

24-5415

No. (SAC 12)-13676

ORIGINAL

FILED
MAY 19 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

GLEN EARL CLAIBORNE

— PETITIONER

(Your Name)

vs.

JP MORGAN CHASE BANK, NA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Eleventh Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

GLEN EARL CLAIBORNE

(Your Name)

3783 WALNUT CREEK WAY

(Address)

LITHONIA GA 30038

(City, State, Zip Code)

310-867-1598

(Phone Number)

QUESTION(S) PRESENTED

Did the District Court and Appeals Court committed reversible error, abuse of discretion, and error as a matter of law and did not enforce the statutes and enforce the statutes that were enacted by congress the were violated by Defendant/Appellee because Plaintiff/Appellant is pro se, black, in a protected class and indigent?

Is Defendant/Appellee barred from contesting on appeal the facts thus established by Defendant/Appellee willful default.

Did Plaintiff/Appellant case receive the judicial attention which Article III of the Constitution requires?

The record proves Defendant/Appellee "Chase" business records were not attached to the Affidavit of Dorothy A. Washington. Can Defendant/Appellee be granted Summary Judgement?

The District Court stated, Plaintiff/Appellant Attempted Wrongful Foreclosure may proceed. See Doc. 171 Pages 10 -14 of 28, C Attempted Wrongful Foreclosure, Page 14, para 5-6, "All told, the allegations in the amended complaint are sufficient to state a claim for attempted wrongful foreclosure, in Case #1:18-cv-5542-SDG-CCB. Can the case be dismissed and not proceed to trial on damages?

The record proves that Managing Partner, Attorney William O. Tate is a debt collection and mostly works from home and travels a lot and do not have no meaningful involvement in the cases for his client, "Chase", (applying the meaningful attorney involvement doctrine. Can a debt collector that do not have no meaningful attorney involvement litigate a case in Federal Court?

If Genuine issues of material fact remained which barred a grant of summary Judgment in favor of Defendant/Appellee, can the Court dismiss the Case?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the 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:

RELATED CASES

See Hauf v. HomEQ SERVICING CORPORATION Dist. Court, MD Georgia, 2007

See Brown v. SEABOARD CONST. CO. - Ga: Court of Appeals, 2012

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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

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

The opinion of the United States court of appeals 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 United States district 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.

[] 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 1/05/2024.

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: 2/20/2024, and a copy of the order denying rehearing appears at Appendix Doc: 111-2

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Plaintiff fundamental human rights , right to equality before the law.

Violation of due process and equal protection of the law.

Violation of the 14th Amendment

STATEMENT OF THE CASE

Defendant/Appellee alleged default between June 2017 and September 2017. Plaintiff/Appellant provided proof of payment that is on record. Defendant/Appellee did not respond timely to the Amended Complaint (Doc. 84) and the Clerk entered default. Defendant/Appellee before, since or to date has not provided a legal reason for the default. Plaintiff/Appellant suffered prejudice to litigate facts thus established by Defendant/Appellee Default.

The record proves that Defendant/Appellee did not deny the factual allegations made, by an employee that was recorded, "that Escalation Manager for Chase, Escalation Manager Glenda Gollwitzer admitted around and about January 18, 2018 that four [4] of Plaintiff/Appellant mortgage payments were received by "Chase" and misapplied by "Chase". See (Doc. 84)

The District Court stated, Plaintiff Attempted Wrongful Foreclosure may proceed. See Doc. 171 Pages 10 -14 of 28, C Attempted Wrongful Foreclosure, Page 14, para 5-6, "All told, the allegations in the amended complaint are sufficient to state a claim for attempted wrongful foreclosure.

The record proves Defendant/Appellee failed to make *prima facie* showing that it complied with the Statutory requirements in accordance with Georgia Law and Federal Law because there is no evidence that Defendant/Appellee sent notices of Plaintiff/Appellant alleged default by certified mail. Defendant/Appellee has not provided copies of certified mail receipts for the notices of default and none of the unsworn statements in the record aver that the notices of the alleged default were sent by certified mail.

Without any evidence that the notices of the alleged default were sent by certified mail, the Court should have found that Defendant/Appellee has not made a *prima facie* showing of compliance with Statutory requirements in accordance with Georgia Law and Federal Law and Summary Judgment was improper.

Defendant/Appellee misapplied four (4) of Plaintiff/Appellant payments and admitted to misapplications of the four (4) payments. The record proves that Defendant/Appellee did not timely apply the four (4) misapplied payments before, since or to date.

REASONS FOR GRANTING THE PETITION

Genuine issues of material fact remained which barred a grant of summary Judgment:

Fraud occurred by Defendant/Appellee when Defendant/Appellee willfully misrepresented to the District Court that, "the payments received and applied to the Loan since its origination have brought it current only through August 31, 2017.

The Loan is due for September 1, 2017. (Id., ¶ 9, Ex. D.) The amount due and outstanding under the Loan as of May 24, 2022, is \$214,044.44.

The payments received and applied to the Loan since its origination have brought it current only through August 31, 2017. (Id., ¶ 10, Ex. D.) Consequently, the Loan has been in default since at least September 1, 2017. (See id., ¶¶ 9, 10, Ex. D.) See (Doc. 269-1) Filed 05/26/22 Page 4 of 18, paras 3-7

The amount Defendant/Appellee is attempting to collect is factual incorrect.

Defendant/Appellee is attempting to collect unauthorized fees not due and attorney fees not due with a payoff quote that is factual incorrect.

Plaintiff/Appellant was not in default as required as a matter of law when the debt collector sent a collection letter on December 6, 2017. Plaintiff/Appellant was not 120 pasts due if the loan was current on August 31, 2017.

Defendant/Appellee business records was not attached to the Affidavit at the Summary Judgment stage. Summary Judgement is improper without "Chase" business records at the Summary Judgment stage and or on the Record.

Defendant/Appellee hired two debt collection agencies to collect an alleged debt between June 2017 and September 2017. A debt validation letter is not on record and or filed at the Summary Judgment stage.

The trial judge has a legal duty to enforce the Statutory Laws, Federal Rules of Civil Procedure, Federal Rule of Evidence and Local Rules that were enacted by Congress. There is a disagreement about the Standard of Review and whether the errors were Constitutional or Unconstitutional. The record proves that the trial judge breached his legal duty to enforce the Statutory Laws, Federal Rules of Civil Procedure, Federal Rule of Evidence and Local Rules that were enacted by Congress and Plaintiff/Appellant suffered prejudice as a result of the breach of a legal duty by the trial judge. The record proves that Plaintiff/Appellant would win under either Standard or Test.

Defendant/Appellee mentioned a possible argument in a most skeletal way, leaving the court to ... put flesh on its bones during litigation and at the Summary Judgement Stage. Plaintiff/Appellant suffered prejudice, denied due process and equal protection of the law.

The record proves that the statutes were violated in the District Court and Court of Appeals.

Congress intended for the trial court and Appeals Court to enforce the statutes that were violated that were enacted by congress? See United States v. Torres - Court of Appeals, 9th Circuit, 2021(quoting) Rotkiske v. Klemm- US - Supreme Court, 2019 (citing) Bailey v. Glover, 88 US 342 - Supreme Court 1875

CONCLUSION

LET THE TRUTH BE TOLD, because the business records referred to and relied upon by Defendant/Appellee were not attached to the affidavit, the affidavit could not be used to support Defendant/Appellee motion for summary judgment.

The petition for a writ of certiorari should be granted.

Relief in accordance with the "DEEMING ORDER" LR 56.1(B)(1). LR 56.1(B)(2)(a)(2), NDGa and no business records attached to the affidavit at the summary judgment stage.

Respectfully submitted,



Date: 5/19/2024