

IN THE SUPREME COURT OF THE UNITED STATES

C. A. No: **24 - 6030**

TALLEY et al.,

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITIONER(S),

v.

HORN et al.,

RESPONDENT(S).

*ON PETITION FOR WRIT OF CERTIORARI
TO THE DELAWARE SUPRME COURT
C. A. No: 175,2024*

PETITION FOR WRIT OF CERTIORARI

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Janice A. Talley, *pro se*
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Documents prepared on behalf of the petitioners and submitted: November 4, 2024

QUESTION PRESENTED

The Delaware Supreme Court dismissed for a lack of jurisdiction, upholding the trial court's decision. In the lower court, an elderly citizen was "made" to act as a lawyer in a two-day trial, where the indigent and illiterate citizen was legally and lawfully unable to act as a lawyer. The state supreme court's decision is submitted for review.

The question presented:

Does state law, Article VI, Section 14 of the Second Delaware Constitution adopted in 1792, with Article IV, Section 10 of the Delaware Constitution 1897 as amended, establishing the Court of Chancery, have the authority to usurp the United States Constitution for an indigent and illiterate citizen?



PARTIES TO THE PROCEEDING

All parties to the proceeding whose judgment is sought to be reviewed shall be deemed parties in this Court, and all parties other than petitioners shall be respondents as per Supreme Court Rule 12.6. A corporate disclosure statement is not required as the petitioners are not a corporation. See Supreme Court Rule 29.6. Kenneth Talley, and Janice Talley were appellants, Judith Horn, and Darren Horn, Sr., were appellees in the Delaware Supreme Court.

(1) Petitioner, Kenneth R. Talley, is an individual representing himself, *pro se*, with permanent residence located at 28289 Broadkill Road, Milton, DE 19968 and temporary housing after ejectment by force at 28467 Pocahontas Avenue, Millsboro, DE, 19966. Plaintiff, Kenneth R. Talley, is hereinafter referred to as the same, "Ken," "Ken Talley," or petitioner. Kenneth is being evicted from temporary housing.

(2) Petitioner, Janice A. Talley, is an individual representing herself, *pro se*, with permanent residence located at 28289 Broadkill Road, Milton, DE 19968 and temporary housing due to ejectment by force at 101 Babb Drive, #2120, Dover, DE 19901. Plaintiff, Janice A. Talley, is hereinafter referred to as the same, "Janice," "Janice Talley," or petitioner.

(3) Respondent, Judith C. Horn, is the daughter of Kenneth, and Janice, and the employer of Kenneth, with primary place of residence at: 719 Route 12, Westmoreland, NH 03467-4727. Respondent, Judith C. Horn, is herein after referred to as the same, "employer," "Judith C. Horn" "Judy Horn," "Judith" or respondent.

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(4) Respondent, Darren W. Horn, Sr., is married to Respondent, Judith C. Horn and is the son-in-law of Kenneth, and Janice, with primary place of residence and business at: 719 Route 12, Westmoreland, NH 03467-4727. Respondent, Darren W. Horn, Sr., is herein after referred to as the same, "Darren Horn, Sr.," "Darren Sr." or respondent.

STATEMENT OF RELATED CASES

The cases listed below are "directly related" to the non-jury trial held in state court. Cases are pending before the United States Court of Appeals for the Third Circuit.

Case 1. Filed on 07-15-2020, Horn v. Talley, C.A. No. JP17-20-002965, Delaware Justice Of The Peace Court Landlord-Tenant Eviction, No eviction ordered.

Case 2. Filed on 01-06-2021, Talley v. Horn, C.A. No. 2021-0011-PWG, Delaware Court Of Chancery, Equitable Life Estate/Constructive Trust, Report.

Case 3. Filed on 05-10-2022, Talley Vs. Horn, C.A. No. 146,2022, Delaware Supreme Court - Interlocutory Appeal, Appeal, dismissed due to lack of jurisdiction.

Case 4. Filed on 11-18-2022, Talley v. Horn, C.A. No. JP17-22-004487, Delaware Justice Of The Peace Court, Request to Restore Power1, Dismissed, denied electric for elderly during winter.

Case 5. Filed on 11-23-2022, Talley v. Horn, C.A. No. JP17-22-004544, Delaware Justice Of The Peace Court, Request to Restore Power2, Dismissed, denied electric for elderly during winter.

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Case 6. Filed on 11-30-2022, Talley v. Horn, C.A. No. JP17-22-004586, Delaware

Justice Of The Peace Court, Request to Restore Power3, Dismissed, denied
electric for elderly during winter.

Case 7. Filed on 11-28-2022, Kenneth Talley v. Kevin R. Talley, File Number: CS22-05999; CPI Number 22-25176, Delaware Family Court, Protection From Abuse, case dismissed, Kenneth did not have a witness to support evidence.

Case 8. Filed on 11-28-2022, Kenneth Talley v. Judith C. Horn, File Number: CS22-05849; CPI Number 22-25183, Delaware Family Court, Protection From Abuse, case dismissed, Kenneth did not have a witness to support evidence.

Case 9. Filed on 11-28-2022, Kenneth Talley v. Darren W. Horn Sr., File Number: CS22-06000; CPI Number 22-25178, Delaware Family Court, Protection From Abuse, dismissed, Kenneth did not have a witness to support evidence.

Case 10. Filed on 11-28-2022, Kenneth Talley v. Darren W. Horn Jr., File Number: CS22-05848; CPI Number 22-25174, Delaware Family Court, Protection From Abuse, case dismissed, Darren W. Horn Jr., could not be located in NH.

Case 11. Filed on 12-15-2022, Talley v. Horn, C.A. No. S22C-12-007-MHC, Delaware Superior Court, Adverse Possession, dismissed.

Case 12. Filed on 12-20-2022, Horn v. Talley, C.A. No. S22C-12-013-MHC, Delaware Superior Court, Ejectment, Request for Continuance, denied; Janice Talley request for joinder, denied; Order for Ejectment by Force, granted.

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Case 13. Filed on 03-07-2023, Talley v. Horn, C.A. No. 53,2023, Delaware Supreme Court, Appeal Order for Ejectment by Force and Restoration of Electrical Power, Electricity, denied, Appeal, denied.

Case 14. Filed on 03-02-2023, Talley v. Horn, C.A. No. S23L-03-002-RHR, Delaware Superior Court, Mechanic's Lien, dismissed.

Case 15. Filed on 03-23-2023, Talley v. Horn, C.A. No. 23-324, United States District Court For The District Of Delaware, dismissed for lack of jurisdiction.

Case 16. Filed on 09-06-2023, Talley v. Horn, C.A. No. 23-982, United States District Court For The District Of Delaware, dismissed for lack of jurisdiction.

Case 17. Filed on 10-03-2023, Delaware v. Kristina K. Talley, C.A. No. 2310001141, Delaware Court of Common Pleas, criminal trespass charge dismissed 8-21-24.

Case 18. Filed on 10-12-2023, Delaware v. Kenneth R. Talley, C.A. No. 2310005637, Delaware Court of Common Pleas, criminal trespass charge dismissed 1-11-24.

Case 19. Filed on 02-12-2024, Talley v. Horn, C.A. No. 2021-0011-BWD, Delaware Court of Chancery, Reopened C.A. No. 2021-0011-PWG, Exceptions, pending.

Case 20. Filed on 04-22-2024, Talley v. Horn, C.A. No. 24-1734, United States Court of Appeals for the Third Circuit, Panel Rehearing/En Banc Review, pending.

Case 21. Filed on 05-03-2024, Talley v. Horn, C.A. No. 24-1917, United States Court of Appeals for the Third Circuit, Panel Rehearing/En Banc Review, pending.

Case 22. Filed on 05-09-2024, Talley v. Horn, C.A. No. 175,2024, Delaware Supreme Court, dismissed for a lack of jurisdiction, Reargument, denied.

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Case 23. Filed on 06-06-2024 Clark v. Talley, 2024 C.A. No. JP17-24-003574, Delaware
Justice Of The Peace Court, Landlord-Tenant Eviction, pending.

Case 24. Filed on 06-10-2024 Talley v. Clark, 2024 C.A. No. JP17-24-003623, Delaware
Justice Of The Peace Court, Tenant/Landlord Bill of Particulars, pending.

Case 25. Filed on 07-19-2024, Talley v. Horn, C.A. No. 24-2358, United States Court of
Appeals for the Third Circuit, Appeal, pending.

Case 26. Filed on 10-02-2024, Talley v. Horn, C.A. No. 429,2024, Delaware Supreme
Court, Appeal, pending.

Case 27. Filed on 10-05-2024, Talley v. Horn, C.A. No. TBD, United States Supreme
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RESPECTFULLY COMES NOW, Petitioners, Kenneth R. Talley, and Janice

A. Talley, *pro se*, ask to file a Petition for a Writ of Certiorari, Motion to Allow Evidence, and Motion To Proceed *In Forma Pauperis* for the reasons set forth as follows: In the United States of America, to practice law, an individual is licensed by the state government. A state license to practice law is only issued after a four year educational program and examination requirements. Petitioner, Kenneth, with a sixth grade education, was "made" to act as a lawyer by the state court in a two-day trial. Petitioners maintain that these acts are in fact very different applications of the law that require review and clarification.

OPINIONS BELOW

1. Petitioners indicate whether the opinions of the lower courts in this case have been published, and if so, the citation for the opinions.

Appendix A Supreme Court Order, C.A. No. 175,2024, Appeal, Dismissed.

The Delaware State Supreme Court's opinion is at 2024 C.A. No. 175,2024. Before Traynor, Legrow, and Griffiths, Justices. "After Consideration of the notice to show cause and the response, it appears to the Court that: (1) On April 24, 2024, a Court of Chancery Magistrate issued a final report under Court of Chancery Rule 144 granting the appellees' motion seeking cancellation of a *lis pendens* filed by the appellants (The "Talleys") and enjoining the Talleys from refiling a *lis pendens*. The final report also concluded that attorneys' fees should be shifted to the Talleys and direct the appellees' counsel to file an affidavit setting forth the fees that the appellees incurred in connection with the motion to cancel the *lis pendens*. In the final report, which was issued orally on the record, the Magistrate stated that the exceptions to the report could be filed within eleven days, as provided in Court of Chancery Rule 144(d)(1). The Talleys have filed exceptions, and briefing on those exceptions is proceeding before a Vice Chancellor. (2) On April 29, 2024, the Talleys filed a notice of appeal from the Magistrate's final report in this Court. The Clerk's Office issued a notice directing the Talleys to show cause why this appeal should not be dismissed for lack of jurisdiction because the Magistrate's April 24, 2024 final report is not final under Court of Chancery Rule 144(c) and the request for attorneys' fees has not been finally resolved. (3) The Talleys devote the bulk of their response to the notice to show cause to arguing the merits of their appeal. To the extent that they address the jurisdictional defect, they assert that repeated errors by the Court of Chancery "forced" them to file an appeal, and they contend that exceptions to the Magistrate's report are not necessary under Court of Chancery Rule 46. (4) In the absence of a stipulation

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by the parties to submit their dispute to a Magistrate for final decision under 10 Del. C. § 350 or an order by the Court of Chancery adopting the Magistrate's final report under Court of Chancery Rule 144(c), this Court lacks jurisdiction to hear an appeal from a Magistrate's order.¹ *Theerachanon v. FIA Card Services.*, 2024 WL 2073629, at *1 (Del. May 8, 2024) The parties did not stipulate to submit their dispute to a Magistrate for a final decision.² *The Talleys' attempt to stipulate to final adjudication by the Magistrate in their response to the notice to show cause is unavailing because an after-the-fact, one-sided "stipulation" by self-represented parties, without approval of the Court of Chancery, does not comply with Court of Chancery Rule 144(h) or 10 Del. C. § 350.* Nor has the Court of Chancery entered into an order adopting the Magistrate's final report. Moreover, the Talleys' argument that exceptions are unnecessary under the Court of Chancery Rule 46 is misplaced. Rule 46 relates to objections at trial; Court of Chancery Rule 144 governs exceptions to a Magistrate's report. In any event, the proceedings in the Court of Chancery are not final because the exceptions are pending before a Vice Chancellor and the Court of Chancery has not determined the amount of attorneys' fees for which the Talleys will be responsible.³ *See Wollner v. PearPop, Inc.* 2022 WL 29031.3, at *1 (Del. July 21, 2022) (*dismissing appeal where the amount of a fee award remained unresolved*) Accordingly, this appeal must be dismissed, May 16, 2024."

Appendix B Supreme Court Order, C.A. No. 175,2024, Reargument, Denied

Published citation for the opinion: *Talley v. Horn*, 277 A.3d 937 (Del. 2022) (App. E)



JURISDICTION

2. This petition seeks review of the order dated May 16, 2024 by the Supreme Court of Delaware in case No. 175, 2024, (App. A) for which a timely motion for reargument was denied on June 7, 2024, (App. B). This petition properly lists the date that the order was entered, May 16, 2024, and as applicable, the date of the order respecting rehearing, June 7, 2024, as required by Supreme Court Rule 14.1(e).

Petitioners timely file this petition on October 7, 2024. This Court has jurisdiction under 28 U.S.C. § 1257. This Court has appellate jurisdiction, with the power to review decisions made by state courts, in cases involving the Constitution. This Court has the power to overrule itself, with the ability to reverse its own decisions, as seen in cases like *Brown v. Board of Education* (1954), which overturned *Plessy v. Ferguson* (1896). This Court has authority regarding Compelling Production of Evidence and Testimony, and the authority to issue subpoenas and compel the production of evidence and testimony, similar to Congress, as stated in Article III. This Court has authority as the Final Expositor of the Constitution, exercising this Court's role in marking the boundaries of authority between state and nation, state and state, and government and citizen, as per Article III. Petitioners invoke this Court's jurisdictional powers as established by the Constitution, the Judiciary Act of 1789, and subsequent legislation, exercised within the framework of this petition, with this Court's decisions serving as the final word on matters of federal law and the Constitution. Petitioners address Supreme Court Rule 10 to the best of their ability and report the compelling reasons that exist for the exercise of jurisdiction.



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3. This case is important for indigent and illiterate citizens, similarly situated, without due process or access to the Constitution. Petitioners request a judicial review, pursuant to this Court's authority to declare a Legislative or Executive act in violation of the Constitution, as established by the Judiciary Act of 1789 and Article III of the Constitution. Petitioners request an interpretation of the Constitution, as it relates to this case, where the Court has the power to interpret the Constitution determining its meaning and applicability to specific cases, as outlined in Article III. The relevant constitutional and statutory provisions are regarding the right to receive due process for an indigent and illiterate citizen, where the petitioners argue that the *act* of denying due process is legally and lawfully unconstitutional. Kenneth's right to receive due process is protected under the Fifth Amendment to the United States Constitution, as incorporated to the States through the 14th Amendment. Petitioners maintain that the law is linear, numbered and ordered for the reason of being applied. The law cannot be applied out of order. Law written by and for The United States of America starts with a numerical system of order, beginning within the United States Constitution. A violation of Kenneth's rights under the Fifth Amendment via the 14th Amendment has legal precedence over state laws. Petitioners complain that state courts have abused jurisdiction. Kenneth objects to the denial of help at trial. (App. D) This Court has at least 16 cases that say anyone can help a person with a legal matter as long as they do not present themselves as an attorney and they do not accept a fee. See *Johnson v. Avery*.



STATEMENT

4. Petitioners understand that the primary concern of this Court is not to correct errors in lower court decisions. This Court is kept to decide cases presenting issues of importance beyond the particular facts and parties involved. This Court distinguishes between forfeiture and waiver. Forfeiture occurs when a party fails to make a timely assertion of a right, whereas waiver occurs when a petitioner relinquishes or abandons a known right. When a party has forfeited a right by failing to raise it at trial, this Court may review for plain error. Petitioners cite United States v. Gladue, 67 M.J. 311, and note that Review for Plain Error is applicable when a party fails to object to improper argument before the judge begins to instruct on the findings, see United States v. Andrews, 77 M.J. 393. Kenneth was unable to object to improper evidence and false arguments in all legal proceedings. This petition concerns the denial of due process as well as denial of accommodations for Kenneth as per the Americans with Disabilities Act. A substantial question of law arose when there was a misconstruction of the "typed" deed document that was originally prepared using a typewriter in 1989, then transformed by Respondent, Judith, into a photocopy. Judith waited until 2014 to file an altered photocopy of the deed from 1989. Judith submitted a photocopy to the trial court, improperly submitting evidence. This was followed by the incorrect application of a principle of law, by the state trial court, in construing the altered photocopy instead of the original typed deed document. Petitioners file this writ of certiorari, pursuant to Supreme Court Rule 10 and note the important considerations for accepting this petition for review include the existence of a conflict between *the*



decision of which review is sought, and the decision of another appellate court on the same issue. A petition may be permitted after Kenneth was legally and lawfully unable to act as a lawyer. This Court may correct errors through the following rules and standards. Plain Error Review, under Rule 1.2 of the ABA Model Code of Judicial Conduct, mirrored by the Code of Judicial Conduct for Army Trial and Appellate Judges, courts examine claims of error under the plain error standard of review. Plain error occurs when there is an error, the error is plain or obvious, and the error results in material prejudice. In *United States v. Martinez*, 70 M.J. 154, this standard is applied when an appellant fails to raise an issue of disqualification until appeal. Petitioner, Kenneth, fails to raise a denial of entitlement until appeal. These rules and standards provide guidance to ensure the integrity and fairness of the appellate process. This writ of certiorari is filed by the petitioners, who disagree with the state supreme court's ruling and believe that a reevaluation of the case, considering new expert evidence and arguments, will lead to a different outcome. A consideration is the importance to the public regarding indigent and illiterate citizens. Petitioners note the rare circumstances of law outlined within the state trial court's procedures and the unique application of law in Delaware. A material factual legal matter was overlooked in the lower court's decision and the opinion of it is in conflict with a decision of this Court. Petitioners cite landmark decisions regarding due process, ensuring that individuals receive fair treatment and procedural protections under the law. In *Goss v. Lopez* (1975), this Court held that individuals are entitled to certain due process rights. In the petitioner's case, where an indigent elderly citizen, suffering from



illiteracy (also known as analphabetism), PTSD, and severe hearing loss, was “made” to act as a lawyer at trial, but the court was unaware of the disabilities and illnesses, and unaware that Kenneth was legally and lawfully unable to act as a lawyer, the questions of fact are, did the court err in its decision to deny due process including ADA accommodations, and did the denial of legal counsel, denial of a guardian, and denial of ADA accommodations, contribute to the subsequent ejection by force from his own property? A court would need to address these questions to determine whether the actions of the trial court constituted negligence or breach of duty, affecting the right to relief. (App. L) (App. K)

I. State trial court proceedings.

5. Courts are responsible for balance regarding the individual’s private interest, weighted against the government’s interest and the risk of error. Petitioners maintain that establishing this state trial court, within the state Constitution usurps the United States Constitution and supplants the powers of the legislative or executive branches of the government. The trial court has jurisdiction over cases involving trusts and fiduciary duties, injunctions and specific performance, equitable remedies such as accounting and restitution, corporate governance and shareholder disputes. Trials regarding equity in Delaware are unlike any other in the United States because the state trial court does not use juries to decide cases. Instead a Master, Chancellor, Vice Chancellor, or Magistrate, decides cases based on written and oral arguments as well as evidence presented by the parties. Initially, the Vice Chancellor considered the petitioners requests as valid, where a *de novo* review would allow for



the opportunity to examine the matter anew, as if it had not been heard before, and allow for due process as if no decision had previously been rendered. See letter from Vice Chancellor, June 10, 2024. Appendix C Vice Chancellor Correspondence. A *de novo* judicial review would allow for a review of a lower court ruling by an appellate court, supporting the petitioner's request for an interlocutory appeal. This method of review may be used in cases where there are questions regarding how the law was applied and interpreted. (*McDunn v. Arnold*, 2013 MT 138). On June 12, 2024, the Vice Chancellor made a sudden change in course, deciding the petitioner's requests were "grossly untimely". (App. C) The state trial court's opinion is a strict punishment after discontentment is expressed towards the petitioners in correspondence from the Vice Chancellor. There is no consideration regarding Delaware's Rule 42. The trial court's opinion fails to mention the petitioner's request for a competency evaluation. The opinion is indignant regarding Kenneth and analphabetism as noted herein. "... *I note that "analphabetic" is a sesquipedalian way to say that one cannot read... Based upon the record before the Magistrate, it appears that Mr. Talley's assertion of analphabetism is, so to speak, an-earnest; perhaps an-honest.*" Petitioners argue that due process was denied during the state trial and where the respondents took action to reopen the original case, the case cannot legally and lawfully be limited because a violation of the Fifth Amendment has legal standing as Kenneth has suffered an injury in fact. Petitioners argue that the Vice Chancellor is not a neurological or forensics expert. Petitioners include the information as evidence of bias. (App. C) (App. D) (App. E) (App. F) The transcript from the trial court shows where Kenneth



was "made" to act as a lawyer. "The Master: It doesn't matter. A power of attorney has no applicability in court. So in court, Mr. Talley will have to represent himself." See Appendix D Trial Transcript Page 4, Lines 4-6. The jurisdiction of the Delaware Court of Chancery is not limited to matters of equity. The Delaware Court of Chancery's precedent, in corporate law, demonstrates the methods used to enact and enforce laws created for the governance of corporations. The Delaware Court of Chancery is using its established power, within the entire United States Judiciary, against two elderly citizens. Petitioners state that respondents, lawyers, and court employees are engaged in unlawful acts where corruption is an alternative to an admission of error. This petition shows an instance where a state law conflicts with a federal statute or regulation, and as a result, this Court has the opportunity to review. Petitioners challenge the decision of the lower court since the application of the rules of the trial court, as outlined by the state Constitution, resulted in a violation of the Equal Protection Clause (see *Bush v. Gore*), therefore a federal basis for this petition for a writ of certiorari exists. Petitioners maintain that establishing the Delaware Court of Chancery within the Second Delaware Constitution, supplants the powers of other branches of government, and usurps the United States Constitution. Petitioners also maintain that the state supreme court, by and through state law establishing the Delaware Court of Chancery, usurps the Constitution. In Delaware, equity jurisdiction has been separated from common law jurisdiction. State law, Article VI, Section 14 of the Second Delaware Constitution adopted in 1792, establishing the Court of Chancery, allows state courts to usurp the Constitution.



Petitioners cite and note this state law, adopted in 1792: "*The equity jurisdiction heretofore exercised by the Judges of the Court of Common Pleas, shall be separated from the common law jurisdiction, and vested in a Chancellor, who shall hold Courts of Chancery in the several counties of this State.*" In the cases of Glanding v. Industrial Trust Co., 28 Del.Ch. 499, 45 A.2d 553 (Supr.Ct.1945) and duPont v. duPont, 32 Del.Ch. 413, 85 A.2d 724 (Supr.Ct.1951), this Court determined that the Delaware Court of Chancery constitutionally possesses the general equity powers of the High Court of Chancery in Great Britain, as they existed at the time of the 1776 separation. The Delaware Court of Chancery was created for equity in colonial Delaware. The remarkable power of the Delaware Court of Chancery can only be removed by state legislation. State law jurisdiction is placed exclusively in another court by giving (the other court) full equitable remedial power. Petitioners argue that when state law upholds the Constitution, there will finally be an adequate remedy at law. In the State of Delaware, it is the Court of Chancery, not the legislature, that determines adequacy of remedy. These conditions in the application of law do not exist outside the State of Delaware. This legal argument is within the scope of defining a conflict between state laws and federal laws. Petitioners note that the Delaware Court of Chancery was created "*to establish for the benefit of the people of the state, a tribunal to administer the remedies and principles of equity*" and the state's Constitutional provision establishing the Delaware Court of Chancery is regarded as a "*guarantee to the people of the State that equitable remedies will at all times be available for their protection*". Petitioners complain that State law, Article



VI, Section 14 of the Second Delaware Constitution adopted in 1792, to establish the Court of Chancery, conflicts with federal statutes and regulations found within the United States Constitution. Based on this unique constitutional provision, Delaware is factually the only state in the United States that has established a non-jury trial chancery court within its state Constitution. The Delaware Court of Chancery specializes in resolving disputes through equitable remedies rather than legal judgments. The Court of Chancery has been the cornerstone of Delaware's corporate law system, earning the state a reputation for its national business jurisdiction.

Created on a state constitutional basis, Article IV, Section 10 of the Delaware Constitution of 1897 as amended, further establishes the Court of Chancery, providing that it shall have all the jurisdiction and powers vested by the laws of the State. During a trial held in the Delaware Court of Chancery, Kenneth complains that without legal counsel, he was not able to question himself as a primary witness or object to questioning, while being questioned by the respondents attorney. (App. D) In this case, the non-jury trial did not allow for efficient and expert decision-making in the application of a principle of law, including the denial of due process. This Court's decision in *Turner v. Rogers* (2011) upheld the right to counsel for indigent citizens in certain circumstances. Petitioners ask this Court to deem expert neurological and forensic data as evidence that is indispensable. Kenneth is scheduled for a neurological evaluation on October 16, 2024 with corresponding forensic analysis on November 5, 2024. Petitioners include a Motion to Allow Evidence and ask this Court to review preliminary evidence that demonstrates why Kenneth cannot legally and



lawfully act as a lawyer. (App. K) Delaware Code, 10 Del. C. § 350, outlines the types of matters and causes in equity that the state trial court has authority to hear and determine, as well as limitations on its jurisdiction, including the applicable laws and principles governing proceedings. See Appendix E Delaware Court of Chancery 2021-0011-PWG Report. The trial court has jurisdiction to hear and determine matters and causes in equity but does not have jurisdiction to determine matters wherein sufficient remedy may be had by common law or statute before another court of the state, as stated in Delaware Code 1852, § 1933; Code 1915, § 3844; Code 1935, § 4367; and 10 Del. C. § 350.

II. State supreme court proceedings.

6. There is no intermediate appellate court in Delaware and since the interlocutory order decides a substantial issue of material importance regarding the denial of due process, the interlocutory order merits appellate review before a final judgment by the Master. Petitioners ask for consideration regarding the strict procedural standards. The original case from 2022 was reopened by the respondents. See transcript of oral report from hearing on April 24, 2024, Appendix F Delaware Court of Chancery 2021-0011-BWD Oral Report Transcript. The petitioner's appeal the non-final order after the state trial court's order is interlocutory, meaning it is not final, since it decides only some of the issues and claims from the original trial. Petitioners cite Supreme Court of the State of Delaware, Rule 54, which allows multiple claims within a single action. The appeal was in compliance with Supreme Court of the State of Delaware, Rule 42(b)(iii). The Vice Chancellor ignored important



criteria when deciding whether to certify the appeal and the trial court ultimately failed to assess whether the appealed issue met the threshold for appellate review, weighing its significance and potential impact on the case's outcome. Petitioners argue that this step in the process is required after a request to file the appeal was submitted within 30 days of the interlocutory order, as per Delaware Code § 143. The state supreme court has the authority to consider factors beyond those specified in Rule 42(b) when considering an interlocutory appeal, such as protections for indigent and illiterate citizens. Unlike federal interlocutory appeals under 28 U.S.C. § 1292(b), Delaware's Rule 42 *does not require* the lower court to certify the appeal as "final". The trial court's certification of an interlocutory appeal is not binding on the state supreme court. The petitioner's appeal to the state supreme court was based on the denial of due process, which includes the submission of improper evidence by the respondents followed by the incorrect application of a principle of law. After the motion for reargument, the state supreme court denied the petitioner's request for permission to complete the action via interlocutory appeal, also denying permission to allow a competency evaluation that includes the review of evidence from experts. Petitioners maintain that allowing the expert neurological and forensic evidence will ensure that the legal proceedings held in the state trial court were fair and the proper laws were applied correctly. Petitioners maintain that requesting an interlocutory review was in the interest of justice based on the fact that the oral order from the state trial court decides a substantial issue of material importance regarding due process for Kenneth, which merits review before a final judgment, pursuant to the Supreme Court

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of the State of Delaware, Rule 42, where an interlocutory review is allowed, when the order in question affects a substantial right or presents a clear error of law. (App. F) (App. E) (App. D) The trial court's decision to deny due process is a constitutional basis for the request for permission to complete the action via interlocutory appeal. The denial of due process for Kenneth at trial is an exceptional circumstance. The interlocutory review involves an appeal of the order that was not a final judgment, because the case is not yet fully resolved and the review is focused on the specific issue or ruling being appealed. Petitioners argue that this legal dispute meets the requirements for interlocutory review and cite the Collateral Order Doctrine. The state supreme court has consistently failed to carefully review the requirements for interlocutory review and thus, has unduly delayed the litigation process. The order must meet the three-part test established by the Collateral Order Doctrine where (1) the order is in regards to an issue completely separate from the merits of the action; (2) the order is unreviewable on appeal from a final judgment, and (3) the petitioners demonstrate that the order affects a substantial constitutional right, due process, which would be jeopardized if not reviewed prior to a final judgment. Petitioners asked the Delaware Court of Chancery and the Delaware Supreme Court for permission to allow the interlocutory appeal and expert evidence. The Delaware Supreme Court decides appeals strictly on the basis of the record in the court below and the written briefs. Parties before the Delaware Supreme Court are not permitted to conduct discovery, call witnesses, or offer any evidence that was not presented first to the court below. Petitioners requested an interlocutory review by the state supreme court, based



on the following: Adequate remedy in other courts as per 10 Del. C. § 342, where the Court of Chancery shall not have jurisdiction to determine any matter wherein sufficient remedy may be had by common law, or statute, before any other court or jurisdiction of the State; Power of courts as per 10 Del. C. §6501; Construction of contract before or after breach as per 10 Del. C. §6503; Delaware Title 10, Courts and Judicial Procedure, Special Proceedings, Chapter 67. Ejectment; § 6701; Procedure; Statute of Limitations as per 10 Del. C. §7901, Right of Entry; Review Procedure of Responses as per Del. R. Civ. P. Super. Ct. 126; Joinder needed for just adjudication as per Del. R. Civ. P. Super. Ct. 19; Misjoinder and Nonjoinder of Parties as per Del. R. Ch. Ct. 21; General provisions governing discovery as per Del. R. Civ. P. Super. Ct. 26; Discovery scope and limits as per Del. R. Civ. P. Super. Ct. 26(b); Production of documents and things and entry upon land for inspection and other purposes as per Del. R. Civ. P. Super. Ct. 34. Requests for admission as per Del. R. Civ. P. Super. Ct. 36, where a party may serve upon any other party a written request for admission of the truth of any matters within the scope of Rules of the Supreme Court of the State of Delaware, Rule 26(b), set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request and as per the Rules of Civil Procedure for the Superior Court of the State of Delaware, Rule 81, Exceptions, Ejectment.

REASONS FOR GRANTING THE PETITION

- I. The issues presented in this petition are of exceptional importance and urgently require this Court's prompt resolution.



7. Ethics, law, and analysis, based on evidence demonstrates that the respondents violated numerous laws, statutes, ordinances, and regulations, including fraud, neglect, and breach of contract. In the context of elderly Petitioner, Kenneth, a substantial question of law exists as his rights, interests, and entitlements are implicated. Petitioners state that the actions of the respondents were deliberate with the intent to harm. This Court may decide a question regarding a state law that usurps the Constitution, which makes this petition of national importance. Petitioners argue for a constitutional guarantee of counsel for indigent and illiterate citizens, by inclusion under the limited civil exceptions of the Sixth Amendment, where the law may be expanded to include a guarantee of counsel for illiterate citizens. Kenneth and Janice asked for help to file this petition in order to ask this Court to take specific action to correct an abuse of discretion.

II. Disputed questions of competency reserved for experts.

8. The elderly petitioners insist they have an obvious interest in their own property after making payments to Judith, paying the property taxes for 32 consecutive years, and maintaining continuous possession of the property from November 1, 1989 until October 3, 2023. This Court may review and allow evidence from neurological and forensic experts to gain a better understanding as to why Kenneth was legally and lawfully unable to act as a lawyer. The transcript from the non-jury trial is included as electronic evidence because it is included in the neurological and forensic expert analysis. (App. D) Also, see Appendix K Proof of Analphabetism, Letters from Experts with Test Results. (App. K)



III. Errors in the application of law and procedure.

9. The petitioners complain that the Constitution has been supplanted by state law. Petitioners note the errors, defects, and issues of misconduct, which occurred during state court proceedings, involve violations of constitutional law, brought to the attention of this Court. The petitioners argument involves trusts, real property, guardianships, and civil rights. These intentional acts have brought irreparable harm to the petitioners and relate to a property ownership dispute with daughter, Judith, a citizen of New Hampshire. The writ enables petitioners to seek a review of state court decisions that violate federal constitutional and statutory rights. The trial court issued an opinion stating that the petitioners have no interest in the property *as an equitable life estate or constructive trust*. In the report, on page 16, it surmises that Kenneth was unable to make the legal argument for the trust. (App. E) Kenneth did not receive notice from the trial court that he would be “made” to act as a lawyer. Kenneth is legally and lawfully unable to act as a lawyer. Representation, including legal counsel as well as a guardian, is required for Kenneth. (App. K) (App. L) Petitioners summarize the proceedings beginning with the state court’s denial of due process for Kenneth at trial. (App. D) The respondents reopened the case. The state court denied due process for Kenneth at the hearing. (App. F) The state supreme court usurped the Constitution for Kenneth. (App. A) (App. B) Petitioners explain further how the incorrect application of a principle of law occurred. The state supreme court usurps the Constitution in the order of application of the Delaware Court of Chancery rules. The lower court applies Delaware Chancery Court Rule 144 in its entirety, as a position of



law, with precedence over the Due Process Clause of the Fourteenth Amendment, which is the incorrect application of a principle of law and procedure, where in the process of preparing a decision, constitutional rights would be applied in the context of making a judgement, then the rules of a lower court would be applied. The concept of “position of law” herein refers to the current state of the law, encompassing the prevailing rules, principles, and norms governing a particular area or issue.

Petitioners complain that Supreme Court of the State of Delaware, Rule 29(b) only permits the dismissal of an action for lack of subject matter jurisdiction for lower court proceedings where due process has been upheld for Kenneth, as per the Constitution.

The state supreme court also made errors in procedure, resulting in a failure to provide proper notice. The state supreme court mailed a Notice to Show Cause to the petitioners, however the notice had the correct address with an invalid city and zip code. (App. G) Errors regarding the failure to provide notice continue to occur. The state supreme court issued another letter to the petitioners on June 13, 2024, with an invalid zip code. See Appendix G Failure to Provide Notice. The petitioners filed an appeal with the state supreme court timely and complied with the rules of both state courts, requesting an interlocutory review. Considering the constitutional argument, petitioners complain that the state supreme court made an error in the application of the law by not allowing the appeal after Kenneth was denied due process. (App. F)

Petitioners also complain that the denial of due process for Kenneth at trial, ultimately led to the unlawful ejection by force from the property. (App. D)

Petitioners cite errors and omissions under Delaware Civil Rule 1 and Rule 81, where



a trial by jury is expected in orders for ejectment. Petitioners claim the facts are sufficient for Article III standing purposes. In addition to the evidence that the petitioners' constitutional right was in fact denied, the respondent's alleged ownership of the petitioner's land and personal property has created a de facto injury, see *Horizon Healthcare Services Inc. Data Breach Litigation*, 846 F.3d 625, 633 (3d Cir. 2017). The state trial court's authority over indigent and illiterate citizens, is not clearly defined. The Delaware Court of Chancery's jurisdiction is not strictly limited to equity, as defined by the state Constitution and laws of Delaware. The trial court maintains that it has jurisdiction in a case that may legitimately fall under the jurisdiction of an appellate court after due process was denied. Petitioners present the standard of fact where it is well known that the Delaware Court of Chancery has a corporate law history and a tradition of upholding the rule of law, in corporate litigation. The non-jury state trial court was established to set legal precedent and develop a national body of law for large corporations. Petitioners include affidavits to confirm their Social Security income. As elderly citizens they cannot be seen as, nor compared to, a large corporation. Petitioners note Supreme Court Rule 29.6, where a Corporate Disclosure Statement is not required. While the trial court ensures that complex corporate law issues are resolved with understanding, petitioners argue that the trial court denied due process, then the state supreme court usurped the Constitution. Petitioners seek a judicial review after the denial of Kenneth's right to receive due process under the Fifth and 14th Amendments. In *Williams v. Pennsylvania* (2016), this Court held that a judge's participation in a case as a



prosecutor before becoming a judge, without recusal, violated due process and the judge's impartiality. The case cited demonstrates a decision from this Court that ensures individuals receive fair treatment and procedural protections under the law, as guaranteed by the Due Process Clause of the Fourteenth Amendment.

IV. Errors in the submission of evidence.

10. Evidence of the respondents net worth and evidence of Judith's prior knowledge that Kenneth is indigent and illiterate, (App. L) (App. K) was withheld from a trial regarding equity. Respondent, Judith, withheld evidence from the trial court regarding Kenneth's wages, that Judith kept as payment for the real estate property. The respondents, in their submission of improper evidence, used an altered photocopy of the original typed deed document, made unsubstantiated claims of child abuse, and withheld crucial evidence of equity. The respondent's Statement of Net Worth is 1.1 to 1.6 million dollars. (App. I) This evidence, withheld from the state trial court, has resulted in an error in the application of law. Petitioners seek due process, which includes a judicial review with neurological and forensic expert evidence, requests for admission, and inspection of the original "typed" deed document from 1989. The petitioners cite Examination of Original Documents as per F.R.C.P., Rule 34 and the Right to Requests for Admission as per F.R.C.P., Rule 36. Judith, is liable for actions regarding errors in the submission of evidence. Petitioners maintain that pursuant to F.R.C.P., Rule 8(a)(2), this petition contains a plain statement of the claim showing that the petitioners are entitled to relief. The petitioners outline a significant constitutional violation, where "[D]etailed factual allegations" are not required. (Bell



Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) 550 U. S., at 555) F.R.C.P., Rule 8(a)(2) calls for sufficient factual matter to be accepted as true, in order to “state a claim to relief that is plausible on its face”. This claim has facial plausibility as the pleaded factual content allows this Court to draw the reasonable inference that the respondent is liable for the misconduct alleged. Respondent, Judith, is liable for alleged misconduct after deliberate alterations to the original typed deed using white-out and a photocopier. See Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009). Petitioners also cite Delaware Code regarding the incorrect application of law and errors in procedure, where issues of fact in this legal dispute are to be tried by a jury. The trial court failed to order such facts to trial via the Bar of the Delaware Superior Court pursuant to 10 Del. C. § 369. (App. F) (App. C) Judith’s actions include elder abuse, fraud, neglect, breach of contract, and exploitation after causing Kenneth to perform work and withholding wages. Petitioners cite the Federal Elder Justice Act, enacted in 2010. See Appendix H Affidavits and Pictures of Kenneth and Janice Talley. Judith acted as Kenneth’s employer. While operating businesses in several states, Judith tasked Kenneth with hard physical labor. In one example, the respondents purchased a barn in New Hampshire that required modifications prior to opening a restaurant. Kenneth worked to connect the second floor of the barn to the third floor. Kenneth designed and built two staircases on each side of the restaurant. Judith withheld wages for the work performed by Kenneth as payment for the real estate property located in Delaware. Petitioner, Janice, kept track of the work performed by Kenneth. (App. H) The evidence was not included at trial. Petitioners note these errors after Judith, failed to



disclose a material fact, where at the time of the real estate purchase in 1989, Judith owed her father for work Kenneth performed from 1985 to 1990. Kenneth's understanding is that the amount Judith owed, \$29,798, is applicable. See Bill of Particulars – Page 3. (App. I) In the time period from 1985 to 1990, Judith was unable to afford to pay employees. Judith was also unable to afford to pay Kenneth for his work, where Judith had good credit, there was a *quid pro quo* between a father and a daughter. The original mortgage for the real estate was \$36,000. Judith increased the price of the house by 31.25% to \$47,250 in 1990. The contract was paid in full and signed by the respondents on multiple dates, September 8, 1991, September 11, 1992, and again on February 19, 1993. After applying Kenneth's work in the amount of \$29,798, as Judith agreed, petitioners declare that the balance of \$17,469, was satisfied. Petitioners argue that they have a valid legal agreement as per the construction of the contract before or after breach pursuant to 10 Del. C. §6503. The agreement was obvious after Kenneth performed work and Judith withheld wages. The petitioners claim legal title and ownership of the real estate property located in Milton, Delaware after Kenneth worked "under the table" for Judith, and where Kenneth's employment wages, in the amount of \$330,586 were withheld by Judith. See Affidavits (App. H) See Payments (App. I) The petitioners made requests for a document in writing to protect their rights as owners. Judith's negligence includes not providing Kenneth and Janice with the knowledge, information, and documentation that would protect them and their rights, by confirming that their actual payments entitle them to claim legal title and ownership of the real estate. A valid and legal

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basis for the *lis pendens*. (App. J) Altering the original deed is unlawful, because the property was deeded inclusively to Judith, Darren, Kenneth, and Janice, after Kenneth worked for Paris Burton. The original deed was typed in 1989, then replaced by a photocopy in 2014 where the names of the petitioners were removed using white-out, and a photocopier. See Appendix I Payments, Net Worth, Contract Signatures, Photocopy of Typed Deed. The submission of improper evidence also includes clerical errors made by the respondent's attorney. David Weidman, Esq., made an error regarding two clients, where the same tax number was used for two different clients. The tax parcel number was first used in the *Client Clymer lis pendens* in 2021 and second it appeared (incorrectly) in the *Client Horn lis pendens* in 2022. The documents were presented in error via separate legal cases, except both cases were assigned to Master, Patricia W. Griffin. The trial court failed to recognize errors regarding the submission of evidence. This failure contributed to the errors in the application of law. An error occurred by using the incorrect number to identify the property, "2-35-9.00-7.00". Please note the "dash" between the numbers two and three (2-35) is incorrect. Petitioners include evidence to show where property tax prefix "2-35" was also used by the attorney for a real estate property located at 32861 Long Neck Road, Millsboro, Delaware. The *lis pendens* documents filed by the petitioners are valid legal claims against the property. See Appendix J *Lis Pendens* and Property Tax Map. The petitioners demonstrate that the state supreme court decision affects a substantial Constitutional right, which would be jeopardized if not reviewed prior to a final judgment, sufficient for an interlocutory appeal. Where the Delaware Court of

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Chancery does not have jurisdiction over legal relief, such as damages or specific performance. The Delaware Court of Chancery does not have jurisdiction over criminal matters, including fraud committed by the respondents. The Delaware Court of Chancery has no jurisdiction over disputes involving transactions outside the state of Delaware, where Kenneth performed work for Judith outside of Delaware. The respondent's conduct and mistreatment of the petitioners, by way of state licensed Attorney, David Weidman, is fairly attributable to the state after the attorney received a license to practice law from the state. This petition includes a valid claim for a judicial review after errors in the submission of evidence, which includes the violation of laws pertaining to fraud, negligence, elder abuse, and the intentional infliction of emotional distress. (App. H) (App. I)



CONCLUSION

Petitioners, Kenneth R. Talley, and Janice A. Talley, *pro se*, ask this court to grant a Petition for a Writ of Certiorari, Motion to Allow Evidence, and Motion To Proceed *In Forma Pauperis*. Petitioners understand that this judicial process is not a matter of right, but of discretion, and humbly attempt to navigate the process. Petitioners maintain that the Constitution protects indigent citizens, including Kenneth. The elderly petitioners state that they have a limited education and a limited ability to read and comprehend the rules of this Court on their own, thus they require assistance to complete this process. Petitioners have cited the reasons for this petition as concise as possible. Consistent with the purpose of a claim for relief, this Court may determine that the facts alleged were sufficient to show a plausible claim for relief based on the neurological and forensic evidence. This Court may decide to review the state supreme court's decision in order to correct errors in law or fact. By granting certiorari, this Court has the jurisdiction and the expertise to address our important legal question and establish precedent for future cases. Where this court may find that the lower court erred in its decision, petitioners ask this Honorable Court to allow relief that it deems just and proper. Petitioners seek to uphold basic core values and maintain the resolve required to strengthen our foundation of law. The Constitution, adopted by our Founding Fathers on September 17, 1787, and ratified by the states on June 21, 1788, is the supreme law of the land, as stated in Article VI, Clause 2. This Petition for a Writ of Certiorari may be granted and the decision summarily reversed.