

24-5352

No. \_\_\_\_\_

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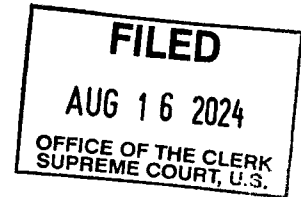
IN THE

SUPREME COURT OF THE UNITED STATES

SPENCER FARWELL, PETITIONER

v.

FOUNTAINS AT TIDWELL LTD. ET AL., RESPONDENTS



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PETITION FOR WRIT OF CERTIORARI TO

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UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

SPENCER FARWELL

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Houston Texas 77088

Spencer Farwell

## **QUESTIONS PRESENTED**

1. Whether the District Court's adoption of the Magistrate Judge's recommendation, despite the absence of consent from either party, constitutes a violation of Petitioners' due process rights under the Constitution.
2. Whether the denial of access to the CM/ECF system to an indigent litigant, thereby obstructing the Petitioners' ability to respond to motions and access court records, violates their rights under the First and Fourteenth Amendments.
3. Whether the actions of Respondents, including the omission of critical evidence and misrepresentation to the court, amount to intrinsic and extrinsic fraud, warranting relief under Federal Rule of Civil Procedure 60(b).
4. Whether the lower courts erred in allowing a stay of discovery despite substantial evidence of fraud on the court, in violation of Petitioner's constitutional rights under the Due Process Clause of the Fourteenth Amendment.
5. Whether the lower courts failed to appropriately address the influence of local political figures and city leaders in obstructing justice and depriving the Petitioner of his right to a fair trial.

## **PARTIES TO THE PROCEEDINGS**

- **Petitioner:** Spencer Farwell
- **Respondents:** Fountains at Tidwell, Isaac Matthews, Hettig Management Corp, Walter Barry Khan, Joshua R. Flores, Bristalyn Daniels.

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**TABLE OF AUTHORITIES CITED**

**CASE.**

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**To the Honorable Justices of the United States Supreme Court:**

Petitioner Spencer Farwell respectfully petitions this Court for a Writ of Certiorari to review the decision of the United States District Court for the Southern District of Texas, Houston Division, in Case No. 4:23-CV-02118, where the district court's ruling perpetuates an ongoing miscarriage of justice involving both intrinsic and extrinsic fraud on the court.

**INTRODUCTION**

Petitioner, Spencer Farwell, respectfully petition for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit, which affirmed the dismissal of Petitioners' claims by the United States District Court for the Southern District of Texas. The Petitioners' case presents critical questions concerning intrinsic and extrinsic fraud on the court, significant violations of due process, and the deprivation of constitutional rights.

## **DECISIONS BELOW**

The judgment of the United States Court of Appeals for the Fifth Circuit is unpublished appears at **Appendix A**. The decision of the United States District Court for the Southern District of Texas is also unpublished appears at **Appendix B&C**.

## **JURISDICTION**

The judgment of the United States Court of Appeals for the Fifth Circuit was entered on May 20, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

### **I. STATEMENT OF THE CASE**

On June 7, 2023, Petitioner Farwell filed a federal lawsuit in the United States District Court for the Southern District of Texas, alleging fraud and violations of constitutional rights by the Respondents. The case was assigned to the Honorable Charles Eskridge, who referred the case to Magistrate Judge Christina A. Bryan. Despite the lack of consent from any party, Magistrate Judge Bryan stayed discovery and ultimately recommended dismissal of the case with prejudice.

Petitioners filed timely objections to the Magistrate's recommendation, supported by an affidavit and exhibits detailing the fraudulent actions of the Respondents, including the concealment of critical evidence and misrepresentations made to the court. Despite these objections, Judge Eskridge adopted the Magistrate's recommendation and dismissed the case with prejudice on December 28, 2023 during the Christmas Holliday.

Petitioners' attempts to gain access to the court's electronic filing system (CM/ECF) were denied, severely hindering their ability to participate in the proceedings. Petitioners were thus unable to review or respond to the Respondents' filings, which were only accessible through the CM/ECF system. This denial of access further compounded the deprivation of Petitioners' rights.

## **II. REASONS FOR GRANTING THE PETITION**

This case presents a significant issue regarding the fairness and integrity of the judicial process. The denial of due process rights, particularly in the context of fraud and misrepresentation, calls into question the legitimacy of the lower court's rulings. The Petitioners were denied the opportunity to fully participate in their own case, and the judgment was made based on incomplete and misleading information.

**Due Process Violations:** The Magistrate Judge's unauthorized exercise of jurisdiction, compounded by the District Court's adoption of her recommendations without proper review, violated the Petitioners' due process rights. The denial of access to CM/ECF exacerbated these violations, effectively silencing the Petitioners and preventing them from fully presenting their case.

**Fraud on the Court:** The actions of the Respondents, including the deliberate omission of evidence and the submission of false statements to the court, constitute both intrinsic and extrinsic fraud. Under Rule 60(b)(3) and (d)(3), Petitioners are entitled to relief from the judgment due to these fraudulent actions.

**Significance of the Issues:** The issues raised in this case are of national importance, particularly regarding the access of indigent litigants to justice and the integrity of judicial proceedings. The

failure of the lower courts to address these concerns undermines public confidence in the judicial system.

### **III. Factual Background**

**Background of the Case:** The origin of this case lies in a real estate dispute that has escalated into a complex legal battle involving claims of fraud, misconduct by court officials, and the deprivation of Petitioner's constitutional rights. Petitioner contends that Defendant Daniels, a court clerk, engaged in fraudulent activities that have been ignored or tacitly supported by the lower courts. These activities include the misfiling of critical exhibits and the unauthorized exposure of Petitioner's sensitive personal information, including his Social Security number.

**Political and Judicial Interference:** Petitioner argues that local political and city leaders have unduly influenced the proceedings, using their power to cover up the fraud and obstruct justice. This has resulted in the denial of Petitioner's due process rights and a fair trial, contrary to the protections guaranteed under the Constitution.

**Fraud on the Court:** The Petitioner has presented clear and convincing evidence of both intrinsic and extrinsic fraud perpetrated by the Respondents, particularly Respondent Daniels, which has tainted the entire judicial process in this matter. The failure of the courts to address this fraud, and their subsequent rulings that further delay justice, constitute a grave injustice that warrants this Court's review.



#### IV.

#### Legal Arguments

**Violation of Due Process Rights:** The actions taken by the lower courts in granting a stay of discovery, despite clear evidence of fraud, violate Petitioner's due process rights under the Fourteenth Amendment. This Court has long held that fraud on the court is a serious offense that undermines the integrity of the judicial process and is not subject to procedural bars.

**Qualified Immunity and Fraud:** The lower courts have incorrectly applied the doctrine of qualified immunity to shield the Defendants from discovery. However, as established in *Harlow v. Fitzgerald*, 457 U.S. 800 (1982), and subsequent rulings, qualified immunity does not protect officials who violate clearly established statutory or constitutional rights. Petitioner asserts that the Respondents' actions constitute such violations, particularly where fraud is involved.

**Failure to Appoint Counsel:** The refusal to appoint counsel in this case, despite the complexity of the issues and the presence of exceptional circumstances (i.e., fraud on the court), further deprived Petitioner of his right to a fair hearing. The court's failure to recognize the need for appointed counsel in such a complex and legally intricate case exacerbates the miscarriage of justice.

#### VI.

#### CONCLUSION

For the foregoing reasons, the Petitioner respectfully request that this Court grant a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit and provide the appropriate relief to address the grave injustices they have suffered.

**Respectfully submitted,**

BEFORE ME, the undersigned authority, on this day personally appeared SPENCER FARWELL, known to me to be the person whose name is subscribed to the foregoing Petition for Certiorari, and being by me first duly sworn, upon oath deposed and stated that he has read the Petition for Certiorari and that every statement contained therein is within his personal knowledge and is true and correct.

STATE OF TEXAS       §

COUNTY OF HARRIS   §

*Spencer Farwell*  
SPENCER FARWELL

SUBSCRIBED AND SWORN TO BEFORE ME on this the 16 day of August, 2024, to certify which witness my hand and official seal.

*[Signature]*

Notary Public in and for  
The State of Texas

My Commission Expires: Aug 15, 2028

