

In the Supreme Court of the United States

THOMAS JAYATON-KERRY, Third Party Intervenor/Injured party re
Mary Alice Nelson-Rogers Trust,
Petitioner,
vs.
JIM COOPER, Sacramento Sheriff, et al
Respondents.

On Petition for Writ of Mandamus to the United States Court of
Appeals for the Ninth Circuit

BRIEF FOR RESPONDENTS IN OPPOSITION

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QUESTION PRESENTED

Although not articulated by Petitioner, the case arises from a lawful eviction by a third party bank who took possession of real property, not owned by Petitioner in pro per, in a nonjudicial foreclosure proceeding. The District Court dismissed this action for lack of standing, Petitioner's legal inability to represent the true property owner and/or for lack of jurisdiction. The Ninth Circuit dismissed the appeal as frivolous. Thus, the question presented is as follows:

Was the appeal correctly dismissed as frivolous?

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No. 24-5472

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THE WRIT SHOULD BE DENIED

Adjudicating a motion to dismiss, the District Court adopted the Magistrate Judge's Findings and Recommendations. The Magistrate correctly noted that the gravamen of the complaint, based on judicially noticed documents, arose from Petitioner's eviction from real property, owned by the Mary Alice Nelson-Rogers Trust, which had been subject of a state court unlawful detainer action.

Specifically, said documents showed that in 2021, the real property was sold in a nonjudicial foreclosure and title transferred to JPMorgan Chase Bank, National Association. Following the foreclosure, JPMorgan Chase Bank filed a Complaint for Unlawful Detainer in the Sacramento County Superior Court under Case Number 22UD00860. The Superior Court rendered Judgment in favor of JPMorgan Chase Bank on June 20, 2022, granting possession of the real property to the Bank. The Superior Court then issued a Writ of Possession in furtherance of the Judgment. On October 27, 2022, the Sacramento County Sheriff's Office executed the Writ of Possession, removed petitioner and the other occupants from the premises, and placed JPMorgan Chase Bank in peaceful possession by turning over possession to the Bank's agent.

Based thereon, the court correctly concluded Petitioner, had no standing as he was not the trustee of the Trust, and, as a pro se litigant not an attorney, may not appear on behalf of a Trust or on behalf of another individual. *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697-98 (9th Cir. 1987). Moreover, the court correctly noted that it lacked jurisdiction over the action against the County defendants under

the Rooker-Feldman¹ or Younger² abstention doctrines, insofar as Petitioner was attempting to attack the past unlawful detainer action and/or ongoing superior court action. (ECF NO. 53, p.14).

In essence, the District Court correctly adopted the Findings and Recommendations without leave to amend. Without standing or jurisdiction, the appeal was found to be as frivolous.

Respondents submit Petitioner's writ is also frivolous, and Petitioner's writ therefore should be denied.

Respectfully submitted,

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¹ *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983)

² *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 (1971)

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CERTIFICATE OF SERVICE

I am a resident of the United States and of the County of Sacramento, California. I
am over the age of eighteen years and not a party to the within above-entitled action.
My business address is 2180 Harvard Street, Suite 500, Sacramento, California
95815.

On the date below, I served the **BRIEF FOR RESPONDENTS IN OPPOSITION** on
all parties in the said action by causing a true copy thereof to be served by U.S. Mail
addressed as follows:

Thomas Jayaton-Kerry
P.O. Box 245695
Sacramento, CA 95824

I declare under penalty of perjury that the foregoing is true and correct. Executed at
Sacramento, California, on October 17, 2024.

CA Grandinetti
Cindy A. Grandinetti