

No.: 24 - 5539

SUPREME COURT OF THE UNITED STATES

Muna Malvin Whitfield

Petitioner

Vs

Fredericka F. Whitfield, et al

Respondents

On Petition for a Writ of Certiorari to the DISTRICT OF COLUMBIA

COURT OF APPEAL Case number: 22-PR-0588

PETITION FOR A WRIT OF CERTIORARI

Muna Malvin Whitfield

(Pro se Petitioner)

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QUESTIONS PRESENTED

- I. Whether the Appellate Court Overlooked or Misapprehended Critical Factual Allegations and Evidence Presented in Exhibits AI, A2, B1, B2, O and L, Resulting in a Violation of the Due Process Clause Under the Fourteenth Amendment?
- II. Whether the Appellate Court Erred in its Application of the Statute of Limitations, Thereby Violating Due Process Rights Under the Constitution in this case involving the estate and legacy of the US Global Sports Ambassador?

PARTIES TO THE PROCEEDING

Petitioner is the Plaintiff in this case and was appellant in the court of appeals. Respondents are the defendants and were the appellees in the court of appeals.

1. Petitioner Muna Malvin Whitfield¹, is the youngest daughter of Malvin Greston Whitfield ("Decedent") and "at all relevant times is a resident of New York, New York." Compl. ¶ 12.

¹ Appellant refers to appellant Muna Malvin Whitfield as "Ms. Whitfield" and to others with the surname Whitfield by their first names.

2. Appellee Fredericka Whitfield is a daughter of Decedent and allegedly has an address in Georgia and the District of Columbia. Id. at ¶ 13. Defendant/Appellee Nyna Whitfield is a daughter of Decedent and a resident of Maryland and DC. Id. at ¶ 15.

3. Appellee Lonnie Whitfield is a son of Decedent and a resident of Maryland and DC. Id. at ¶ 16.

4. Finally, Appellee Nola Whitfield is allegedly Decedent's ex-wife and a resident of Maryland. Id. at ¶ 14

PROCEDURAL HISTORY

1. Petitioner filed a Complaint against the Respondents in this case on or about August 31, 2021, for Breach of Fiduciary Duty, Conversion, Unjust Enrichment, Fraud in the Inducement, Accounting and Restitution, Intentional Infliction of Emotional Distress, Negligent Infliction of Emotional Distress, Quiet Title, and for Injunctive Relief against Respondents Fredericka Whitfield et al. to preserve her father's estate and protect his legacy as Respondents in the meantime sold off assets of the decedent's estate without due process of law.

2. On November 3, 2021, Respondents filed a Motion to Dismiss and Request for Hearing, to which Petitioner failed to file a timely response.

3. On December 1, 2021, a status conference in this case was held via remote communications. During the hearing, the Court advised Petitioner of

her failure to file a response to the Motion to Dismiss, and Respondents consented to the Court's bench ruling of an extension for Petitioner's time to file a response until December 6, 2021. On said date, Petitioner served her Opposition, and Respondents thereafter filed a Reply in support of their Motion to Dismiss.

4. On December 23, 2021, the court granted Respondents' motion to dismiss and dismissed the Petitioner's complaint.

5. On December 23, 2021, Judge Maurice A. Ross, dismissed Petitioner's Complaint with prejudice on the alleged ground that Petitioner's Complaint Lacks Subject Matter Jurisdiction, Lacks Personal Jurisdiction, Failure to State a Claim, Failure to Join Necessary Parties, and that claims are barred by the applicable Statute of Limitations as to all counts.

6. On January 8, 2022, the Petitioner filed a Motion for reconsideration on several grounds of cognizable argument to justify reconsideration. On January 24, 2022, Respondents filed an Opposition to Petitioner's Motion for Reconsideration. Petitioner timely filed a Reply, which again did not present new arguments for the Court's consideration.

7. On June 14, 2022, this Court issued an order and Opinion denying Petitioner's Motions for Reconsideration.

8. On July 18, 2022, Petitioner filed a Notice of Appeal, designating the following errors: (1) the Court abused its discretion in granting Respondents'

Motion to Dismiss on four separate counts; (2) the Court's order on Petitioner's failure to state a claim in her Complaint was clearly erroneous; (3) Petitioner was denied due process due to a lack of a hearing on the Motion to Dismiss; and (4) that this honorable Court acted with bias against Petitioner.

9. On February 28, 2023, Petitioner received copies of correspondence from the Respondents' Counsel, which comprises an Order sua sponte dated January 6, 2023, dismissing this appeal in consideration of a purported November 14, 2022, order directing Petitioner to file a statement regarding transcript within 20 days of the order and that Petitioner has failed to comply with the order.

10. Considering the foregoing, Petitioner filed a motion to reinstate mandate, and on April 20, 2023, the appeal court issued an order directing the Petitioner to file her brief and appendix, including the document required by DC App R 30(a), within 40 days from the date of the Order, and the Respondents' brief shall be filed within 30 days thereafter.

11. The decision denying Muna Malvin Whitfield's direct appeal was entered on February 5, 2024. Muna Malvin Whitfield's Petition for Panel Rehearing in the District of Columbia Court of Appeals was denied on March 26, 2024.

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OPINIONS

The decision denying **MUNA MALVIN WHITFIELD** direct appeal was entered on February 5, 2024. Muna Malvin Whitfield Petition's for Panel Rehearing in the District of Columbia Court of Appeals - was denied on March 26, 2024. The petition and order are attached in Appendix C and D.

JURISDICTION

Petitioner's Petition for Panel Rehearing in the Court of Appeals was denied on March 26, 2024

Muna Malvin Whitfield invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a Writ of Certiorari within ninety days of the District Court of Appeals DC Order denying the rehearing.

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment XIV:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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.

United States Constitution Article III, Section 3

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls

STATEMENT OF THE CASE

12. Petitioner, proceeding pro se, sued Appellees Fredericka F. Whitfield, Nola Whitfield, Nyna Whitfield, and Lonnie Whitfield in the Superior Court's Probate Division asserting multiple claims relating to the disposition of the property of Ms. Whitfield's late Father, Malvin Greston Whitfield. The trial court dismissed the complaint with prejudice on multiple grounds; lack of subject-matter jurisdiction, lack of personal jurisdiction over the Defendants, failure to state a claim, failure to join necessary parties and failure to adhere to the applicable statutes of limitations.

13. The District of Columbia court of Appeal judgment partly affirming the lower court decision that the complaint is time barred. The Panel disagrees with the trial court that the lower court lacks subject matter jurisdiction over Ms. Whitfield's action but affirmed that the complaint was properly dismissed as time barred under the applicable statutes of limitations.

14. This case should be granted certiorari because it involves the longest serving US ambassador in history. The ambassador, Malvin Greston Whitfield, was an American hero who served his nation as a Tuskegee Airman, won five Olympic Medals for his nation, served five US Presidents as US Global Sports Ambassador working for the State Department, and created a Foundation to continue his work coaching American inner city youth after his death (this case is to fund the foundation as he intended). This is why it has national significance.

15. Petitioner, MUNA MALVIN WHITFIELD, respectfully petitions the Supreme Court for a Writ of Certiorari to review the judgment of the District of Columbia Court of Appeals.

16. The Petitioner's father gave much to our country as a Tuskegee airman, won five Olympic medals and was the US Global Sports Ambassador to five US Presidents. He told the Petitioner he wanted his work to continue after his death through the Mal Whitfield Foundation.

17. This case is about the Petitioner's continued attempt to fulfil her father's wish and recover the funds that should have gone to the Foundation for the benefit of inner-city children.

18. If she is successful in restoring the assets to the Foundation she intends to bring opportunity to inner city youth throughout the US and fulfil her father's ultimate wish.

REASON FOR WRIT OF CERTIORARI

1. THE APPELLATE COURT OVERLOOKED OR MISAPPREHENDED CRITICAL FACTUAL ALLEGATIONS AND EVIDENCE PRESENTED IN EXHIBITS AI, A2, B1, B2, O and L, RESULTING IN A VIOLATION OF THE DUE PROCESS CLAUSE UNDER THE FOURTEENTH AMENDMENT

On February 5, 2024, the District of Columbia Court of Appeal in its Memorandum of Opinion and Judgment constituted by Judge McLeese, Deahl, and Shanker associates (Panel) stated that the Panel disagrees with the trial court that the lower court lacks subject matter jurisdiction over Ms. Whitfield's action but erroneously affirmed that the complaint was properly dismissed as time barred under the applicable Statutes of Limitations.

The Appellate Court's oversight or misapprehension of the critical factual allegations and evidence presented in Exhibits AI, A2, B1, B2, O and L constitutes a violation of the Due Process Clause under the Fourteenth Amendment. The Due Process Clause guarantees that no person shall be deprived of life, liberty, or property without due process of law, which encompasses both procedural and substantive due process rights. The failure to properly consider key evidence crucial to Ms. Whitfield's claims undermines these fundamental protections.

The Fourteenth Amendment to the United States Constitution provides in pertinent part:

"...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." (U.S. Const. amend. XIV, § 1).

To have a property interest in the constitutional sense, the Court held, it was not enough that one has an abstract need or desire for a benefit or a unilateral expectation. He must rather "have a legitimate claim of entitlement" to the benefit. "Property interests, of course, are not created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law—rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.

The Due Process Clause of the Fourteenth Amendment encompasses two main components: procedural due process and substantive due process. Procedural due process ensures fair procedures when the government burdens or deprives an individual of life, liberty, or property. Substantive due process, on the other hand, protects certain fundamental rights from government interference, even if procedural protections are present. *408 U.S. at 577.* Although property interests often arise by statute, the Court has also

recognized interests established by state case law. *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1 (1978). “The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be ‘condemned to suffer grievous loss,’ . . . and depends upon whether the recipient’s interest in avoiding that loss outweighs the governmental interest in summary adjudication.” *Goldberg v. Kelly*, 397 U.S. 254, 262–63 (1970), (quoting Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123, 168 (1951) (Justice Frankfurter concurring)). “The very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation.” *Cafeteria & Restaurant Workers v. McElroy*, 367 U.S. 886, 894–95 (1961).

Exhibit O is pivotal to Ms. Whitfield’s claims as it documents the unlawful sale of her father’s property located at 1322 28th St SE, Washington, DC, in 2020 that he had intended to use as the HQ for his foundation and to display his memorabilia and medals. This sale, conducted without a valid, probated will, contradicts the timeline assumed by the Appellate Court, which incorrectly believed that Ms. Whitfield’s claims were barred by the statute of limitations starting in 2016. The evidence presented in Exhibit O clearly indicates that the defendants engaged in actions that harmed Ms. Whitfield well beyond the assumed period, demonstrating ongoing misconduct and unjust enrichment. By not properly considering Exhibit O, the Appellate Court

deprived Ms. Whitfield of her right to have her case fairly adjudicated based on all relevant evidence.

In addition Exhibits A1, A2, B1, B2, and L detail the Petitioner's attempts in 2019 to discover the facts of her father's illness and death. Initially she hired a lawyer who sent a letter on April 29th, 2019 (Exhibit L) to Nola Whitfield requesting information regarding Petitioner's father's illness, and death. When Petitioner did not hear back she visited friends of her father to try to discover anything about the circumstances of her father's illness and death.

Exhibit A1 shows the Amtrak ticket (confirming the date) to visit Miss Lacey O'Neal (a longtime friend and assistant to her father) in Washington DC who told her she had been told not to tell the Petitioner of her father's whereabouts as confirmed in Ms O'Neal's affidavit (Exhibits A2).

Five days after her conversation with Miss O'Neal Petitioner travelled to Texas to visit Mr. Lee DeCuir one of her father's best friends. Exhibit B1 shows the plane ticket to visit Mr. Lee A. DeCuir (confirming the date of the conversation) and Exhibit B2 is Mr. Decuir's affidavit in which he explains that he had been told by the Defendants not to inform Muna Whitfield of her father's illness.

It was in these conversations with Mr. Lee A. DeCuir and Ms. Lacey O'Neal in 2019 that Petitioner learnt of the fraud against her and her father's foundation - not in 2016 as assumed by the Appellate Court thus showing that her complaint was well within the Statute of Limitations. Petitioner also believes of opinion and belief that her elder half siblings used this isolation to brainwash their father into believing he only had three children. This information is crucial as it highlights the ongoing nature of the defendants' actions and the resultant harm to Ms. Whitfield. The Appellate Court's failure to consider this new evidence represents a significant oversight, further violating procedural due process by not allowing a fair and complete examination of the facts.

The principle of procedural due process requires courts to consider all relevant and material evidence presented in a case. In *Goldberg v. Kelly*, 397 U.S. 254 (1970), the Supreme Court emphasized that procedural due process requires the opportunity to be heard "at a meaningful time and in a meaningful manner." By disregarding Exhibits A1, A2, B1, B2, O and L, the Appellate Court failed to meet this standard, effectively denying Ms. Whitfield her right to a fair hearing and thus violating her procedural due process rights.

The trial court denied Petitioner's equitable Property Rights. Substantive due process protects individuals from arbitrary and unjust state actions that infringe upon fundamental rights. In this context, Ms. Whitfield's

and her father's Foundation's right to their inheritance and her father's property is a property interest protected under the Fourteenth Amendment. The Appellate Court's oversight or misapprehension of critical evidence that clearly documents the unlawful sale and mismanagement of her father's estate directly impacts her substantive due process rights. By not addressing the ongoing violations against her property rights, the court's actions—or lack thereof—constitute arbitrary and unjust state interference.

In *Board of Regents v. Roth*, 408 U.S. 564 (1972), the Supreme Court recognized that substantive due process protects individuals from government actions that are arbitrary and without reasonable justification. The Appellate Court's failure to consider significant evidence that contradicts its timeline and assumptions represents such arbitrary action. Ms. Whitfield's substantive due process rights were violated as the court's decision, based on an incomplete and misapprehended set of facts, unjustly deprived her and her father's sports foundation of their property rights.

To show that the Appellate Court overlooked or misapprehended the facts of the substantive complaint, Ms. Whitfield referenced Exhibit O in her complaint filed in August 2021. Exhibit O is a document showing that a property located at 1322 28th St SE, Washington, DC 20020, and owned by the appellant's father ("Decedent's DC Home"), was unlawfully sold by the Appellees on March 20, 2020, for \$740,000. The property, with 7 beds and 4

baths covering 3,224 sq ft, holds a market value of \$946,422 according to Redfin estimates.

It would be an oversight for the Appellate Court not to scrutinize the timing of the property's sale by the defendants in 2020. Assuming, without conceding, that Ms Whitfield's statute of limitations began in 2016 when she learned of her father's death, this conception by the Appellate Court is not feasible because the house illustrated in Exhibit O was sold in 2020. In fact, Exhibit O itself provides explicit information that could lead the Appellate Court to conclude that the Defendants had an interest in, use, or possession of the said property.

Ms. Whitfield's claims persist beyond 2019, as the complaint broadly asserts civil causes of action related to the defendants' disposal of Malvin's property in 2020 (Exhibit O) without a valid, probated will, resulting in harm to Ms. Whitfield and her father's foundation. This is an unjust enrichment. The appellant does not view this as an attempt to challenge the validity of a will under Title 20 of the D.C. Code. While Ms. Whitfield has put forth various causes of action, they ultimately stem from the defendants' handling of Malvin's property in 2020 (Exhibit O) and the subsequent misuse of Malvin's estate, leading to Ms. Whitfield and her father's foundation being deprived of their inheritance and contravening Malvin's wishes. Construing the pro se

complaint liberally, see *Price v. Washington Metro. Area Transit Auth.*, 41 A.3d 526, 533 (D.C. 2012).

Exhibit O may be considered by the Court because it is either explicitly quoted or referenced in the Complaint, or because the allegations in the Complaint are based upon the challenged exhibits. The exhibits in question are integral to Plaintiff's Complaint regarding Malvin's property in 2020.

Further, new circumstances of public importance have been discovered since the date of the judgment, see especially the Affidavits of Mr. Lee A. Decuir and Ms. Lacey O'Neal, who informed Appellant in 2019, shedding light on the fact that much of the memorabilia was sold or distributed to family members and that even the African American museum was contacted. Copies of Affidavits of Mr. Lee A. Decuir and Ms. Lacey O'Neal are attached as Exhibits A2 and B2 respectively.

The first exception to the four corners doctrine allows a court to consider documents that can be considered "integral" to the referencing complaint. *Id.* Integral documents are defined as documents that create the rights or duties that are the basis for the Complaint. *Id.* at 1196. A typical example is a civil action alleging a contractual breach where the actual contract has not been annexed to the complaint. In such cases, the contract would be considered integral and a defendant filing a motion to dismiss under Rule 12(b)(6) would be permitted to attach the contract as an exhibit, which

would then be considered for its truth by the court. See *Burlington Coat* at 1426 (finding that where a complaint relied on certain data in support of claims alleged, but did not attach the source of the data, a court could consider that source if provided by defendants in a motion to dismiss).

It is crucial to construe the pro se complaint liberally, in line with legal precedent. The doctrine of unjust enrichment applies squarely in this case, as evidenced by the defendants' unjust enrichment through the sale of Malvin's property in 2020. This doctrine is invoked when one party retains a benefit, typically monetary, that rightfully belongs to another. Exhibit O is integral to Plaintiff's Complaint concerning Malvin's property in 2020, as it forms the basis of the allegations and provides critical evidence to support Ms. Whitfield's claims.

The second exception to the four corners doctrine allows a court to "take judicial notice of public records." See *Oran v. Stafford*, 226 F.3d 275, 289 (3d Cir. 2000), see also *In re ATITech., Inc. Sec. Litig.*, 216 F.Supp.2d 418, 430 (E.D.Pa. 2002). Federal Rule of Evidence 201, et seq. is the cornerstone of judicial notice, and it states, in relevant part: Judicial Notice of Adjudicative Facts - F.R.E. 201(b) Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be

questioned. Should a document be judicially noticed, said document “may only be considered for the limited purpose of showing that a particular statement was made by a particular person” and not “for the truth of the matters purportedly contained within those documents.” Oran at 289 (quoting *Kramer v. Time Warner*, 937 F.2d 767, 774 (2d Cir. 1991)).

2. APPELLATE COURT ERRED IN ITS APPLICATION OF THE STATUTE OF LIMITATIONS, THEREBY VIOLATING DUE PROCESS RIGHTS UNDER THE CONSTITUTION

The Respondents invoked the statute of limitations as an affirmative defense and thus bore “the burden of showing that the claims were time-barred.” *Logan v. LaSalle Bank Nat'l Ass'n*, 80 A.3d 1014, 1019-20 (D.C. 2013). Whether the limitations period for a claim has expired presents a question of law. *Boyd v. Kilpatrick Townsend & Stockton*, 164 A.3d 72, 78 (D.C. 2017). “At the Rule 12(b)(6) stage, a court should not dismiss on statute of limitations grounds unless the claim is time-barred on the face of the complaint.” *Logan*, 80 A.3d at 102.

Although the limitations period for all of Ms. Whitfield’s claims is three years, as per D.C. Code §§ 12-301(2) and -301(8), Ms. Whitfield was not aware “well before” 2019 of potential claims arising from the Respondents’ conduct. Ms. Whitfield hereby attaches the Affidavit of Mr. Lee Arthur Decuir

(8903 Emerald Heights Ln, Houston, Texas 77083) as Exhibit A2, who had known Malvin Greston Whitfield (Malvin) for decades. He was a dear friend of Malvin, affirming the facts that Ms. Whitfield first learned in early summer 2019 when she visited Mr. Lee Decuir in Texas. It was during this visit that she first learned how "Malvin's estate was already shredded." Specifically, Fredericka "led a cabal that took advantage of [Malvin's] failing health and mental acuity in his later years to isolate him from other family members," including Ms. Whitfield, and "divert his hard-earned wealth away from his goal of continuing to build a legacy with a foundation that promotes sports globally and develops leadership in youth." They schemed to have Malvin create a will leaving his assets to the Respondents rather than to all of Malvin's children and his foundation. Petitioner was also informed by her initial lawyer Mr. Rodney C. Mitchell that when Malvin died in 2015, he did not leave a valid will but that a document "purporting" to be a will had been recorded in the District of Columbia, where Malvin lived, in 2009.

Indeed, in 2019, Mr. Lee Decuir informed Ms. Whitfield for the first time that when Malvin was ill and hospitalized, Mr. Lee Decuir inquired with Lonnie about whether they had informed Ms. Whitfield. Lonnie consulted his siblings and their mother. They unequivocally expressed their reluctance to inform Ms. Whitfield about her father's illness and whereabouts. Subsequently, Lonnie conveyed, "No, because of the inheritance issue," thereby

acting as the point person carrying out the wishes of Fredericka, Nola, and Nyna.

Upon careful examination of Ms. Whitfield's complaint, it should be concluded that the limitations periods for her claims had not expired at the time of filing. The inquiry into the commemorative medals occurred in March and April of 2019 through Rodney C. Mitchell, Esq., not in 2016, as misconceived by this court. (This document, a Demand Letter written by Petitioner's then counsel, was attached to the complaint as Exhibit L.)

UMC Dev., LLC v. District of Columbia, 120 A.3d 37, 48-49 (D.C. 2015). (“Because, however, we conclude that the trial court did possess subject-matter jurisdiction, the timeliness of the complaint is a legal question.”)

Petitioner attached Exhibit O showing that the property in question was sold in 2020 in the District of Columbia. This exhibit was attached to the complaint and part of it. Therefore, this court should reconsider its decision. The case is not time-barred; this court failed to consider those exhibits and the amended complaint of the petitioner.

It has been held that a Super. Ct. Civ. R. 10(c) (2004) (providing, in pertinent part that “[a] copy of any written instrument which is an exhibit to

a pleading is a part thereof for all purposes."). See also *Industrial Bank of Washington v. Allied Consulting Servs.*, 571 A.2d 1166, 1167-68 (D.C. 1990).

CONCLUSION

For the foregoing reasons, Ms. Whitfield respectfully requests that this Court issue a Writ of Certiorari to review the judgment of the Court of Appeals.

Respectfully submitted, this June 24th, 2024.

Signature: /S/ Muna Malvin Whitfield

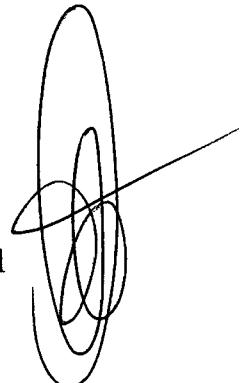
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A handwritten signature in black ink, appearing to read "Muna Malvin Whitfield", is written over a stylized, abstract scribble.