

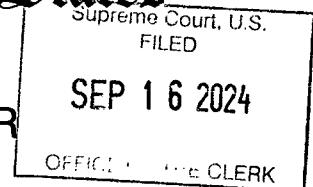
No.

24-5582

ORIGINAL

In the Supreme Court of the United States

IN RE CLEMENT MOSSERI, PETITIONER



ON PETITION FOR AWRIT OF CERTIORARI TO
The Southern District Court of New York
The Second Circuit Court of Appeals
and The United States of America et al.

PETITION FOR AWRIT OF CERTIORARI

Clement Mosseri, Pro se
7 West 21st Street #1708
New York, New York 10010
954 993-2625

To: Clerk,
Supreme Court of the United States,
1 First Street, NE
Washington, D. C. 20543

QUESTIONS PRESENTED BEFORE THIS COURT

1. Does the United States have an obligation, and a duty, to provide a Fair and Unbiased forum to resolve legal issues, a system of courts that abide by the U. S. Constitution and the rules of laws and procedures under those rules?
2. Does the United States and the Supreme Court of the United States have a duty an obligation to correct the lower courts if they maliciously deviate with bad behavior from the U. S. Constitution and the rules of laws and procedures under those rules for an unjust purpose?
3. Does a judge have jurisdiction if the case was not properly assigned to him?
4. Does a judge have authority to remand a case to a court that never had jurisdiction?

LIST OF PARTIES

7 West 21 LI LLC

The United States of America, Merrick B. Garland, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001 for the United States

RELATED CASES

In The Civil Court, 7 West 21 LI LLC., v. Mosseri, et al L&T 053774/2019

In The Supreme Court of the State of New York, Appellate Term, First Department,

7 West 21 LI LLC., v. Mosseri, et al L&T 053774/2019

In the New York State Appellate Division of the Supreme Court, 2019, Review Denied

In The Civil Court, 7 West 21 LI LLC., v. Mosseri, et al L&T 303464/2022

In The Civil Court, 7 West 21 LI LLC., v. Mosseri, et al L&T 312858/2022

In the Southern District of New York, 7 West 21 LI LLC., v. Mosseri 20 CV 279

In the Southern District of New York, 7 West 21 LI LLC., v. Mosseri 21 CV 5621

In the Southern District of New York, 7 West 21 LI LLC., v. Mosseri, 23-CV-09448

In the 2nd Circuit 7 West 21 LI LLC, vs Clement Mosseri, 22-609/ 22-634 Consolidated

In the 2nd Circuit 7 West 21 LI LLC, vs Clement Mosseri, 23-CV 7765

JURISDICTION

The jurisdiction of this Court is invoked under appellate jurisdiction 28 U.S.C. 1651 (a),

In the alternative, the jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

The Order dismissing the case issued on June 18, 2024 by the United States Court of Appeals for 2nd Circuit.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Application to Proceed Without Prepaying Fees or Costs
28 U.S. Code § 1915

COVER

28 USC 1291	11
The Fifth Amendment to the Constitution of the United States	3
The Fourteenth Amendment to the Constitution of the United States	3
26 CFR CH. I § 11.42-5 (b), (1) (vii)	5, 10
The U.S. Housing Act of 1937	10

“The Fifth Amendment to the Constitution of the United States, the right to a jury trial when you're charged with a crime, protection against double jeopardy, protection against self-incrimination, the right to a fair trial, and protection against the taking of property by the government without compensation.”

Equal protection analysis in the Fifth Amendment area is the same as that under the Fourteenth Amendment

“The Fourteenth Amendment to the Constitution of the United States, 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.”

INDEX OF APPENDICES

Order Dismissing the Case in the 2 nd Circuit.	A
Order Assignment of Council, April 25, 2019	B

STATEMENT OF THE CASE / SUMMARY

On February 19, 2019, Lawrence Goldstein attorney with Borah, Goldstetn, Altschuler, Nahins & Gordel, P.C. filed a Notice of Petition Holdover, 7 West 21 LI LLC, vs Clement Mosseri in the Civil Court of The City Of New York County of New York: Housing Part L&T 053774/2019, Summary, alleging Mosseri failed to recertify pursuant to the rental agreement pursuant to the rules and regulations of the federal Low -income Housing Tax Credit ("LIHTC") program pursuant to Section 42 of (IRS) Code.

On April 25, 2019, Judge Michelle Schreiber, referred Mosseri to assigned counsel, for an appointment of an attorney regarding the issues of the complaint, as allowed under the laws of NY. No attorney was assigned as required. Exhibit B

On June 11, 2019, Mosseri filed A Motion to Dismiss Under CPLR Rule 3211 (a), I & IO
"I PETITIONER FAILS TO INCLUDE A NECESSARY PARTY at

1. Petitioner states throughout his petition the owner is operating under the LIHTC program pursuant to Section 42, a Federal program (under IRS rules), but fails to include the United States a necessary party respondent needs to examine,
2. Dismissal of the petition is required under CPLR 3211 (a), 10"

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II. SECTION 8 TENANTS ARE NOT REQUIRED TO FILE RECERTIFICATION WITH THE LANDLORD UNDER THE LAW. at :

4. Petitioner states, "in order to cure (respondent) Immediately submit all required paperwork to complete your annual recertification process",

5. Petitioner is aware respondent is a Section 8 tenant,

6. Tenant is third party in the landlord IRS agreement,

7. 26 CFR Ch. I § 1.42-5 (b), I (vii), gives a clear course to follow providing the procedure to fulfill landlord's obligation and an exception for Section 8 tenants' "recertification. The relevant portion on how to comply for a Section 8 tenant follows, *"In The case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this paragraph (b)(l)(vii) is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under section 42 (g)"*

8. Section 42 (g) refers to the unit income guidelines, different for every unit and building,

At 26. Tenant is not a Holdover: the lease was never valid.

A COUNTERCLAIM COMPLAINT was also filed on June 11, 2019, at:

11. The owner's agents were not licensed under the law as required under NY State Article 12A,

20. Landlord and his agents fraudulently obtained the lease from respondent by withholding material facts,

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23. Respondent can no longer obtain a replacement unit that is suited for his needs and suffered damages,

WHEREFORE, Respondent Tenant prays for entry of judgment against Petitioner, its owners and agents for the following: From landlord and his agents, the sum of \$3,800.000.00 plus punitive damages trebled to \$ 11,400,000.

The Court ordered Petitioner to reply to the Cross Motion by 7/10/19. Petitioner/ plaintiff defaulted by failing to answer.

On August 9, 2019, Mosseri filed a Motion for Entry of Default at 17. Petitioner's failure to answer is a very troubling, willful and intentional abuse of the process to gain an advantage that he is not legally entitled and burdening the court,

At 18. Respondent now seeks entry of Default Judgment pursuant to CPLR § 3215, against Petitioner, 7 West 21 LI LLC, that the court has jurisdiction over, for the damages exactly as written in the Counterclaim Complaint defaulted by Petitioner 7 West LI LLC,

" Respondent Tenant prays for entry of judgment against Petitioner, its owners and agents for the following: From landlord and his agents, the sum of \$3,800.000.00 plus punitive damages trebled to \$ 11,400,000."

On August 19, 2019, No judge was available at a court date. Petitioner/Plaintiffs attorney Lawrence Goldstein illegally had the case heard before Judge Nembhard who was never assigned by the court. Judge Nembhard allowed Petitioner to file a Cross Motion. without proper assignment, without jurisdiction failing to address the Motion to

Dismiss.

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On August 28, 2019, Petitioner/Plaintiffs attorney Lawrence Goldstein filed a Cross Motion.

On November 19, 2019, before Judge Frances Ortiz, made several decisions after she admits that she had ex parte conversations with Petitioner/Plaintiffs attorney Lawrence Goldstein that predetermined the outcome prior to the hearing of several Motions Mosseri made.

Mosseri acquired a copy and is in position of the court audio of the hearing of Judge Ortiz she admits to the ex parte civil rights violations with the purpose to pre determine the Motions, and is available to this court.

After three conspiracies between the judges and Lawrence Goldstein of Borah, Goldstetn, Altschuler, Nahins & Gordel, P.C., to deprive Mosseri his civil rights, and ignoring Mosseri's Motion to Dismiss, unable to review a Federal Question or amend a federal statue in a state court, On January 13, 2020, Mosseri filed a Notice of Removal

On January 13, 2020, Mosseri filed a Notice of Removal with the Civil Court and filed, 20 CV 00279, in SDNY after continual civil rights violations in the Civil Court and lack of jurisdiction and not capable to determine or amend a Federal Question IRS section 42.

The SDNY clerk went judge shopping with a non-random assignment to a senior judge Judge John Koeltl instead of a random assignment by the wheel as is required.

Senior Judge John Koeltl intentionally corrupter the case docket with numerous false entries and withheld a Motion for Summary Judgment made by Mosseri from entry with the assistance of the Court Clerk.

Upon information and belief Judge Koeltl had multiple ex parte conversations with Plaintiff's attorneys.

Mosseri was denied accesses to the court records due to Covid. Conspiracy to deny civil rights and due process in order to deny civil rights and effect a taking of property under color of law.

The case was then transferred to Judge Cronan. Upon information and belief Judge Cronan asked then Chief Judge Colleen McMahon for assistance to remand the case back to NYC Civil Court. After a review Chief Judge Colleen McMahon informed Judge Cronan the reasons he could not. A Federal Question, Mosseri filed a Motion to Dismiss in the Civil Court, Plaintiff failed to include a necessary party, the United States along with additional merits. The Civil Court Never had Jurisdiction.

Judge Cronan with the assistance of Rose & Rose plaintiffs new Law firm's had ex parte communications and issued an order without any authority to illegally remand the case to a court that never had jurisdiction. A second conspiracy to deny civil rights, due process and a property taking under color of law.

Mosseri informed Judge Cronan that the reassignment to Rose & Rose was improper. Judge Cronan ignored it.

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Rose & Rose plaintiff's attorneys and the Civil Court recommenced the Civil Court case. While still under appeal in the Federal Courts

Mosseri informed the Civil Court they lacked Jurisdiction they continued anyway and rendered an illegal ex parte eviction a civil rights violation under color of law.

Mosseri filed a Notice of Removal in Civil and started 23-CV-09448, in the SDNY and it was again assigned to Judge Cronan. Judge Cronan issued an order that relied on the previous illegal order of remand.

This is the 4th time Mosseri was denied his civil rights and property in the Federal courts, the first going back to 1995, and aside from the conspiracies the 4th time Mosseri was denied his civil rights in state courts. In fact, every time Mosseri was before any court.

To date all decisions in the Civil Court are not valid because they never had jurisdiction. And all decisions in the Federal Courts are invalid because the judicial assignment was not legally proper.

Mosseri seeks De novo review and an appointment of an attorney as he will be denied civil rights without one,

Aside from the improper conduct what remains is the Federal Question, entry of the default plus interest from the date filed as allowed under State law, punitive damages for the civil rights violations in the two courts and damages for 100+/- defamation made against Mosseri, failing to provide his right to quiet enjoyment, failure to make repairs, and other claims against the owners and management of the residential building.

On the issue of recertification under LIHTC, Mosseri is a third party to their agreement between the IRS and the landlord.

Landlord can obtain the information needed to be filed to the IRS from other sources.

A recent mailing provided by landlord shows Mosseri's income from NYS DHCR the IRS LIHTC representative in the State of NY and where the recertification is filed. They have the information.

Mosseri is a Section 8 tenant filing an annual recertification under the same law with HUD's NYC representative. LIHTC and Section 8 recertification fall under the same law United States Housing Act of 1937. A Section 8 tenant is automatically qualified under LIHTC without any additional filing or waivers.

Double jeopardy having to annually recertify with HPD the HUD representative in NYC and again under LIHTC even if it is only a waiver of release of financials from HUD is double jeopardy, forced to comply twice annually.

26 CFR Ch. I § 1.42-5 (b), I (vii), the statute in question needs to be amended to state that Section 8 tenants are exempt from recertification under LIHTC.

"Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937 ("Section 8"), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under Section 8, the documentation requirement of this paragraph (b)(1)(vii) is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not exceed the applicable income limit under section 42 (g);"

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Mosseri filed an IFP and appeal in the 2nd Circuit 7 West 21 LI LLC, vs Clement Mosseri, 23-CV 7765, due to Judge Cronan's bad conduct and continued ex parte conspiracy.

On June 18, 2024, the Second Circuit dismissed the case, denied review.

The Second circuit erred by improperly denying review failing to hear the exception to the Final Judgment Rule that is separate from the merits of the action. The conduct and bad behavior in the District Court by judge Cronan and others.

The 2nd Circuit was aware of the facts when it Consolidated 7 West 21 LI LLC, vs Clement Mosseri, 22-609/ 22-634 dealing with the same issues.

Under 28 USC 1291 Final judgment rule" there are exceptions here the collateral order doctrine allowing appeals from interlocutory orders that Resolve an important issue that is separate from the merits of the action. In this instance bad behavior and civil rights violations that resulted in abuses that denied Mosseri's civil rights and a fair hearing.

The Second Circuit failed to grant IFP and failed to review as required in that order, ignoring Mosseri to be heard before making a determination on the merits rather than arbitrarily dismissing the appeal without hearing the arguments of his exception to the Final Judgment Rule. After the brief is filed by Mosseri then they will be able to determine if there was an exception to the Final Judgment Rule not arbitrarily predetermine without a hearing as they did, Civil Rights violation procedural due process.

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The Civil Court never had jurisdiction under the law.

The case was never randomly assigned to a Judge in the District court as is required.

The SDNY judges aided and conspired to deny Mosseri his Civil Rights and due process in order to deny and take property biased to an IFP pro se litigant.

Judge Cronan ordered a remand that ignores the facts and the law to a court that never had jurisdiction in furtherance of the conspiracy, lacking authority by doing so, bad behavior.

The 2nd Circuit denied a total of 7 decisions Mosseri was entitled. The Second Circuit knew or should have known the case required the requested De novo review.

Bad behavior in the District Court was ignored and continued in the 2nd Circuit. Mosseri is IFP pro se.

At least three member of the judicial circuit aided in this effort.

This is continual bad behavior by the State and Federal courts going back almost 30 years with multiple violations of civil rights.

This issues in this case are far from difficult. They would have been resolved long ago if it was before a just court where Mosseri's civil rights were not ignored or he was represented by an attorney as the order of assigned sought who would not be ignored and ensure Mosseri's civil rights are upheld.

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The courts consistent denial of civil rights Mosseri's show he will never get a fair hearing in any courts unless he is represented by an attorney as per Order of Assignment of Council made on April 25, 2019.

Therefore, Mosseri is demanding this court honor the Order of Assignment of Council made on April 25, 2019, before it proceeds.

If this court fails to correct then my superior who is also your superior will correct it without limitation as he sees fit.

"The fair and impartial delivery of justice in judiciary proceedings Rule 1 of the Federal Rules of Civil Procedure calls for the "just, speedy, and inexpensive determination of every action and proceeding," and this plan includes a goal to avoid unnecessary costs and delay."

REASONS FOR GRANTING THE WRIT

1. A final decision was not required to be heard by the 2nd Circuit in this instance due to the exception to the Final Judgment Rule and the bad behavior.
2. There are continued bad behavior in the courts below and it cannot be heard fairly Due to Mosseri being IFP pro se, "suspect classifications" violations under the Equal Protection Clause.
3. Failing to make corrections to bad behavior brings dishonor to the courts.
4. Failing to hear this matter, my superior who is also your superior will do so without a measured response.

CONCLUSIONS

De novo review is required and will dispose the case,

Appointment of an attorney as per court order is required denied civil rights without one, attorney can rewrite this writ.

The United States has an obligation, a duty, to provide a forum to resolve problems, a system of courts that abide by the U. S. Constitution and the rules of laws and procedures under those rules,

The United States and the Supreme Court of the United States have a duty and obligation to correct the lower courts if they maliciously deviate with bad behavior from the U. S. Constitution and the rules of laws and procedures under those rules for an unjust purpose,

A judge does not have jurisdiction if the case was not properly assigned to him,

A judge does not have authority to remand a case to a court that never had jurisdiction,

Considering the background and writings by the legal profession for the past 60+ years it is clear that IFP pro se litigants are consistently denied standing in the Federal and State courts unless they have legal representation "suspect classifications" violations under the Equal Protection Clause.

This is not an isolated incident. This is the fourth time the Federal government and the Federal and state Courts illegally took Mosseri's property because he was pro se IFP.

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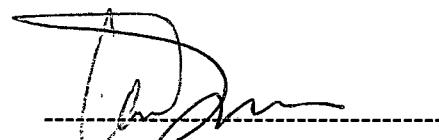
The Federal Government failed to provide a form that abides by the Constitution and the rules of law of the United States and failed to insure the Constitution and the rules of law are followed in States Courts and must they must correct.

There is a pervasive attitude by Federal and State judges that denies pro se IFP litigant any rights under the Constitution and the rules of law of the United States in the Courts.

The SDNY pro se clerk is in a separate building than the clerk's office for everyone else and is discriminatory. Jim Crow is dead but not in SDNY where pro se litigant are required to go to the back of the bus and file complaints and papers in a building that is a block away. Pro se litigants are being thrown under the bus by the courts in their denial of basic civil rights and conspired against.

This problem has a solution with marginal costly and continue in 2 to 3 years without any cost to the government.

Respectfully submitted,
Dated September 16, 2024



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