

No 24-6035

SUPREME COURT OF THE UNITED STATES

Kecia Porter,

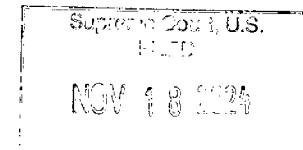
Petitioner

vs.

Jennifer Navarro

Frank Latek,

Respondent(s)



On Petition for a Writ of Certiorari

to the Illinois Supreme Court

PETITION FOR A WRIT OF CERTIORARI

Raymond Fabricius

320 W. Jackson suit 200,

Ottawa IL.61350;

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IV. QUESTIONS PRESENTED

1. Whether a court, Under the Color of Law Section 242 of Title 18 violates the petitioner 14th Amendment Due Process and Equal Protections rights by ruling on matters not before it, without jurisdiction it is Coram non judice-a nullity.
2. Is a private company's Arbitration not conducted under the Circuit Court's jurisdiction, after dismissal of initial claim by "*settlement between the parties*" barred by the doctrine of res judicata; which prevents the same case from being litigated multiple times with the same parties.
3. Does a Circuit Court violate due process and equal protection if that court *only retains jurisdiction pursuant to a controlling statute, 735 ILCS 5/2*; but rules on issues outside of "*enforcement of a settlement*"?
4. Where a reviewing court with *prima facie* showing in the record; a final order on December 13, 2022 shows the intent of the court and no contrary evidence is on record; then a court should not "presume that the trial court's order was in conformity with established legal principles."

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Case No. 2020 L005717

Case No. 2017 L004578 refilled

Case No. 2015 L012235

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the Illinois Appellant First Dist. court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was IL Supreme Court.
A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

VII. TABLE OF AUTHORITIES

Cases

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3. Direct. of Ins. v. A &A Midwest Rebuilders, Inc.,*Ill.App.3d (2nd Dt.(1994)*..pg5
4. Sec. Pac. Fin. Serv. v. Jefferson, *259 Ill. App. 3d ,1st Dt.(94)*..pg5
5. Saunders v. Symphony Beverly, 2024 IL App (1st), Ill: App Ct, 1st Dist..pg6
6. *McGoey v. Brace*, 2022 IL App (1st).....pg6
7. First Cap. Mtg. Corp. v. Talandis Constr.Corp, NE 2d,Ill: Supreme Ct(76)-pg7
8. Supreme Court in re Hutul, Ill.2d N.E.2d (1973).....pg8-9
9. People ex rel. Burris v. Progressive Land Dev., Inc., N.E.2d (Ill.1992)..pg9
10. Morris v. Union Oil Co. of Calif. Ill. App. 3d,(81)....pg9
11. Middelkamp v. Hanewich,NE 2d,Ind: Ct of App, 3rd Dist. 197.....pg9

Statutes and Rules

1. 735 ILCS 5/2-2301.....pg4,5,6,9
2. 9 U.S.C sec.10.....pg4

VIII. CONSTITUTIONAL AND STATUTORY PROVISIONS

14th Amendment: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor deny to any person within its jurisdiction the equal protection of the laws.....pg8,9

Procedural Due Process: nor shall any State deprive any person of life, liberty, or property, without due process of law; the Fourteenth Amendment's Due Process Clause requires that the state first provide certain procedural protections..pg8,9

STATEMENT OF THE CASE

In 2015 the Appellant, Kecia Porter retained attorney John Gorey to represent her in a MVA claim which she stained bodily injuries. On December 13, 2022 day of trial, Porter's attorney Gorey appeared before the trial court without conferring with Porter and signed an agreed settlement, “ appearing to the Court that this cause has been settled by agreement of the parties,... It is IT IS HEREBY ORDERED...entitled cause... is hereby dismissed with prejudice and without costs (C84). The case was dismissed with prejudice. On December 21, 2022 Porter attended ADR arbitration by zoom for the same cause of action dismissed by the Circuit Court on 12/13/2022, i.e res judicata/estoppel. Gorey had concealed from Porter that the trial had been dismissed on December 13, 2022 and that the arbitration was not ordered by the Circuit Court. On January 5, 2023 Gorey sent Porter a copy of the arbitration award. On January 11, 2023 Porter filed a Motion to vacate the arbitration award citing; *10(a): where the award was procured by corruption, fraud..., AAA Rules/710 ILCS 5/12 Sec.12 vacating an award or 9 U.S.C sec.10.* The Circuit Court judge denied Porter's motion to vacate. Porter filed a timely appeal and preparation for the record on appeal. Upon receipt of the record on appeal, Porter learned of the trial dismissal in December and that ADR *arbitration was not* authorized by a court of jurisdiction (C158). ADR was not commissioned by the Circuit Court but is a private company, not a part of the Courts system. Porter was faced with a document bearing a clear forgery of her signature on ADR documents

forged by Gorey. Illinois Appellant Court denied Porter's appeal on March 29, 2024, citing "incomplete record; with a *prima facie* showing the finality of the case on 12/13/2022 and that and that the court *retained jurisdiction for enforcement of settlement between the parties only*. Porter filed a timely Motion for Rehearing on April 23, 2024 which was denied on April 23, 2024. A petition to the Illinois Supreme Court followed and was denied on September 24, 2024. This Petition for Writ of Certiorari follows.

REASONS FOR GRANTNING THE PETITION

1. The Circuit Court of Cook County violated the law of jurisdiction' hearing and ruling on issues not before the court in the underlined claim; outside of the power retained and the controlling statute 735 ILCS 5/2-2301; the court was limited by the language in the statute *as a justiciable matter*. Therefore, this court must reverse the order of the trial court based on a final order on December 13, 2022 under the rules of law offers a bright-line rule as there is no doubt of the Circuit Courts order.

The lower court, the Appellant and Supreme Court of Illinois decisions are contrary to the rule of law and jurisdiction in their own cases and other Illinois courts cited: *Skilling v. Skilling* (1982), Ill. App.3d, N.E.2d ; *Deking v. Urban Invest. & DEV. CO., NE 2d Ill: Appe Ct, 1st Dt. 1987 Held*: ...the court's jurisdiction was limited by the language of the statute to consider only the statute. *Direct. of Ins. v. A & A Midwest Rebuilders, Inc., Ill.App.3d (2nd Dist.1994)*; *Sec. Pac. Fin. Serv. v. Jefferson, 259 Ill. App. 3d (1st Dist.1994)*: where the court would retain "jurisdiction of all

matters... it is well settled that when a court's power to act is controlled by statute, the court is governed by the rules of limited jurisdiction. Affirming the lower court's decision is erroneous and an abuse of discretion that violates the Rule of Law as jurisdiction is not waivable. The record contains substantive evidence to support that the case was permanently disposed of on December 13, 2022 when Gorey dismissed the case (C84) citing "settlement between the parties", "Court retains jurisdiction to evaluate the settlement, adjudication of liens and any other pending matters". therefore, the sitting Circuit Court Judge, cannot decide issues outside of the controlling statute as this is contrary to other decisions that support limited jurisdiction: Rule of law Principles of the Circuit Court in Illinois: A court cannot rule on matters not properly before the court (C158). *Saunders v. Symphony Beverly, LLC, 2024 IL App (1st), Ill: App Ct, 1st Dist: Held: The trial court retained jurisdiction to enforce the settlement; under 735 ILCS 5/2-2301 the judge hearing the case makes the finding... concerning liens, attorney fees... McGoe v. Brace, 2022 IL App (1st): Held: The appellate court concluded that the record showed the circuit court intended to retain jurisdiction to enforce the settlement agreement.*

When permissible under the Constitution, statutes should be interpreted and applied in the manner in which they are written. Porter's Motion to vacate ADR (C109) arbitration should have been dismissed and stricken as it was not related to the courts final order (C84) and is outside the court's jurisdiction. The Appellant Court erroneously concluded, "We find that no error of law appears on the record before us. Ill. S. Ct. R. 23(c)(6)" (Apx^C pg5). (Apx^C pg4, para12) "... the court will presume

that the trial court's order was in conformity with established legal principles..”

Appellant Court failed to admit its error denying *prima facie* evidence in the record that clearly show the court's order on 12/13/2022 is clear and unequivocal as to the intent (C85) and there is no evidence of contrary. In order for the Appellant court to review the lower court's decision, the order must be final; the order on ADR is not related to the underlined case and therefore cannot be a “final” order. Therefore, the Appellant court lacked jurisdiction. The court's position is against the weight of evidence and contrary to the court's decision to reverse: *First Capitol Mtg. Corp. v. Talandis Constr. Corp.*, NE 2d,Ill: Supreme Court 1976: Held: *If the appellant's brief demonstrates prima facie reversible error and support in the record, the judgment may be reversed. Appellant Reversed. C84,C79*). *Abrahamson v. ILL. DEPT. OF PRO. REG.NE* 2d. Ill: Supreme Court 1992: Held: *After carefully reviewing the record; we conclude that each of the appellate court's holdings constituted error. Reversed. County of McLean v. Kickapoo Creek, Inc. (1972), Ill.2d 353; People v. Montgomery (1981),Ill. App.3d* :Held: *It is apparent from the record, the requirements of a waiver were not satisfied, and therefore the cause must be remanded.* The record contains absolutely no order for arbitration by a Circuit Court judge(C79). In Illinois there must be a Circuit Court order for arbitration followed by a “*trial or “settlement”* and final order to be appealable to an Illinois Appellant Court. In this case, the court had no jurisdiction over ADR or its arbitrator. The **final order** in this case was on 12/13/2022(C85) before ADR's illigal arbitration on 12/20/2022 (C89).

2. A court order or ruling without proper jurisdiction as explained by the Supreme court, “*a court without jurisdiction, the court cannot proceed to judgment on the merits; if it does, the result is coram non judice-a nullity; the court can do nothing but dismiss the case.*” This court should intervene in the interest of justice and rule of law as jurisdiction is “required” and is not waivable. The consequence of non-waivable jurisdiction status is to preserve objections to a lack of jurisdiction apparent on the face of the record. The Circuit Court, under the color of law did abuse its power holding a hearing and ruling without jurisdiction thereby violated Porter’s right to due process and equal protections as a person with disabilities.

3. December 13,2022 was the final order of the Circuit Court Case which bars any and all attempts to relitigate the case between the same *the parties involving the same cause of action*” under the doctrine of *res judicata*; even as disguised as “*ADR Private Arbitration*”, is unlawful and a fraud on the court. The Supreme Court has authority over courts which ignore safeguards put in place like *res judicata* and estoppel as the rule of law to prevent relitigating in the interest of public policy; this court should act to secure “ Protections from *res judicata* are binding in both state and federal courts by the due process clause of the Fourteenth Amendment as established in *Benton v. Maryland*. The ADR private Arbitration in December 21,2022 is barred by the doctrine of *res judicata*, therefore any ruling by the trial court on the issue of ADR is moot or void. The Appellant and Supreme Court failed to dismiss the arbitration under the doctrine of *res judicata* which is in conflict with the following courts; Supreme Court in *re: Hutul*, Ill.2d N.E.2d 332 (1973):

Supreme court overruled Hutul .the supreme court held res judicata, was not applicable unless the parties in both actions were the same. People ex rel. Burris v. Progressive Land Dev., Inc., N.E.2d (Ill.1992):Held: Both lawsuits arose out of the same group of operative facts and involved the same claim. We conclude that since the prerequisites of res judicata are present, the doctrine applies and bars this action. Judgment is an absolute bar to subsequent actions involving the same claims or demands by the same parties or their privies. The decision in the former suit estops all parties from relitigating the issue in a subsequent proceeding. Morris v. Union Oil Co. of Calif. Ill. App. 3d,(81): Held: where the estoppel properly applies, it operates without regard to whether the prior adjudication is correct or erroneous. It is clear from the pleadings that there is no material difference between what are allegedly two separate causes of action and is barred. Middelkamp v. Hanewich,NE 2d,Ind: Ct of App, 3rd Dist. 197: Held: evidence presented conclusively shows that Middlecamp's' claims were barred by the defense of res judicata.

4. The Supreme Court has ruled that jurisdiction is “power” and goes to the legitimacy of a resulting judgment. This petitioner prays that this court will reverse the matter. The Circuit Court lacked jurisdiction to rule on anything outside of the Illinois controlling statute 710 ILCS 5/12 from the final order on December 13,2022. The Illinois Appellant and Illinois Supreme Court’s decisions are contrary to state law; any order or ruling of a court without jurisdiction; such is an abuse of power, a constitutional violation, and against public policy and violates Porters due process and 14th amendment right to equal protection.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kecia Porter

Date: November 16, 2024