

No: 24-553

6/27/24

In The

Supreme Court of the

United States

DONIJAH VIRGO, *Petitioner,*

V.

HEATHER MICHELLE ROBERTS AND GEICO

CASUALTY COMPANY, *Respondent.*

On Petition for Writ of Certiorari to The

Alabama Supreme Court

PETITION FOR WRIT OF CERTIORARI

DONIJAH VIRGO
2217 Van Liew Rd. Mobile, AL 36605
(251)930-3415
VIRGODONIJAH25@ICLOUD.COM

QUESTIONS PRESENTED

In the District Court of Mobile, AL Donijah Virgo's constitutional rights were violated when complaint was not officially served to the parties involved promptly after filing with the court on 12/14/2021. At a subsequent time, on 1/7/2022 the petitioner observed proceedings in action against him. Upon acknowledgment Virgo appeared at the office of the attorney on file, Charles Barber of Green & Phillips LLC, demanding that the complaint be handed over. Mr. Barber exclaimed that the case had been dismissed and there was no proceeding taking place regarding Mr. Virgo. When Mr. Virgo produced the docket number Mr. Barber then turned over the filings.

Did the Circuit Court of Mobile, AL err in judgment granting summary judgment in favor of Heather Roberts in the appellate court violate Donijah's constitutional rights of due process by affirming summary judgment to dismiss a case on contributory negligence?

ALL PARTIES TO PROCEEDING

Petitioner is Donijah Virgo *pro se* 2217 Van Liew Rd.
Mobile, AL 36605

Attorney for Heather Roberts, Charles Barber with
Green and Phillips LLC 51 N Florida St. Mobile, AL
36607 (251) 478-1115

Attorney for Geico casualty company, Courtney
Huggins with the law office of Victor A. Dubose 1290
Main St. Daphne, AL 36526 (251)433-9790

Steven P. Savarese Holtsford Gilliland Higgins
Hitson and Howard P.C. Merritt Building 6483 Van
Buren St. Daphne, AL 36526 (251)477-0234

STATEMENT OF RELATED PROCEEDINGS

*The following proceedings are directly related
to this case.*

- Mobile County District Court DV
2021903657.00 Heather Roberts V
Donijah Virgo disposed 12/13/2021 by
the plaintiff withdraws.

- Mobile county District Court 02 *DV 903672.00* Heather Roberts V Donijah Virgo and Geico Casualty Company. Transfer by defendant to the circuit court of Mobile AL on 2/14/2022.
- Circuit Court of Mobile County, AL 02 *CV 2022 000036.00* Disposed in summary judgement 4/5/2023
- Alabama Supreme Court *SC-2023-0476* disposed 3/29/24 affirmed dismissal of summary judgement.

JURISDICTION

The judgement of the AL Supreme Court was entered on 03/29/24 to affirm the court dismissal at summary judgement. The authority of this court is involved under *U.S.C281254*

This petition for writ of certiorari was postmarked June 27,2024 and received July 2,2024 the papers were returned with 60 days grace period to refile.

This petition was postmarked August 26,2024 and received September 9, 2024, *AL SC No. SC-2023-0476* was returned September 10, 2024 with 60 day grace period for correction.

**CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

- **Fourteen Amendment** No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the united state; Nor shall any state deprive any person of life, liberty or property, without due process of law; Nor deny to any person within its jurisdiction the equal protection of the laws.

- **Fifth Amendment** No person shall be held to answer for a capital, or infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor be compelled in any criminal case to be a witness against himself, nor deprived of life, liberty, or property, without due process of law; nor shall

private property be taken for public use,
without just compensation.

- **Seventh Amendment** in Suits at common law,
where the value in controversy shall exceed
twenty dollars, the right of trial by jury shall
be preserved, and no fact tried by a jury, shall
be re-examined in any Court of the United
States, then according to rules of common law

PETITION FOR WRIT OF CERTIORARI

Donijah Virgo respectfully petitions for a writ of certiorari to renew judgment of the Supreme Court of Alabama

OPINION BELOW

The Opinion of the AL. Supreme Court of appeals on March 29,2024 SC-2024-0476 is reprinted herein as Appendix A.

STATEMENT

This petition followed the ruling of the Alabama supreme court affirmative of summary judgement. Proceeding SC-2023-0476 *Donijah Virgo vs. Heather*

Roberts and Geico on March 29, 2024. Al. Supreme court panel of judges, Justice Parker, and Mitchell Shaw and Bryan. The case in question (02-DV-2021-903672.00) emerged from an automobile accident that took place on 10/20/2020 and was presented to the district court of Mobile, AL on 12/14/2021. At no time after the original filing of complaint documents were not officially served to Donijah Virgo by the Mobile County Sheriff's Department. (*Lathan V. Phillips Ala 1991*) "*The filing must be made with the intention of serving process upon the opposing party or parties.*" also outlined in (*Mace V. Central Business Systems*) "*filed with a bonified intention of having it immediately served.*"

In the circuit court of Mobile AL. Petitioner contests that his constitutional rights were not observed by the court. Both parties have asserted counter claims of contributory negligence. Mrs. Roberts entered in a demand for a jury trial. The question of contributor negligence should not be deposed by matter of law, and it should be heard by a jury. (*Hawkins V. Simmon*) (*Ridgeway V. CSX Transportation INC.*)
"The issue of contributory negligence is generally one for the jury to resolve"

REASONS FOR GRANTING WRIT

It is the right of every citizen to be traileed fairly by the way of due process. The Fourteenth amendment

and fifth amendment. This case presents an opportunity for resolving constitutional deprivation in lower courts. To deprive the fundamentals of the fourteenth and fifth Amendment. Rights to due process bearing subject, that are deemed to be factually different up bringing from previous published cases authorized. When compliant aren't served to defendant and case are tossed out in summary judgement as a matter of law is in inconsistent with the bill of rite and the court and should put a stop to this, by disaffirm summary judgement wen due process is not satisfied.

CONCLUSION

Respectfully, I declare that for the foregoing reason, this petition should be granted. This court should overturn the lower court judgement granting orders so that Mrs. Roberts may be deposed.