

No. 24-606

IN THE
Supreme Court of the United States

CHRISTINE A. ARAKELIAN,

Petitioner,

v.

ASHLEY POLLARD, *et al.*,

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF VIRGINIA**

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Supreme Court of Virginia was correct when it opined that there was no reversible error in the judgment below and refused Arakelian's petition for appeal from the Court of Appeals of Virginia which properly dismissed Arakelian's appeal for her failure to file an opening brief?

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INTRODUCTION

Respondent Christopher Falcon, at the time a Deputy Clerk for the Clerk of the Arlington County Circuit Court (hereinafter “Falcon” or “Deputy Clerk Falcon”),¹ by counsel, respectfully submits that Petitioner Christine Arakelian’s (“Arakelian”) Petition for Writ of Certiorari should be denied.

STATEMENT OF THE CASE

Arakelian has appealed the Supreme Court of Virginia’s finding of no reversible error in the judgment below and its refusal of her petition for appeal. With respect to the procedural background of this matter, Arakelian chose to file her claims in the Circuit Court for Prince William County, Virginia against Deputy Clerk Falcon (an employee of the Arlington County Circuit Court Clerk) and Ashley Pollard (an employee of the City of Falls Church). The Circuit Court for Prince William County dismissed Arakelian’s complaint on August 18, 2023. (*See Order, Arakelian Petition Appx. C*). Thereafter, Arakelian appealed to the Court of Appeals of Virginia, but she failed to file an opening brief and her appeal was dismissed on February 12, 2024. (*See Order, Arakelian Petition Appx. B*). Arakelian appealed to the Supreme Court of Virginia, which was of the opinion that there was no reversible error and refused Arakelian’s petition for appeal on September 11, 2024. (*See Order, Arakelian Petition Appx. A*). Arakelian’s appeal to this court is really an issue of state rules of appellate procedure.

1. Christopher Falcon is now Clerk of the Fairfax Circuit Court.

As to the factual background, Arakelian's complaint in the Circuit Court for Prince William County was filed alleging violations of the Virginia Constitution and the United States Constitution with respect to rights of due process and equal protection concerning a Falls Church Board of Equalization hearing on the assessment for Arakelian's real property located in Falls Church. Within the over 70 pages of her complaint, in which she discussed in depth why she chose to file the suit in the Prince William County Circuit Court, Arakelian alleged that the Falls Church Board of Equalization denied her appeal of the assessment value for the property, and Arakelian complained that she had filed a separate lawsuit in Arlington County Circuit Court against the City of Falls Church and Arlington County complaining about the assessment, which was dismissed.² As to Falcon, the facts are limited. Arakelian alleged that Falcon swore in a member of the Board of Equalization. She also alleged that Falcon responded to an email from a Board Member by stating that such Board Member should contact the Falls Church City Attorney for substantive legal advice as that was beyond Deputy Clerk Falcon's purview. That is the extent of allegations as to Falcon.

From this, Arakelian appeared to have alleged (1) violation of due process under Article I, Section 11 of the Virginia Constitution and the 14th Amendment of the U.S.

2. Arakelian's suit against Arlington County and the City of Falls Church was not an appeal of the assessment and it was dismissed on that and other bases in the Arlington Circuit Court. Arakelian also appealed that case up to this Court and her petition for a writ of certiorari was denied on November 18, 2024. *See Docket for Arakelian v. City of Falls Church, Virginia, et al.* 24-313.

Constitution relating to the rules of procedure used by the Board of Equalization; (2) violation of equal protection because the entire Virginia Code chapter relating to real property was vague; (3) a state law claim of intentional infliction of emotional distress; and (4) a claim with respect to a Virginia Freedom of Information Act request to Falls Church or Arlington County (who were not parties to this case). These claims had nothing to do with Falcon. Arakelian sued defendant Falcon in his individual capacity, and she sought \$750,000 in compensatory damages and \$1,000,000 in punitive damages.³

Both defendants Falcon and Pollard filed initial dispositive motions, and the Circuit Court dismissed the Complaint with prejudice. Deputy Clerk Falcon's demurrer, plea in bar, and motion to dismiss raised immunity, as well as failure to state a claim, and an impermissible collateral attack on the judgments in the other matters involving Arakelian, including her appeal to the Board of Equalization and her lawsuit against Falls Church and Arlington County.

Additionally, as referenced in Arakelian's first Question Presented, she asserts that her motion for summary judgment on her Complaint was not granted. The summary motion was heard by the Circuit Court at the same time as defendants' dispositive motions, but there was no order upon her summary motion, as defendants' initial dispositive motions were granted and the complaint

3. Arakelian alleged that the property should be valued at \$515,000 when the city's assessment was \$550,100. The tax difference of that is approximately \$450 since the tax rate is \$1.23 per \$100 of value. (See Complaint, Exhibit B thereto, 2023 real estate tax bill).

was dismissed. (*See* Arakelian Petition, Appx. C). Moreover, Arakelian did not file a brief in the Court of Appeals so there were no assignments of error asserted there, and then she filed a brief in the Supreme Court of Virginia which did not raise the issue of the summary motion. Accordingly, that issue is not before this Court.

As Arakelian did not file any opening brief in the Court of Appeals, the Supreme Court of Virginia did not err when it opined that there was no reversible error and it refused Arakelian's petition.

SUMMARY OF THE ARGUMENT

Arakelian's petition for appeal to the Supreme Court of Virginia was properly refused and its opinion that there was no reversible error in the lower court's judgment was proper. The Court of Appeals properly dismissed Arakelian's appeal due to her failure to file an opening brief in that court. Moreover, Arakelian complaint in the Circuit Court against Deputy Clerk Falcon was properly dismissed. The Supreme Court of Virginia was correct in its opinion that there was no reversible error and properly refused Arakelian's petition for appeal.

ARGUMENT

The decision of the Supreme Court of Virginia was correct. Review by this Court is therefore not warranted, and the Petition for Writ of Certiorari should be denied.

A. Arakelian's appeal was properly dismissed for her failure to file an opening brief in the Court of Appeals and then her petition for appeal was properly refused by the Supreme Court of Virginia.

Arakelian's appeals were properly dismissed and refused. Arakelian failed to file any opening brief in the Court of Appeals. Accordingly, her appeal was properly dismissed. Virginia Supreme Court Rule 5A:19(b)(1) provides that an appellant must file an opening brief 40 days after the filing of the record. The record was filed on December 4, 2023. Arakelian did not file any brief at all, and she did not file any motion for an extension. She did not even attempt to file a late brief. Rule 5A:26 states, "If an appellant fails to file a brief in compliance with these Rules, this Court may dismiss the appeal." *Id.* The Court of Appeals properly dismissed Arakelian's appeal on February 12, 2024 (77 days after the record was filed) because there was no opening brief filed by Arakelian and she did not file any motion for extension of time to file a brief. *Uninsured Employers' Fund v. Coyle*, 22 Va. App. 157, 159, 468 S.E.2d 145, 146 (1996) (finding appeal may be dismissed for failure to file timely opening brief or timely motion to extend and dismissing appeal even where late motion to extend and late opening brief were attempted). Dismissal by the Court of Appeals was proper. Thereafter, the Supreme Court of Virginia's finding that there was no error in the underlying judgment was correct and its refusal of Arakelian's petition for appeal was also proper.

B. Arakelian's underlying complaint was also properly dismissed by the Circuit Court but that issue is not before this Court.

Arakelian's complaint was properly dismissed by the Circuit Court but that issue is not before this Court. The only issue is the Supreme Court of Virginia's opinion that there was no reversible error in the lower court and its refusal of Arakelian's petition for appeal with respect to the Court of Appeals' dismissal of her appeal for failure to file an opening brief. This case is not a proper vehicle for any of Arakelian's arguments relating to the City of Falls Church Board of Equalization's procedures for hearings, and Mr. Falcon had no part of that process either. Falcon merely swore in a member of the Board pursuant to his duties as a Deputy Clerk of the Circuit Court for Arlington County. There were no viable claims against Falcon.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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