violations of it can be intimidated, is so fundamental that presumption against legality of such intimidation can be inferred as inherent the legislation, even if it is not express in the statue itself) (Emphasis 397 F.2d at 701). Also, *Goodyear Tire Rubber vs Sandford* states "For the orderly functioning

of our society, people must be completely free from all forms of coercion against reporting violations of the law. Indeed, it is their duty to do so."

The Defendants contend they were unaware of the HUD Complaint or the Federal Lawsuit until mid-02/2022, despite notifying Defendant Walker on 12/9/2021, and the RPM (Dennis Watts) at Yarco Inc. Of the Plaintiff's intentions to take legal actions on 10/28/2021.

As a former serviceman in the United States Navy, I took an oath to swear or affirm that I will support the Constitution of the United States against all enemies, foreign and domestic; that will bear true faith and allegiance to the same and will obey the orders of those in offices for a righteous cause. Racism and Colorism is an enemy that has torn down the Constitution of America that needs to be addressed. If all men and women are created equal, then all consequences shall be equal for all who violate these acts of law. Even in the UCMJ racism is unacceptable and is violation of Article 15 and Article 132.

Reasoning for Granting the Writ of Certiorari

Conflicts among Lower Courts

There is a profound split among the Circuit Courts on this issue. The Fifth Circuit, in ***Clifford v Bryan Construction 10-cv-1352***, held that, “facts presented at the hearing are consistent with the allegation in the complaint, which allegation is deemed accepted for purposes of accessing a motion for default judgment. The undersign finds that the plaintiff established a *prima facie* case of discrimination.”

While the Eighth District Circuit in ***Clifford v Yarco Inc. Carla Walker 22-cv 58-GAF*** ruled to the contrary, “holding that no genuine issue of fact remains.” This inconsistency leads to unequal application and necessitates resolution by this court. (pg.11 last para.).

In the Fifth District Circuit, ***Judge Hornsby*** ruled on Bryan Constructions default for “failing to respond to Court issued deadlines.” However, in the Eighth District Circuit, ***Judge Fenner*** did rule and denied the default judgment, but without reason. Notably, the ruling was made before the defense even enter their Notice to Appear. There is another reason the Supreme Court should consider granting the writ of certiorari is procedure bias. For example, the defendant’s Yarco Inc. Carla Walker, deliberate hinder the plaintiff James Clifford Complaint from HUD by not answering phone calls and certify mail that was given to all parties in which the context of the investigation was hampered severely. This behavior should be considered obstruction and the beginning of the red herring and collateral estoppel. The Plaintiff James Clifford’s complaint is that defendant’s Property Manager Carla Walker, the face of Yarco Inc at St. Michael Apartments, directed a derogatory racial slur towards the plaintiff James Clifford. Regardless of race this constitute a ***Title VII and Title VIII violation of the Civil Rights Act of 1964***.

Judge Fenner starts off by denying the plaintiff James Clifford a default judgment from the very beginning of the case, in which allowed the defendants to utilize their time to create and taint the integrity of the case by not following the rule of courts that are written standards, given no reason why the default was not granted is miscarriage of justice and allowing the defendants to present their case seems like procedure bias to the plaintiff James Clifford. Judge Fenner also put filing motions that hampered the plaintiff to address all matter in the case when he was pro se. The fact is everything that ***Judge Fenner*** has stated in his ruling is a

contradiction everything that **Judge Hornsby and Judge Stagg** ruled in the Fifth Circuit Court in the Case of **Clifford vs Bryan Construction**. Every deadline that was required the Plaintiff has met every

time while the defendants has not nor shown any reason why they did not meet the requirements of the deadline.

Conclusion

The Supreme Court has emphasized the need for consistency in the application of the federal rules to prevent arbitrary outcomes. In *Frow v. De La Vega* 82 U.S. 552(1872) the Supreme court highlighted the importance of uniformity in defaults judgment proceedings. The Fifth Circuit decision in *James Clifford v Bryan Construction* aligns with this principle, whereas the Eighth Circuit district Court ruling represents a departure that warrants the Supreme Court review.

I respectfully request the Supreme courts to grant this petition for writ of certiorari reverse the judgment of the Eighth District Courts remand the case with instructions to enforce the default judgment, in favor of the Plaintiff.

The plaintiff also requests that the courts provide guidelines on the correct application of Rule 55, that involve similar circumstances to ensure consistency across all jurisdictions.

This case presents an opportunity for the Supreme court to address a critical inconsistency on the application of default judgment rules ensuring that similarly stated plaintiffs receive equitable treatment regardless of jurisdictions or status.

The conflict between the Fifth and Eighth District Circuit underscore the need for Supreme Court guidance.

For these reasons, and all reasons stated above, we pray that the Supreme Court will grant the *Writ of Certiorari* Thank you, Your Honors,

Respectfully Submitted,

James Clifford

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

James Clifford

Date: 7/8/2024