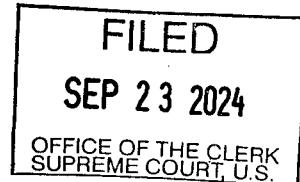


No 24-5825



In The Supreme Court Of The United States

Victoria Wong

Petitioner

v.

Ricky Wong

Respondent.

On Petition for Writ of Certiorari
To Supreme Court of The State of New York,
Appellate Division, First Department

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

1. Whether the respondent's submission of fabricated documents and knowingly false statements in an sworn affidavit, with the intent to deceive the Supreme Court, New York County constitutes a violation of due process and equal protection rights under the Fifth and Fourteenth Amendments of the United States Constitution?
2. Whether the supreme court's failure to properly address the respondent's fraudulent conduct, which amounts to forgery and perjury, denied the petitioner a fair trial and equal protection under the law?

PARTIES TO THE PROCEEDING

The petitioner is Victoria Wong

The respondent is Ricky Wong

STATEMENT OF RELATED PROCEEDINGS

Victoria Wong v. Ricky Wong. No. 307050 /2008. The Stipulation of Settlement was signed on March 9, 2015

Victoria Wong v. Ricky Wong. Doc No. 52 Taiwan Taipei District Court No: Su-86 Year 2016 opinion entered on June 19,2019

Victoria Wong v. Ricky Wong No. 158126/2017 Supreme Court New York County, Judgement entered November 10, 2022

Victoria Wong v. Ricky Wong Case No. 2022-05463 Supreme Court New York State, Appellate Division, First Judicial Department judgement entered on October 17, 2023

Victoria Wong v. Ricky Wong Mo No. 2023-826 State of New York Court of Appeals Untimely filing as April 25, 2024

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18 U.S.C. § 471:

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PETITION FOR WRIT OF CERTIORARI

Petitioner Victoria Wong respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of New York Appellate Division
- First Judicial Department

INTRODUCTION

The petitioner once again comes before this Court, now presenting undisputed evidence that is at risk of being concealed unless the Court intervenes. On March 9, 2015, the petitioner entered into a divorce settlement under the belief that the respondent owed a debt of \$26,770, as stated in his net worth statement dated July 2, 2014, Appendix A, at A - 83. The divorce settlement terms included an equitable distribution of \$139,500, Appendix A, at A-13. and monthly spousal support of \$ 3,500 for 36 months, Appendix A, at A -10 , contingent upon the petitioner vacating the marital home by June 15, 2015 , Appendix A, at A-14.

The petitioner has long suspected that the respondent concealed assets in Taiwan, their country of origin. Soon after the settlement, the petitioner initiated legal proceedings in Taiwan, seeking the distribution of remaining assets, if there were any. During the marriage, the petitioner had no access to the respondent's finances, as the prenuptial agreement remained in effect. Through an investigation by the Taiwan Court, the petitioner uncovered \$2,001,785 in the respondent's name name as of June 27, 2008 ¹, Appendix E, at A-120. These assets were never

¹ June 27, 2008 is the date the petitioner filed the divorce at the Supreme court of New York County; therefore, the Taiwan Court investigation is focusing on that date concerning assets in the respondent's name

disclosed in the respondent's 2008 net worth statement.

The petitioner sought half of the uncovered assets, in accordance with the settlement agreement, Appendix A, at A-16. The respondent vigorously opposed this request, falsely claiming that he had not returned to Taiwan in the past 27 years and arguing that the Taiwan Court should apply U.S. law in its ruling. As a result, the Taiwan Court dismissed the case and referred the matter to the Supreme Court of New York County, Appendix C, at A-67. Subsequently, on June 20, 2020, the petitioner filed a motion for summary judgment in the Supreme Court (lower court)², seeking half of the uncovered \$ 2,001,785, Appendix E, at A-120, along with associated fees, and moved to set aside the settlement agreement on the grounds of fraud and breach of fiduciary duty.

On August 5, 2020, the respondent submitted several falsified documents Appendix F and a knowingly false sworn affidavit, Appendix G with the intent to deceive the court. Together with his attorney, Gregory Getz, who submitted a fifty - four page memorandum of law, they orchestrated a scheme intended to mislead the court into believing that the respondent had disclosed \$1.8 million in his 2008 net worth statement while unintentionally omitting \$200,000.

On November 9, 2022, the lower court ruled in favor of the respondent Appendix H, accepting the respondent's testimony unilaterally without verifying its truthfulness against the original, Appendix B. The petitioner timely filed an

² On January 25, 2018, the petitioner filed a complaint in the New York Supreme Court, adhering to the two-year rule after discovering the fraud in Taiwan.

appeal with the New York Supreme Court, Appellate Division, First Judicial Department, On October 17, 2023, the Appellate Court again failed to address the fraudulent actions and subsequently dismissed the appeal. Appendix I, which was then followed by an untimely filing with the Court of Appeals.

The petitioner now recognizes that the respondent's fraudulent actions involve not only fraud but also criminal conduct. Specifically, forgery and perjury, which are serious federal offenses, governed by 18 U.S.C. § 471 and 18 U.S.C. § 1623 with legal consequences. Perjured testimony can undermine justice by leading a court to issue a "judgment not resting on truth" See (*In re Michael*, 326 U.S. 224, 227 (1945); *United States v. Dunnigan*, 507 U.S. 87, 97 (1993)).

The failure of both the lower and appellate court to address these federal offenses undermines the integrity of the judicial process and necessitates intervention by this Court to protect and uphold public trust in the judicial system (see *In re Intermagnetics Am., Inc.*, 926 F.2d 912 (9th Cir. 1991); *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944)).

The justice system relies on truthful testimony and accurate documentation. Perjury compromises the court's ability to make fair decisions, as judgments are based on false information. This petition is essential to uphold court precedents and rectify the dismissal of the petitioner's complaint as a miscarriage of justice.

OPINION BELOW

The Supreme Court of the State of New York, appellate division, - First Department, issued its decision on October 17, 2023. The court upheld the lower court's ruling and introduced an issue regarding ratification. While ratification was argued in the lower court, it did not raise any concern. The decision was made despite substantial evidence indicating that the respondent's sworn affidavits and supporting document were fraudulent.

JURISDICTIONAL STATEMENT

The judgment of the Supreme Court of the State of New York, Appellate Division- First Department, was entered on October 17, 2023. An untimely appeal for leave was denied by the New York Court of Appeals on April 25, 2024. This Petition for a Writ of Certiorari is timely filed within the extended deadline of September 23, 2024, in accordance with Rule 13 of the Rules of this court. This Court has jurisdiction to review the decision of the Supreme Court of the State of New York, Appellate Division-First Department, pursuant to a writ of certiorari under 28 U.S.C. § 1257.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 471: Prohibits forging or counterfeiting U.S. obligation
or other securities relevant to the respondent's use of falsified documents

18 U.S.C. § 1623: Prohibits making false declarations under oath in
U.S. court proceeding pertinent to the respondent false sworn affidavits

The lower courts, including the Supreme Court of the State of New York,
Appellate Division - First Department, relied on these falsified documents and
knowingly false sworn affidavits, thereby depriving the petitioner of due process
and a fair trial and violating the petitioner's constitutional rights under the Fifth
and Fourteenth Amendments.

STATEMENT

A. Procedural History

On June 27, 2008, the petitioner filed for divorce in the Supreme Court of New York County, citing abandonment as grounds. On October 23, 2008, the respondent submitted a sworn net worth statement Appendix B. Subsequently, the respondent claimed in an affidavit that a prenuptial agreement existed; This agreement was invalidated due to fraud. Shortly after, the respondent asserted the existence of a second prenuptial agreement. A three - day trial was held before Judge Ellen Gesmer. On October 12, 2010, the court again nullified this agreement.

As the legal proceedings progressed, the legal fees increased significantly. Dobrish Michael Gross LLP (DMG), was representing the petitioner, filed a motion seeking two money judgments totaling \$180,000. The court granted this motion after reviewing the financial documents submitted by the respondent, which led the court to recognize the respondent as the “monied spouse”. The respondent opposed this decision, submitting a sworn net worth statement dated August 19, 2011, Appendix K, along with an affidavit claiming he lacked the funds to pay and was in debt of \$60,000 to his brother Eric. However, it was revealed that as of June 27 2008, the respondent held \$2,001,785, Appendix E, A-120 in foreign bank accounts and owned a business office valued at approximately \$ 3 million in Taiwan.

When the respondent signed the sworn net worth statement and affidavit, he was fully aware that swearing under oath meant affirming that the information

provided was true and accurate to the best of his knowledge. This oath carries legal significance and is designed to promote honesty and integrity in legal proceedings. By providing false information, the respondent's behaviour totally undermined the proper functioning of the legal system. See **Hoffman v. Board of Education of the City of New York**, 298 F.3d 488 (2d Cir. 2002); **United States v. Dunnigan**, 507 U.S. 87 (1993).

Due to a lack of funds, DMG withdrew, leaving discovery unfinished and the court-appointed appraisal incomplete. The petitioner, proceeding pro se, attended a hearing with Referee Hewitt in April 2013. Judge Gesmer later rejected the Referee's report and scheduled a half-day hearing for September 2014. On July 2, 2014, the respondent submitted a fourth net worth statement, declaring a net worth reflecting a debt of \$26,770. Appendix D, at A-83.

When the final scheduled hearing was postponed three times, the petitioner and her attorney requested a meeting with Judge Ellen Gesmer, during which the respondent and his attorney were also present. The judge assured the petitioner that there was no equitable distribution available for her to receive and suggested they settle. Consequently, the petitioner accepted a very low amount of \$139,500 Appendix A, at A-13 in three installments, believing the respondent was in debt. The petitioner was forced to move out of a \$1 million mortgage-free townhome with a monthly maintenance cost of \$5,000. This townhouse featured 3,600 square feet of living space, an 18-hole golf course, swimming pool, gym, tennis court, and 24-hour security, which the respondent had placed in his brother's name on the deed after his first divorce finalised.

B. Claims of Undisclosed Assets

Shortly after seven years of difficult litigation that ended in settlement, the petitioner long suspected that the respondent was hiding assets in Taiwan, their country of origin. She then initiated legal proceedings in Taiwan, seeking half of the remaining assets. Throughout the marriage, the petitioner never had access to the respondent's finances while the prenuptial agreement was in effect. There were no joint bank accounts, credit cards, or any other form of financial connection. The respondent fought vigorously, arguing that the parties had mutually released each other from any further claims. However, through the Taiwan court, the petitioner was able to discover \$2,001,785, Appendix E, at A-120, which included securities worth \$ 647,008, Jade Mountain Bank accounts \$196,116, Changhwa Commercial Bank accounts \$ 94,355.27, and Qunyi Stable Fund holdings of \$1,064,306. This amount was held in the respondent's name and was not disclosed in his 2008 net worth statement, Appendix B or in his three subsequent net worth statements.¹

The petitioner requested half of the \$2,001,785, along with associated fees and 5% interest, in accordance with the settlement, Appendix A, at A-16. The respondent vigorously contested in Court, submitting falsified Taiwan entry and exit records on March 5, 2019, and falsely testifying that he had not returned to Taiwan in the 27 years since 1983, asserting that US. laws should apply to

¹ During the entire proceedings, the respondent submitted four net worth statements, dated October 23, 2008, December 23, 2010, August 19, 2011, and July 2, 2014, Appendix E, at A-109-112.

the case. Consequently, on June 19, 2019, the Taiwan court dismissed the action and requested the New York Supreme Court to determine the matter. Appendix C, at A-67.

C. Pattern of Fraudulent Behavior

The respondent has consistently been labeled as "not credible" by the lower court. Several crucial events in this prolonged proceeding illustrate here: On February 28, 2012, during a deposition with the respondent's attorney - Gregory Getz present, the respondent testified under oath that the bank accounts listed in the foreign language attachments, and these financial documents were not his, Appendix B, at A-39 to A-47, but rather belonged to his sister, Leda. However, following the discovery of a \$2,001,785 asset in Taiwan, the respondent then changed his testimony and committed fraudulent acts, including forgery and perjury, Appendices F and G, with the intent to mislead the lower court. With the assistance of his attorney Gregory Getz, the respondent's scheme was executed successfully.

In December 2011, after the court ruled in favor of two monetary judgments against the respondent, he claimed he lacked the funds to honor the court order. However, subsequent evidence revealed that he had \$2,001,785 available in cash in his foreign account in Taiwan, along with a business office valued at \$ 3 million, approximately which generated substantial rental income, the rent income and these \$ 2 million dollars was never reflected in the respondent's tax returns. His

reported income was \$100,593 for 2008, \$100,688 for 2010, and \$100,688 for 2013, Appendix D, at A-89.

In addition, the respondent established two offshore accounts named Kato International and Pioneer Vigor, Inc and had wire transferred \$1.8 million into his Chase and HSBC accounts between 2006 and 2012, and falsely claiming these funds were a "loan" from his mother. Similarly, the respondent formed a company called "International Fashion" in the British Virgin Islands, investing \$ 2 million to launch his business. It is evident that the respondent is not as impoverished as he claimed. He has demonstrated an ability to manipulate the court system, and his fraudulent behavior has persisted since the beginning of these proceedings in 2008. The settlement amount of \$139,500 and 36 months of spousal support were significantly low, considering the total 20 years of cohabitation which would entitle the petitioner to 10 years or more of support.

This case centers on the principle of equality. The petitioner made significant contributions to the family, while their son is now 35 years old, with the respondent often away for three to four months each year. The petitioner was misled into an agreement, and the emerging evidence has demonstrated that the respondent's behavior was deplorable, marked by deliberate and dishonest deceit. Dishonesty in any legal proceedings should not be tolerated, and the family court should be no exception.

D. Failure of lower court and appellate court to address the fraudulent behaviour

The failure of both the lower court and the appellate court to address the fraudulent actions of the respondent is concerning. These actions not only constitute fraud but also perjury, reflecting a clear intent to deceive the court—both of which are federal offenses with serious legal consequences. Perjured testimony and the submission of falsified documents are not merely procedural issues; they represent a fundamental attack on the justice system itself. Such actions undermine the court's ability to achieve a fair and just outcome, since judgments are based on false information.

The Supreme Court has recognized that perjured testimony can invalidate a judgment due to its direct impact on the integrity of the judicial process. Such deceit represents a wrong against the institution established to protect and safeguard the public. See **Hazel-Atlas Glass Co. v. Hartford-Empire Co.**, 322 U.S. 238 (1944).

The appellate court possesses the inherent authority to vacate judgments obtained through fraud, including perjury, in order to preserve the integrity of their proceedings. It is the duty of the courts to rectify or overturn legal decisions affected by deceit or fraudulent behavior. See **Payon v. United States**, 845 F.3d 241 (7th Cir. 2016).

REASON FOR GRANTING THE PETITION

I. VIOLATION OF DUE PROCESS AND EQUAL PROTECTION

The petitioner seeks review by the Supreme Court of the United States

due to substantial violations of due process and equal protection, as guaranteed by the Fifth and Fourteenth Amendments of the U.S Constitution. These violations manifest in several ways. First, the lower courts failed to adequately consider the overwhelming evidence of fraud and perjury presented during the proceedings, undermining the fairness of the judicial process. The petitioner was denied the opportunity for a fair hearing, where evidence of the respondent's deceitful actions was not thoroughly examined, thereby compromising the integrity of the judicial system.

Additionally, the unequal treatment experienced by the petitioner, in comparison to the respondent, raises concerns about equal protection under the law. The judiciary's failure to address the fraudulent behavior and its consequences has resulted in an inequitable outcome that disproportionately affects the petitioner. Such failures not only contravene constitutional protections but also erode public confidence in the judicial system, highlighting the necessity for review by this Court to rectify these critical injustices.

A. Fraudulent Conduct and False Statements:

The respondent engaged in fraudulent conduct by submitting falsified documents, Appendix . F, and making knowingly false statements in the sworn affidavits, Appendix G. These actions were intended to deceive the court regarding the respondent's financial status, significantly impacting the lower court's decision and resulting in a ruling in the respondent's favor. This fraudulent misconduct constitutes forgery and perjury, both federal offenses punishable by law. The

submission of these falsified documents misled the court, undermining the integrity of the judicial process and affecting the petitioner's ability to present a fair case. The respondent's actions not only obstructed justice in this instance but also set a troubling precedent for future conduct, suggesting a systematic approach to deception that could have broader implications for the legal system. As a result, the petitioner faced substantial disadvantages in their pursuit of equitable relief, further highlighting the need for the court to rectify this miscarriage of justice.

B. Effects on the Right to Due Process

The lower court's failure to address these federal offenses compromised the petitioner's right to due process. As established in **In re Michael**, 326 U.S. 224 (1945), and **United States v. Dunnigan**, 507 U.S. 87 (1993), judgments based on false information undermine the integrity of the justice system. The petitioner's constitutional right to a fair legal proceeding was violated when the lower court permitted fraudulent conduct to influence its decision.

C. Infringement of Equal Protection Rights

The failure to address critical falsehoods and ensure a fair legal process also infringed upon the petitioner's right to equal protection under the law. Equal protection mandates that every individual is entitled to a fair legal proceeding or fair trial. This right was compromised due to the unaddressed fraudulent actions that influenced the outcome of the case.

II. Conflict Between the Appellate Court and Lower Court Decisions

The appellate court's ruling contradicts the findings of the lower court, creating legal inconsistencies that warrant Supreme Court review.

A. Appellate Court's Misinterpretations

The Appellate Court made several erroneous statements that conflict with the lower court's judgment.

- a. The court incorrectly assumed that the petitioner did not rely on the respondent's financial disclosure, despite clear evidence in the Stipulation of Settlement.
- b. The court erroneously asserted that nothing prevented the petitioner from conducting discovery during the settlement agreement, despite the fact that the discovery process had closed in September 2012.
- c. The respondent's false claims regarding his knowledge of stock holdings and overseas accounts were accepted without proper scrutiny.

B. Evidence of Ignored Fraud

The Appellate Court's failure to address the respondent's fraudulent behavior permitted him to benefit from his deceit. The lower court had already recognized the respondent's lack of credibility and penalized him for false claims regarding his financial situation. Subsequent evidence revealed substantial concealed assets in Taiwan, confirming that the respondent's testimony was intentionally false.

C. Flawed Ratification Argument

The appellate court erroneously concluded that the petitioner ratified the Stipulation of Settlement by accepting benefits for nearly three years before seeking rescission. In fact, the petitioner did not ratify the agreement; she promptly objected to the fraud perpetrated by the respondent by initiating litigation in Taiwan to seek distribution of the assets he had concealed there. (See **Jaywyn Video Prods., Ltd. v. Servicing All Media, Inc.**, 179 AD2d 397 [1st Dept 1992]; **Savran v. Chiang**, 234 AD2d 54 [1st Dept 1996].) In addition, the petitioner did not learn about the full extent of the respondent's fraudulent concealment of bank assets in Taiwan until December 2016, and the stock holdings until November 2018. Without this knowledge, there could be no ratification of the agreement.

D. Conclusion – Conflict Requires Resolution:

The discrepancies between the lower and appellate court decisions regarding discovery, financial disclosures, and ratification emphasize the necessity for Supreme Court intervention. Consistency in applying the law is essential, and the Supreme Court's review is needed to resolve these issues and ensure justice.

III National Importance: The Erosion of Judicial Integrity

The failure of both the lower court and the appellate court to address the respondent's fraudulent acts and perjured testimony not only deprived the petitioner of a fair trial but also sets a dangerous precedent for the entire

judicial system. When courts permit fraud and falsehoods to go uncorrected, it undermines public trust and erodes the very foundation of justice.

This case represents a critical national issue: the integrity of the judicial process. Allowing such misconduct to persist threatens the fairness of rulings, not just in this instance but across the country. The failure to properly address clear evidence of fraud compromises the rights of individuals and diminishes public confidence in the courts. If such behavior is not curtailed, it endangers the integrity upon which justice is built. It is impacting not just this case but potentially countless others across the country. It is imperative that the Supreme Court intervene to restore faith in the system and ensure that these fundamental issues are adequately addressed and to provide clarity and consistency in the application of the law.

CONCLUSION

This petition for a writ of certiorari should be granted.

September 22, 2024

Respectfully submitted


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