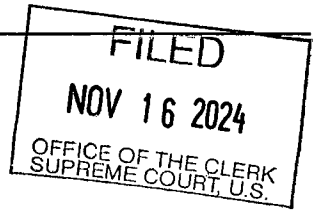
CASE NUMBER: 24-6085

IN THE UNTIED STATES SUPREME COURT



TANYA TYSON,

PETITIONER,

Vs.

Madelyn Winningham,

JOSH WINNINGHAM, and

BRITTANY WINNINGHAM

RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

THE OKLAHOMA SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

Tanya Tyson

Tanya Tyson

P.O. Box 853017

Richardson, TX 75085

Date: November 15, 2024

QUESTIONS PRESENTED

1. Did the Supreme Court err when they dismissed my case for lack of an appealable Order (this is an interlocutory appeal) because they discerned that the parents, Josh and Brittany Winningham had claims, after I had fully briefed that they were not parties to the insurance contract for the accident vehicle and that their daughter had a solely owned insurance contract and that the parents actually committed a fraud? And according to my brief I cited:

   In Hoar v. Aetna Casualty and Surety Co., 968 P.2d 1219 (OK 1998) and Shelter Mutual Ins. Co. v. Little Jim, 927 F.2d 1132 (10th Cir. 1991). "... Hoar held that as the plaintiffs in that case were neither parties to the insurance contract, nor third party beneficiaries of the insurance contract, "the remedy of reformation is not available to them." Hoar at 1223... In Advisory Comm Notes – re: Rule 17(a) "the rule should be applied only to cases in which substitution of the real party in interest is necessary to avoid injustice.."

2. Did they further err by not allowing a COA to review this appeal but sua sponte dismissed it after two and half months after they reviewed my Resp to O Sh Cause?
3. Did they further err by denying my right to appeal because I have a "right" under Rule 1.60, 12 O.S. (d) discharge, vacate or modify or refuse to discharge, vacate or modify a provisional remedy which affects the substantial rights of a party (12 O.S. SS 952 (b)(2) and 12 O.S. SS 993(A)(3) the statutes I plead.
4. Did they err when after the District Court judge *refused to vacate the Dismissal Order of plaintiff Madelyn **based on fraud** in obtaining the judgment where she denied my Mot to V and cited an improper and contrary to law order (Appen C PIE #2) Order – 12 O.S. 1031.1 to justify this denial, quoting that law which supports 30 days to respond and denied it as "untimely", but I pleaded the law – based on fraud, and cited the statute supporting 12 O.S. 1031.4 supporting a two year timing to challenge and offered the evidence. In my Am Mot to Rec – Mot to Vacate – I submitted to J. Greenough and ignored by her and the Supreme Court in my (Appen I) I supplied 8 exhibits proving Madelyn had her soley owned insurance policy and her parents had their own policy. She did not acknowledge any of this.
5. Did the Sup Court err in ignoring this Order, based on fraud and did not dismissed?

LIST OF PARTIES

Parties are listed in the caption.

RELATED CASES

Tyson v. Winningham, et al Case No. 2022-3043

Interlocutory Appeal from Order raised: September 18, 2023

Tyson v. Winningham, et al – Case No. 121619 Oklahoma Supreme Court

Judgment entered – December 8, 2023

Motion for Leave to Proceed in Forma Pauperis

Cover Sheet

Questions Presented

Rule 14 (b)(1) Parties are listed in the caption

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Order – Appen E – Opinion – September 23, 2024

For comparison only complying with Ord to Sh Cause (Appen D)-July 5, 2024- to Reflect Difference between PIE #1 AND PIE #2)

Review of PIE # 1 (Appen A) – Order of Dismissal – Opinions December 8, 2023 -

JURISDICTION

The date on which the highest state decided my case was on September 23, 2024.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. Amendment XIV

The Fourteenth Amendment states:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Petitioner cited the violation of this 14th Amendment and Const II – 7 due process violations in Table of Authorities –

Stated specifically in PIE #2 (Appen C) – under issues to be raised VIII – Ex B brief

TABLE OF AUTHORITIES AND ADDITIONAL STATUTES AFTER ALL OF THE APPENDICES

SUMMARY OF CASE – DENIAL OF 122314

On July 3, 2024 I filed an interlocutory Petition in Error (Appen C PIE #2) 122314, challenging the denial in District Court of my Amended Motion to Reconsider (J. Greenough converted to Motion to Vacate- (Appen I) on June 3, 2024, wherein she dismissed defendant Madelyn Winningham in her ruling of *September 18, 2023* – because allegedly this judgment of dismissal was obtained by fraud (which Sept 18th Ex A Order was referenced - in (Appen A PIE #1 -Ex A)

PIE #1 AND PIE #2 have separate allegations and causes. At the same time I filed a Motion for extension of time to file the Record on Appeal for (Appen C PIE #2). Also see two Notices of Errata I furnished timely (c-1 and c-2) as part of my Record. The court suspended this requirement of Record on Appeal until "further order of the Court following disposition of the show cause order." My Response to their Order to Show Cause (Appen H) and the exhibit pleadings are quite lengthy that I cite in this Summary, would be part of my Records on appeal, for purposes of your review, as the Supreme Court sua sponte dismissed this (Appendix PIE #2 - C) **two and one half months later** on September 23, 2024, without allowing my Appen C PIE #2 to be given to a COA Appellate court for review, and without any reference or comment to any of the many merits in my Response to Order to Show Cause (Appen H). Therefore, they did not require an official Record on Appeal.

The reason the September 18, 2023 PIE (Appen A PIE #1 -Ex A) was raised in the July 3, 2024 PIE (Appen C PIE #2), as I cite on p1,2, of my Am Motion to Recon (Vacate) (Appen I) I was motioning the Dist Court according to its October 19, 2023 (Appen Hh) language):

> "Pending Motions are reserved pending resolution of Appeal in SC-121619" and I herewith request a response to the cited interlocutory appeal.
>
> .....*"On this 18th day of September, 2023, the following matter in the designated case comes on for decision. Defendant's Motion to Dismiss is granted and Plaintiff is allowed to cure the defect. A minor lacks the capacity to be sued, but may be named as a defendant through a parent or friend. 12 O.S. 2017; Watford v. West, 2003 OK 84. However a minor may be held accountable for a tort committed while engaged in an adult activity, such as driving. Baxter v. Fugett, 1967 OK 72.

Therefore, Plaintiff shall amend the petition to cure the defect by October 6, 2023 to reflect the parents(s) were sued individually and as next friend of the minor."

HISTORY OF PET IN ERROR – CASE 121619 – DISCERNING THE DIFFERENCES

As a background to this: I filed a Pet in Error on September 22, 2023 challenging this proposed Order on the basis that Madelyn, the true party in interest was not a minor, and that the parents had no standing to sue or be sued in this case because they were not parties of interest. I had also filed On October 4, 2023, my "Response to Order to Name Parents as Next Friend to a Minor (Appendix H) by 10-6-23 (so I could comply with her timing) and listed the statutory reasons for my objections which included actual fraud and fraud at law citing Statute 76.3 Deceit, (with exhibits to support) as well as the conflicting rulings I discerned making that Order to be irregular and contrary to law. I included reference to my MSJ allegations, with evidence that have never been specifically ruled on. I told her I would not amend my Petition.

Continuing in my Amend Motion (Appendix I, p1,2) my reasons for response from her I stated in part:

> "After denial of this Pet in Error (121619) on the basis of lack of jurisdiction it was remanded to this Court. However, I filed a Petition for Certiorari based on issues, because other courts differed with their denial analysis. In the denial of the Petition for Certiorari, the basic reason given was lack of jurisdiction. In that case, it would be remanded back to this court and no analysis or opining *(on the merits)* should have occurred, which could prejudice the District Court, nor would (*should*) it be allowed. (*the opinings contradicted my arguments which have not yet been heard in Dist Ct)*
>
> But that was not the case and I challenged the fact that they (*COA*) offered opinions (many of which I discerned to be contrary to law; the weight of material evidence and contrary to other court's holdings). ***ALL OF WHICH GO TO THE MERITS OF DIST COURT CASE THAT THEY DISMISSED (ital mine).*** That is the reason I requested a re-hearing of the issues on April 19, 2024 – *Pet for Rehearing (121619), Denial*). The lack of jurisdiction would, by law, be the only holding in this dismissal. On April 25, 2024 this request for rehearing was denied. *(I then said to her in this Am Res p2:)* This now makes ruling on the September 18, 2023 proposed Order, ripe for decision."
>
> "I ask the Court to respond to my October 4, 2023 "Response to Order to Name Parents As Next Friend to a Minor by October 6, 2023" (Appendix H). I consider this the only

relevant ruling in this case because this Court's response could determine if all of the pending motions would be considered moot, depending on the ruling from this court. I have alleged that Joshua and Brittany Winningham are not real parties in interest and have no standing in this case to sue or be sued or to be named as next friend (she is not a minor) or individually and that Madelyn is the true party in interest."

"In City of Los Angeles v. Santa Monica Baykeeper, the 9th circuit of the Court of Appeals stated that a "district court' power to rescind, reconsider or modify an interlocutory order is derived from common law, not from the Federal Rules of Procedure."

This Am Motion (Appen I) to the Dist Ct was based on my contentions of fraud in Defendant Madelyn obtaining the judgment (*as she was not a minor when the case was filed*); and I furnished 8 exhibits, as evidence of this fraud (Appen I). The District Court had never specifically ruled on the Sept 18, 2023 Order, and the merits of my arguments and contentions, *including that Madelyn was not a *minor and should not have been dismissed* (that was G. Greenough's reason of dismissal); and her contentions that I should amend my Petition, to cure this defect, by naming her parents as next friends. I was claiming they had no standing to be substituted.

In my (Appen C (122314) PIE #2) I was asking the Sup Ct. to vacate the Order of the District Court's denial (Appen C PIE #2- Ex A Order) of my (Appen I – Mot to Rec–Mot to Vacate) Madelyn, *even after I provided the evidence of the fraud,* wherein she obtained a judgment in the District Court allegedly under color of law. I also wanted the Sup Court to overturn her ruling that she would not certify my appeal, claiming there were other claims to be met. Once Madelyn, as the party in interest, was dismissed, because her parents have no standing to sue or be sued as argued below, there are no further claims. Madelyn should not have been dismissed. All of the activities from her and her parents are all attempts to deceive and cheat me from my rightful claims to receive compensation for my medical bills and suffering and harass me to comply with discovery requests made by those parents after Madelyn has been dismissed.. Even "Google" asserts that .."if a person who was not involved in an accident attempts to serve discovery on you instead of the dismissed party, this is not valid and can be considered improper or abusive legal practice....."

I covered my arguments in (Appen PIE C, (122314) Ex B-p3, 4 that I have a "right to appeal" under Rule 1.60, 12 O.S. (d) discharge, vacate or modify or refuse to discharge, vacate

or modify a provisional remedy which affects the substantial rights of a party (12 O.S. SS 952 (b)(2) and 12 O.S. SS 993(A)(3) the statutes I plead. The District Court denied my (Appen I) Am Motion converted to *Motion to Vacate* dismissal of Madelyn (Appen PIE#2-Ex A) on June 3, 2024.

I appealed on July 3, 2024 (Appen C, PIE 2 - 122314). *I herein incorporate all the arguments made there on p 3,4,5 under Summary B.* In (Appen C p4) I stated that it was obtained by actual fraud and fraud at law and deception. The allegations in 121619 (Appen PIE A, Ex B, p3,4,), allege violations of fraud connected to 2014 Stat- Title 15 Contracts, with intentions to deceive another party (alleging that the Winningham family all colluded to deceive the rightful owner of the insurance policy).

On p7 Mot to Rec /Mvac I quoted Sec. 556 O.S. 1931 stating that there are 9 grounds allowing vacating a judgment and specifically quoted No. 4 "for fraud practiced by the successful party in obtaining the judgment or order on p8" but J. Greenough denied my Motion on the basis that it was *untimely*, quoting 12 O.S. SS 653, 1031.1 (which law would only allow 30 days to file Motion to Vacate). But I cited Sec. 556, O.S. 1931, and it is the equivalent of 12 O.S. SS 653, 1031.4, alleged in my Am Mot, and allows two years to challenge rulings **and is not untimely**. This issue raised in 122314 (Appen C, PIE Ex B last par) **alone** differs from the allegations in 121619 (Appen PIE A, Ex B, p3,4,), which allege violations of fraud connected to 2014 Stat- Title 15 Contracts, with intentions to deceive another party (alleging that the Winningham family all colluded to deceive the rightful owner of the insurance policy).

My other contention in my Am Mot to Rec/ vacate was that the parents had no standing to sue or be sued as they were not the real parties in interest and based on deceit by Madelyn and her parents (Appen PIE A, Ex B – VIII - p3, p4 , par 1). In my Response to their Order to Show Cause – (Appen K) to Sup Ct, I compared the differences between the two appeals (Appen PIE #1- 121619) and (Appen PIE #2 122314) and my objections to the opinings of the Mitchell court in his Order of dismissal (Appen K Resp to Order to Show Cause, Exhibit 2) and also said on p4, 5 in my Resp to Order to Show Cause (Appendix K):

"This Appellate Court dismissed the 121619 case on December 8, 2023 on **jurisdictional grounds,** that this was not an appealable Order (Appen A PIE #1, B) but then offered Opinions, which is contrary to law. This court filed a Mandate 6 months later on May 30, 2024 stating that December 8, 2023 as the date of dismissal (PIE #1, B). This enabled the District Court to "spread" that fraudulent Opinion in the District Court after the Clerk John Hadden sent the mandate to her court on June 3, 2024 and **after the Mitchell Court poisoned the merits of my case**, which is still active. I totally disagree/d with his Opinion in that regard.

I filed an Objection regarding these opinings to the Sup Ct. on July 3, 2024 (Appen E) That Court responded and construed it to a motion to recall the mandate and denied it on September 23, 2024. I have filed a Notice of Appeal and will treat this as a Companion Appeal in the near future.

In quoting specifically as to my objections to the Supreme Court earlier in my Pet for Cert, on January 16, 2024 I filed (121619 Case) Reply to Answer – in the Pet for Cert to Defendant's Answer and refuted the COA'S opinions made December 8, 2023 and responded to them. I quote the exact language and my responses:

COA: 1. Statement on their p4:, Par 5 1. "...Accordingly, Winningham's being covered by her own insurance policy does not in and of itself establish whether she was a minor at the time of the accident"

RESP: UNDER STATEMENT 1: "The Ex A Order (*Appen A – PIE #1*) explicitly states her dismissal because she was a minor at the time of the accident; and ROA 5, P6, par 4 "lack of capacity because ...Winningham was a minor; and see Ex 4.p 5 Pet Cert, "Auto Insurance – **solely owned** - new policy – June 8, 2020 – 3 mo before accident Oct 7, 2020; and ROA 10,.

COA: 2." Further, the court did not dismiss Winningham from the lawsuit, order Parents to be substituted, or instruct Tyson to sue parents vicariously for behavior, as argued by Tyson 2a. Rather, the court ordered Tyson to sue Winningham through her Parents. See 12 O.S. 2021 ss 2017(C) (providing that suit may be brought against minor by naming minor's guardian ad litem, next friend or other representative).

RESP UNDER STATEMENT 2: I never argued "instruct Tyson to sue parents vicariously for behavior, as argued by Tyson." 2a. my arguments were that this is contrary to law and now that Madelyn should be sued as an adult and parent/s have deceitfully concealed their true ownership of the accident policy and are strangers to the policy and cannot be parties in interest in this petition – the accident policy is in Madelyn's name only – why did the insurance company already pay partial liability if she cannot be sued?

COA: 3. "Tyson may sue Parents next friend of Winningham, if she seeks recovery against Winningham only. Tyson may sue Parents individually and as next friend of

Winningham, if she wishes to assert additional theories or claims pertaining to Parent's liability."

RESP UNDER STATEMENT 3: The Order (Sept 18, 2023 – Ex A) is fatally flawed. And person of interest only to be sued– and an amended petition cannot correct this because of the false identities of the real owner of the insurance contract. The parents have no standing to be sued in this Petition, they are strangers to her contract. The case should have been dismissed against them because of the fraud and deceitful mis-representations."

I provided ample evidence in my Amended Mot to Rec (MOT VAC) (Appen I) reflecting that:

1. She was not a minor at the time of the suit being filed.
2. She contended that she was the **sole owner of her insurance policy** and not a part of her father's or family's policies. They had their own independent policies and therefore could not be substituted for their 'dismissed' daughter.
3. That if she (J. Greenough) would not concede to these facts, I asked her to provide "a certified Order, stating that an immediate appeal for this interlocutory Order may materially advance the ultimate termination of the litigation."

In J. Greenough's Order she not only denied my Amended Motion wherein I raised and quoted the proper statutes, but instead furnished a false statute as reason for dismissal and she also refused to certify this matter as she said "it would not materially advance the ultimate termination of the litigation."

On July 5, 2024 the Supreme Court of Oklahoma issued an Order to Show Cause (Appen D) why this appeal should not be dismissed because it appears to be a second appeal from the order appealed in No. *121,619 " But the basis of **that** *appeal was based on actual fraud and fraud at law perpetrated by Madelyn and her father, deceit – (unclean hands) with the intent to deceive another party thereto (2014 OK Statutes – Title 15 – Contracts SS 15-58") (Appendix A PIE #1) and there are **substantial differences between the two appeals.** Those are the primary issues of 121,619 PIE.

I explained this in my "Response to Order to Show Cause" (Appendix K) and filed 18 pages with explicit differences, with 13 exhibits. ***

I also stated on p1 (Resp – Appendix K) there: "In my 122314 appeal I described a similar backdrop of circumstances from the 121619 appeal in my EX B Summary only to clarify my 122314 July 3, 2024 Petition in Error. Howbeit, the Order I am now appealing is ONLY tangentially related to the 121619 - 9/22/23 appeal Petition. These would encompass circumstances and recent issues and denials from a different Order from the District Court, 122314 Petition that are raised.

I appealed and said on p16, par 1, in my Response (Appen K) to Sup Ct, the 122314 appeal:

" I contend that J. Greenough has abused her discretion and made a constitutional error in dismissing my Motion to Vacate citing *untimeliness* (*emph*) based on l2 O.S. SS 653, 1031.1, and I discern this ruling to be "under color of law." *I cited Sec. 556, O.S. 1931 states 9 grounds on which a district court may modify or vacate its own judgments or orders at or after the term at which the judgment or order was made - No. 4 "for fraud practiced by the successful party, in obtaining the judgment or order."* This is the equivalent of 12 O.S. SS 653 1031.4, (not 1031.1) based on fraud, and this allows 2 years to bring a case, and this erroneous ruling is deemed to be a void judgment, and may be vacated at any time."

Under 12 O.S. SS 1031(4), it asserts the element of "fraud, practiced by the successful party, in obtaining a judgment or order." When I realized this fraud, I acted without delay in filing Motions and proof of fraud, and provided exhibits and affidavits establishing those contentions, some of which I reported in my *Amended Motion (Appen I) of May 6, 2024. I diligently pursued this, what I deem to be clear and convincing evidence reflected there."" I included several exhibits in that Reply (Appen I- Ib) proving fraud.

"Fraud upon the court" and has been defined by the 7th Circuit of Appeals to "embrace that species of fraud which does, or attempts to defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F. 3s 689 (1968); Moore's Federal Practice 2d ed., p.512 Par 60.23. The 7th circuit further stated "a decision produced by fraud on the court is not a decision at all, and never becomes final.".

"Fraud upon the court" makes void the orders and judgment of that court. It is also clear and well-settled law that any attempt to commit "fraud on the court" vitiates the entire proceeding. Under Illinois and Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void and without legal effect."

Even though I am alleging intrinsic fraud against the defendants, fraudulent intent. This intent has been made with reckless indifference to its truth or falsity by the defendants regarding: true ownership of the policies, J. Greenough in her ruling that the dismissal was based on the wrong statute, the Mitchell court and their opinings, the COA confirmed by the Supreme Court of OK of allowing opinings on an unresolved case. J. Greenough's Order in the District Court dismissed the real party in interest, and her alleged "irregular Order" requiring to add the parents who are not the real parties in interest, and ignoring the deceit and unclean hands of the family's claims, regarding the true ownership of the accident policy, attempted to be concealed.

The COA violated judicial regulations not to opine on an unresolved case, and poison the merits. Their Opinions, before my case has been resolved is Malicious Abuse of Process. The Supreme Court, even after I raised those arguments, allowed those opinions to be spread on the district court's yet unresolved case records. Even after pointing this out, they refused to withdraw and suspend that mandate – the Opinions of the Mitchell Court. This now makes this the "law of the case" and unless this conduct and rulings are reversed, **no doubt** the District Court will draw on the erroneous conclusions made in their Opinion – such as:

> COA: 3. "Tyson may sue Parents next friend of Winningham, if she seeks recovery against Winningham only. Tyson may sue Parents individually and as next friend of Winningham, if she wishes to assert additional theories or claims pertaining to Parent's liability."
>
> MY RESP UNDER STATEMENT 3: The Order is fatally flawed. And person of interest only to be sued– and an amended petition cannot correct this because of the false identities of the real owner of the insurance contract. The parents have no standing to be sued in this Petition, they are strangers to her contract. The case should have been dismissed against them because of the fraud and deceitful mis-representations."

This conduct could be nothing but "contemplated" with its intent to injure my rights of redress and receipt of medical damages, etc. Horman v. United States 116 F. 350, 352 (6th circuit) Mail fraud enters the picture as they mailed and sent by wire with their poisoned opinions to me and to J. Greenough and had them spread in the various courts. Also see Regent Office Supply Co. 421 F 2d at 1180-81.

Any judgment procured by fraud is null and void. An erroneous judgment may be attacked collaterally...935 F.2d 313 (2nd circuit 1937) The opinings are intentional misconduct as well as denying my Mot to Vacate basing it on a wrong constitutional basis.

Even though J. Greenought made this constitutional error in her erroneous dishonest citing and ruling, which I discern as a malicious abuse of discretion, she further compounded this alleged transgression when she added her language that:

> "The Court declines to certify the matter for interlocutory appeal as such would not advance the ultimate termination of the litigation. 12 O.S. SS 994A (Appen C PIE 2).

By so ruling, this alleged biased ruling of refusing to certify my Petition, she intentionally intended to cripple any attempts to appeal my (Appen E) PIE 122314 appeal, and now with the COOPERATION of the Supreme Court of Oklahoma's dismissal of my (Appen C PIE #2).

> One of the Canons of Judicial Conduct in Oklahoma in Rule 2.6 under "Ensuring the Right to be Heard under (A) states: "A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

My Amended Motion to Reconsider (Appen I) with the various exhibits, proved that Madelyn, the dismissed party was not a minor at the time of the dismissal, and should have resulted in vacating her dismissal, on the basis of fraud. J. Greenough herself committed fraud on the court, to obtain a judgment when dismissing my Motion to Vacate citing untimeliness (emph) based on l2 O.S. SS 653, 1031.1, which would be "malicious abuse of discretion" and I discern this ruling to be "under color of law." I cited the proper law equivalent Sec. 556 O.S. 1931 in 12 O.S. SS 1031.4, (not 1031.1) based on fraud, which allows 2 years to bring a case, and is deemed *then* to be a void judgment, and may be vacated at any time." The Supreme Court in their denial to my right to appeal has also allegedly performed acts of malicious abuse of discretion."

The standing of fraud in itself, should have issued a void order ruling by the Supreme Court after reviewing the record and her order, and the proof furnished, and is another order what would be fraudulent and should be vacated as it supports a fraudulent void order. I contend both of these rulings to be rendered under color of law.

She cited 12 O.S. SS 994A , (re all claims not being addressed) but in OK Stat. tit. 12 SS 953, it states:

> "An order affecting a substantial right in an action, when such order, in effect, determines the action and prevents a judgement, and an order affecting a substantial right, made in a special proceeding or upon a summary application in an action after judgment, is a final order which, may be vacated, modified or reversed, as provided in this article. In Gilliland v. Chronic Pain Associates, Inc. – 904 P.2d 73 – 66 OBJ 2876, Case No. 8339, the Supreme Court of Oklahoma denied the Motion to dismiss that case and it states there in Par 8 "this is not to say that every judicial refusal to give a favorable dispositive order in a prejudgment contest over some process, pleading or probative deficiency in the case is enough to make a nisi prius ruling appealable. Extant SS 953 jurisprudence unmistakably and consistently teaches that, to be appealable under this section, an order which "prevents a judgment" must preclude the appealing party from proceeding further in the case for the pursuit of the very relief that is then and there sought."
>
> In my Reply (Appen I-1b)to Defendant's Response (Appen I- Ia) to my - Plaintiff's Motion to Reconsider (Appen I), I stated starting on p1 :
>
> "I include as a basis for my request for certification for immediate appeal, as to justification for the Supreme Court to accept the interlocutory appeal not only 12 O.S. 12 952(b)(3), but also 12 O.S. 952 (b)(2) which reads:
>
> "An order that discharges, vacates or modifies or refuses to vacate or modify a *provisional remedy* (ital mine) which affects the substantial rights of a party; or grants, refuses, vacates, modifies or refuses to vacate or modify an injunction; grants or refuses a new trial; or vacates or refuses to vacate a final judgment;"

Again, Black's Law Dictionary defines a "Provisional Remedy" as "a remedy provided for present need or for the immediate occasion; one adapted to meet a particular exigency. Particularly a temporary process available to a plaintiff in a civil action, which secures him against loss, irreparable injury, dissipation of the property, while the action is pending. In other words to protect me while the case is pending.

Her denial is coupled with Sup Court of Ok's sua sponte Order of Sept 23, 2024 (App E) denying my right to appeal. This stating:

> "Appellant's claims against Josh Winningham and Brittany remain pending for adjudication." (Appen E par 1) and further (Appen E par 2) "This order does not prejudice Appellant's right to bring an appeal of the September 18, 2023 and June 3,

2024 orders in conformance with Oklahoma Supreme Court Rules after a final order disposing of all claims is rendered in this case."

At first blush, this ruling appears to be proper. But this ruling would, for all intents and purposes, end my case because according to J. Greenough, **her only remedy** to continue the case, after this denial would be to substitute Madelyn's parents as "next friend." Unless I would do this the case would be dead. Her parents have no standing to sue or be sued or to replace their daughter because they have their own separate policies and their daughter was not a minor when this case was filed. With the person of Interest, Madelyn, being (improperly dismissed) there is no person to sue.

To be pointed out is that the OK Sup Ct. by their Order to Show Cause (Appen D) filed on 7-5-24 required me to file a Response as to why my case should not be dismissed as it appeared to be a second appeal. I filed my Response on 7-22-24 (Appen K – see record). This includes several **pages** of briefing and 14 pages of exhibits. I was explicit in detail as to their specific **differences**. The Supreme Court (sua sponte) did not respond to my Response (Appen K) to their Order to show cause (Appen D) until **9-23,** two and a half months later.

Although there is no set time to respond, a few weeks would be understandable, but a few months seems extreme. Their Journal Entry on the docket sheet stated:

"JE: ON CT'S OWN MOT, TH/APPEAL IS DISMD FOR LACK OF AN APPEALABLE ORDER ETC. ALL JUSTICS CONCUR C/ATTYS DC CLERK"

The September 23, 2024 Order (APPEN E) itself states:

"On the Court's own motion, this appeal is dismissed for lack of an appealable order as Appellant's claims against Josh Winningham and Brittany Winningham remain pending for adjudication. 12 O.S. 2021, SS 953, Jones v Tubbs, 1993 OK 118, Par 6,860 P.2d 234 (order which leaves claims pending is not a final, appealable order).

This order does not prejudice Appellant's right to bring an appeal of the September 18, 2023 and June 3, 2024 orders order in conformance with the Oklahoma Supreme Court Rules after a final disposing of all claims is rendered in the case.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 23RD DAY OF SEPTEMBER, 2024.

/ / M.JOHN KANE IV (INITIALS ONLY

CHIEF JUSTICE

ALL JUSTICES CONCUR"

This Petition in Error (Appen PIE #2) should have been given to a panel of Appellate Judges to decide. I made the comparisons between the two appeals that the S Ct required in their Order to Show Cause.

This denial Order in itself is allegedly a VOID ORDER AND ISSUED conflicting with 12 SS 953:

> "An order affecting a substantial right in an action, when such order, in effect, determines the action and prevents a judgement, and an order affecting a substantial right, together with her distortion of my cited 12 O.S. 1031 (4) stance in my Reply (Appen I(b) on p4:

J. Greenough denied me my right to appeal by refusing to provide a certification to Madelyn who is the only Real Party in Interest. For all intents and purposes this denial to vacate her order of dismissal of Madelyn, because she was not a minor at the time this suit was filed, is a final determination of my rights as a party because there would be no pending claims against her, after this dismissal unless this dismissal would be vacated; her parents are not real parties in interest and I will not amend my Petition to name them as her Sept 18th Order requires.. The Mitchell Court

These circumstances give me a right to appeal under 12 O.S. SS 952 (a).

J. Greenough's refusal to furnish her Order for immediate appeal (Appen C - Ex A Order) is just another biased response to me in this case. I have a 14th Amendment constitutional right to redress my grievances and her bias, together with the fraud perpetrated from the Defendants, are all attempts to cheat me out of my claims in this suit, attempting to prevent me from an honest judgment. She was without authority to issue this biased fraudulent denial Order, also because she cited 12 O.S. SS 1031.1, under color of law, falsely asserting untimeliness, but in that same statute under 12 O.S. 1031(4) (allows 2 years to appeal) where I asserted the element of "fraud, practiced by the successful party, in obtaining a judgment or order." This would make this Order by J. Greenough another void judgment.

In addition to requesting the District Court for its response to my arguments regarding the parents' standing in this (Appen C - Case Number 122314 – Exhibit A – Order - where I

alleged my rights to appeal by Rule 1.60 of the Oklahoma Supreme Court Rules under (d) "Discharge, vacate [dismiss party] .....a provisional remedy which affects the substantial rights of a party (12 O.S. SS 952(b)(2) and 12 O.S. SS 993 (A)(3)). (See Ex B – p 3 – Appen C) Summary VII – par 1, 2)

J. Greenough attempts to chill my right to appeal and by sua sponte dismissing this appeal have also chilled by right to have my appeal reviewed in all of its context by an appellate panel. The SCt of OK has glossed over the glaring abuse by J. Greenough in dismissing my Motion regarding her malicious prosecution of denying the fact that I have two years to prosecute this case based on the proven fraud I supplied, instead she said my Motion was untimely.

> Black's Law Dictionary defines Chilling effect doctrine: "In constitutional law, or any law or practice which has the effect of seriously discouraging the exercise of a constitutional right, e.g. the right to appeal."

HISTORIAL FACTS – of 121619 Petition in Error to reflect a comparison that the Sup Court required in their Order to Show Cause (Appen D)

The (Appen A – PIE #1) 121619 Petition's Opinions and denial Order from the Mitchell court was issued I discern should be rendered to be void because the Court lacked of authority to have opined. The Mandate issued 6 months later after my Pet for Certiorari, that included their illegal opinions, was filed and was spread on the District Court's record. I challenged, not just their opinion, that the Order was not an appealable Order, but erroneous misstatements and ignoring of cited statutes (see Pet for Rehearing), but the fact that they had no authority to opine at all. The Mandate, containing their unwarranted and poisonous conclusions, in the yet fully unheard case in the District Court, should be considered void by law because of the lack of authority to have opined on the merits of my case, throughout their Order. Order of Dismissal, (Appen B) p 1-5 – December 8, 2023.

> "a judgment is a void judgment if the court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted inconsistent with due process, Fed Rule 60(b) (3)(4), 28 U.S.C.A. Constitution 5.

In Ex Parte Spaulding 687 S.W. 2d at 745 "If an appeal is taken..however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment.

The plenary power was lost by the Appellate Court when it declared on their p.2 Order "We dismiss the appeal for lack of appealable order and remand for further proceedings." But they then proceeded to opine on the next four pages as to their own thoughts – contradicting many of assertions which were to be brought to the District Court and poisoning the merits of my case and ignoring the statutes I cited. The conduct of bringing those illegal and unwarranted opinions, poisoning the District Court would consist of:

"Fraud upon the court" and has been defined by the 7th Circuit of Appeals to "embrace that species of fraud which does, or attempts to defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F. 3s 689 (1968); Moore's Federal Practice 2d ed., p.512 Par 60.23. The 7th circuit further stated "a decision produced by fraud on the court is not a decision at all, and never becomes final." .

"Fraud upon the court" makes void the orders and judgment of that court. It is also clear and well-settled law that any attempt to commit "fraud on the court" vitiates the entire proceeding. Under Illinois and Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void and without legal effect."

Furthermore all rulings after the dismissal of my case on December 8, 2023 are void, including the denial of my Pet for Cert and Pet for Rehearing based on my arguments below.

A portion of that challenged Order requires me to amend my Petition to allow the parents to be substituted for dismissed Madelyn on the basis that she was a minor. When this case was filed she was not a minor and she had her own insurance policy at the time of the accident as well as the fact that her parents had/have their own separate policy and an insurance company would consider them to be "strangers" to Madelyn's policy. I had argued this to be contrary to law based on when I appealed in ...619). Her Order requires me to amend my Complaint/ Petition to sue the Defendant's parents in her place, as a means, in her language "to cure the defect" of this dismissal. You cannot "cure" an illegal position. This is how that Sept 18th Order reads:

"On this 18th day of September, 2023, the following matter in the designated case comes on for decision. Defendant's Motion to Dismiss is granted and Plaintiff is allowed to cure the defect. A minor lacks the capacity to be sued, but may be named as a defendant through a parent or friend. 12 O.S. 2017; Watford v. West, 2003 OK 84. However a minor may be held accountable for a tort committed while engaged in an adult activity, such as driving. Baxter v. Fugett, 1967 OK 72.

Therefore, Plaintiff shall amend the petition to cure the defect by October 6, 2023 to reflect the parents(s) were sued individually and as next friend of the minor."

The Order of J. Greenough is based on a false supporting premise – as it reflects in Watson, a minor becoming an adult who can be sued, rather than a case supporting a suit where parents can be next friend. The parent/s are the real owners of the accident policy according to Ex. 8 Pet Cert. I further argued:

> "Another reason this Ex A Order it is fatally flawed as it would be contrary to law to substitute the parents as next friend. They cannot be sued individually because only the true party in interest can bring a suit or be sued – (Watford id) Madelyn is the true party in interest, owning her own insurance policy, partial payments made from her policy, and not her father's, contrary to erroneous and unfounded assertion in COA OPN, par 4, p3, & par 1, p4, and according to her, and the parents have separate independent policies. (see Ex 1 on p 4,5 in Pet Cert). An insurance contract cannot be modified or reformed as it is in Madelyn's name solely - thus "amending my Amended Petition" cannot modify or change the contract of the owner of the insurance's name, in that this was claimed to be a solely owned policy by Madelyn - the parents are strangers to Madelyn's contract and have no standing to be substituted in that policy. Because of this there is no remedy to cure the defect. I quoted in Res Mo Dis p15, par 3:
>
> "In Hoar v. Aetna Casualty and Surety Co., 968 P.2d 1219 (OK 1998) and Shelter Mutual Ins. Co. v. Little Jim, 927 F.2d 1132 (10th Cir. 1991). "... Hoar held that as the plaintiffs in that case were neither parties to the insurance contract, nor third party beneficiaries of the insurance contract, "the remedy of reformation is not available to them." Hoar at 1223... In Advisory Comm Notes – re: **Rule 17(a) "the rule should be applied only to cases in which substitution of the real party in interest is necessary to avoid injustice**.."

There are no independent claims from the defendant/ parents. As stated, I mistakenly named them when I thought that as owners of the vehicle that they would be responsible, but I was deceived by the attorney that Madelyn was a minor at the time of the accident and that therefore she would be e on a joint policy with her parents. It was stressed later by the attorney that her parents had separate policies and the policy Madelyn had, was solely owned.

In the (Appen A PIE # 1) case, I filed a Petition for Cert and was denied on April 8, 2024 under the supervision of Vice Chief Rowe and all the justices concurring. My Pet for Rehearing filed on April 19, 2024, citing the lack of authority from the Mitchell court to have opined on my

case, was also denied. An Order of Denial by the entire Sup Ct. to the Pet for Rehearing was issued on April 25, 2024.

REASONS THAT MY 122314 APPEAL IS DIFFERENT THAN THE 121169 APPEAL

As quoted above in SD 121619 is allegedly a void judgment (see id 7th circuit)... because the dismissal order of the Mitchell Court (see COA 1,2,3 above in which they opined on the merits of the case) where I state that "a decision produced by fraud on the court is not a decision at all, and never becomes final." And "Fraud upon the court" makes void the orders and judgment of that court. It is also clear and well-settled law that any attempt to commit "fraud on the court" vitiates the entire proceeding."

> "... an order procured by fraud can be attacked at any time in any court, either directly or collaterally, provided that a party is properly before the 548 (CA 7 Ill) court." (182 F. 3d Long v. Shorebank Development Corp.)

Incorporating Spaulding, id Under Illinois and Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void and without legal effect. In Ex Parte Spaulding 687 S.W. 2d at 745 "If an appeal is taken..however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment."

As this judgment is allegedly void, it would be as though, then, that the 121619 (Appen A – PIE#1) case was never heard and the officers of the Court – in the Mitchell panel, as well as J. Roe and the concurring judges, and Clerk of Court, that denied my Pet for Cert and Pet for Rehearing – rulings and issued a Mandate that contains all of the Opinions and merits of my unresolved case in the District Court, from the Mitchell Court, should also be vitiated, because this initial panel was without authority to have ruled and so then would be the other rulings from the officers of the Oklahoma Supreme Court be void.

On July 3, 2024 I filed an Objection for the Record – (Appen F) under Fed Rule 46 to the Supreme Court of Oklahoma, alleging my due process rights had been denied. I furnish only two relevant top pages here, as this issue will be the topic of a Companion Appeal. In this

Objection I cite all of the alleged irregularities, with exhibits of the historical facts and events that occurred in this case. I also filed an Objection for the Record with the District Court (Appen G) along these lines.

So for the COA, not only to ignore the fact that J. Greenough refused to vacate her judgment regarding Madelyn, but to state "This order does not prejudice Appellant's right to bring an appeal of the September 18, 2023 and June 3, 2024 (Appen C PIE#2) orders in conformance with the Oklahoma Supreme Court Rules after a final order disposing of all claims is rendered in the case." is absolutely absurd. Because the Mitchell panel's dismissal order rendered their erroneous opinions and they are now spread in the District Court, it is a fact that I would suffer discrimination when the District Court under J. Greenough would make rulings on the case. Not only that, but for me to appeal once more to the COA, after J. Greenough would rule according to their "rule of the law" findings, I could count on being defeated by both courts. I have already made flawless arguments once and they have been ignored and denied, what good would it do me to appeal once again in these prejudiced forums, not only prejudiced, but unlawful rulings.

On the basis of my allegations that the District Court, the COA and Sup ct of Ok judgments 12-8-23, 4-8-24, 4-25-24 and 5-30-24 from Case 121,619 should be vacated and as they are all allegedly *Fraud on the Court", and void together with the ruling in Case 122,314 dismissal rulings.

In my Reply Appen I(b)to Defendant's Response to my - Plaintiff's Motion to Reconsider, I stated starting on p1 :

"I include as a basis for my request for certification for immediate appeal, as to justification for the Supreme Court to accept the interlocutory appeal not only 12 O.S. 12 952(b)(3), but also 12 O.S. 952 (b)(2) which reads:

"An order that discharges, vacates or modifies or refuses to vacate or **modify a provisional remedy** (ital mine) which affects the substantial rights of a party; or grants, refuses, vacates, modifies or refuses to vacate or modify an injunction; grants or refuses a new trial; or vacates or refuses to vacate a final judgment;"

> Black's Law Dictionary defines a "Provisional Remedy" as "a remedy provided for present need or for the immediate occasion; one adapted to meet a particular exigency.

Particularly a temporary process available to a plaintiff in a civil action, which secures him against loss, irreparable injury, dissipation of the property, while the action is pending.

The Order I am requested that the (DC) Court certify, appears to be one where the Court is asking me to amend my Petition to "cure the defect", because it dismissed the true party in interest, Madelyn Winningham and now requests that the parents should be substituted.

But as raised in my initial (Dist Ct.) Amended Motion (Appen I) p3,4:

"....I alleged fraud, with particular averments, and the fact that a person who did not own the vehicle (Madelyn) would not have the ability of insurable interest under 2014 OK Statutes Title 36, under SS 3605, (if a minor), the fact that only the "owner" of the vehicle, with proof of insurance would have the ability to receive a license plate. Madelyn and her parents admittedly have different policies. Madelyn has claimed to be "solely" insured. The parents are "strangers" to her policy and have no standing to qualify as "next friend." This is an "at fault" state and only the person driving is responsible for the accident. I ask that the Court carefully consider my points in my October 4, 2023 Response (Exhibit H). Part of the arguments on p6 of my Response:

"In Hoar v. Aetna Casualty and Surety Co., 968 P.2d 1219 (OK 1998) and Shelter Mutual Ins. Co. v. LittleJim, 927 F.2d 1132 (10th Cir. 1991). Hoar held that as the plaintiffs in that case were neither parties to the insurance contract, nor third party beneficiaries of the insurance contract, "the remedy of reformation is not available to them. Hoar at 1223. Hoar cited Shelter for the proposition that the injured motorist had no standing to seek reformation since he was not a party to the insurance contract." Hoar at 1223, citing Shelter at 1135..." Arguing that the claimants in the instant case are neither parties to the insurance policies, nor third party beneficiaries of those policies"....the insurers argue that claimants have no standing to seek reformation."

They argue that the court, therefore, is not required to permit the claimants to participate in the trial of reformation. The contract cannot be modified or reformed if in Madelyn's name solely - thus "amending my Amended Petition – (complaint in Dist. Ct.) " cannot modify or change the contract of the owner of the insurance's name to another, in that this was a solely owned policy by Madelyn - the parents are strangers to that contract and have no standing to be substituted in that policy.

But, in addition, to what was not considered at the time in my Response Document here, I ask that the Court carefully consider what I stated in my Petition for Certiorari there, in the citation

of the Watford v. West and Baxter v. Fugett cases as a basis for substitution, I argued specifically that:

> "In the Watford id case, (2003 OK 84) filed on October 14, 2003, was heard by the Supreme Court of Oklahoma involved a case of personal injury – a medical malpractice case. The Plaintiff was a minor at the time of filing. He became an adult while the case was pending. The parents filed this as Parents and Next Friend at the time. They dismissed the case without prejudice, for reasons unknown, but brought the case back within the year, allowed by statute. They refiled the case in each of their names. John was now an adult. Right after this refiling, the Defendant filed a Motion to Dismiss because the statute of limitations had expired (for the parents). John, the injured, because the law allows an action to accrue for an extra period of one year until recovered, was given standing to pursue his claim. Because of this, the court retained John's claim, but his parents were dismissed because of the expiration of the statute of limitations.
>
> Despite the fact that he was a minor when the case was initially filed, after he became an adult, he proceeded with this case at the age of 19, without, this time, needing to name the parents as best friends or suing them individually. Their court properly discerned John was the true party in interest. "Every action shall be prosecuted in the name of the Real Party in interest." 12 O.S. 2001 SS 2017. John was no longer a minor.
>
> My accident occurred in October 2020. When my suit was filed in October 2022, Madelyn was named as a Defendant. There was no mention that she was a minor at the time of the accident, as if this was an issue. In fact, her attorney attempted to settle three different times for (Madelyn only) in March, 2023 (Ex 3 above). This attorney then later alleged a Minor Status, filing a Motion to Dismiss.
>
> ..... but the distinctive difference here is that John did not have to maintain the status of a minor after he turned 19 and proceeded with his suit. John, alone, had the capacity to sue.
>
> Madelyn, like John above, when filing, was no longer a minor, when my case was filed. I contend that Madelyn should never have been dismissed as a party. She is the real party in interest."

She was not only the named insured, but claims she is the solely insured of the accident (Volkswagon) policy.

I incorporate by reference from my Amended Mot to Rec – May 6, 2024(Exhibit 1 (p5) and 4 (p6) Partial payment has already been received from the damages of my vehicle from her policy Exhibit 2 (p6) above).

I quote from my Reply to Am Mot to Rec (Appen I) in (Appen Ib) p 3, par 5,6,7 – "Madelyn, like John above, when filing, was no longer a minor, when my case was filed. I contend that Madelyn should never have been dismissed as a party. She is the real party in interest."

She was not only the named insured, but claims she is the solely insured of the accident Volkswagon policy. I incorporate by reference from my Amended Mot to Rec – May 6, 2024(Exhibit 1 and 4 above) Partial payment has already been received from the damages of my vehicle from her policy Exhibit 2 above)."

This Court had/has not rendered any conclusions, in weighing my disputed and mostly unacknowledged by Defendant, submitted any evidence in my Amended Motion (Appen I), applying relevant statutes and exhibits regarding the fact that Madelyn Winningham is not a minor and should not have been dismissed, and has ignored prevailing statutes requiring responses to pleadings, and rationale as to why Madeline, claiming to be a minor, was dismissed on Sept 18, 2024.

Because I was not allowed to have an Appellate panel decide my case and that therefore a "Record on Appeal" for this (Appen PIE # 2) and the fact that on my p4 in this PIE #2 on p4 , par 4 -I cited the fact that "J. Greenough made no response to any of my contention in the MSJ. (see exhibits)" I had intended to supply those exhibits, but now can draw from ROA – case no. 121619- #12 - from Sept 21, 2023 ROA dist ct – filed <u>August 15, 2023 I cited under p2 – par 5 "Inadmissible Evidence conflicting with Federal evidence under Rule 13 (c)."</u>

> I cited on p2 "the court will exceptionably grant summary judgment in a fraud claim in favor of the claimant if the evidence is sufficiently powerful and the defendant's response is unable to deal with it. That is what happened in <u>Foglia v. Family Office Lts. & Ors</u> (2021) EWHC 650 (Comm)(Foglia). I contend my evidence to be powerful and pled sufficiently to support an actual fraud claim."

Defendant did not respond specifically to the above cited within 8 pages of listed alleged "inadmissible evidence" listed from p2 to p10. I then filed a Motion for the Court to Rule on my August 15th Motion, (see #16 ROA) on August 23, 2023, and now note that in the 13(d) Rule cited there:..."the court may rule on the admissibility of any submitted evidentiary material before disposing of the motion of summary judgment or summary disposition."

I requested then on p1 "I am asking the Court now to review my contentions and rule as to the admissibility of their filings cited in my Objection and Response.

Judges are required to provide written reasons with a meaningful reasoning path . This court did not reach out to me giving me an opportunity to respond before Madelines's dismissal. Her

dismissal Order occurred on Sept 18, 2023. She also dismissed my Mot for Summary Judgment without any response to my August 23 (above).

The dismissal of my Mot for Summary Judgment occurred after this, on Sept 22, 2023, (Appendix J) wherein she said she reviewed all relevant pleadings, but dismissed anyway, without any rationale. On August 15, 2023 I filed a Motion to Strike (and objection) other evidence as contrary to rules and inadmissible according to Rule 13(c) to Defendants' July 19, 2023 Alternative Response to my MSJ and cited multiple discrepancies that were allegedly inadmissible. The Court did not respond to this Motion or weigh in them, despite my clear and convincing evidence. On August 15, 2023 I also filed leave to Amend this same Motion and the judge did not respond or give me permission until October 10, 2023, (Exhibit B Order) which was 19 days after she dismissed the Motion for Summary Judgment. Obviously, it would have been foolish to respond after the fact, so the initial Motion would stand.

I state the one of the rules under MSJ – OK 13 (b):

"Facts deemed admitted unless controverted. All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary judgment or summary disposition unless specifically controverted by the statement of the adverse party which is supported by acceptable evidentiary material. If the motion for summary judgment or summary disposition is granted, the party or parties opposing the motion on appeal cannot on appeal rely on any fact or material that is not referred to or included in the statement in order to show that a substantial controversy exists. OK ST DIST CTS (Rule 13(b)"

Had the Court allowed a COA panel to review this (Appen C PIE #2 - 122,314 case), I would have provided the documents of August 15, 2023 and August 23, 2023 as well as my July 5, 2023 Motion for Summary Judgment and invite this Court to do so - previously but now can draw from ROA – case no. 121619- #12 - from Sept 21, 2023 and ROA Dist ct – filed August 15, 2023 I cited under p2 – par 5 "Inadmissible Evidence conflicting with Federal evidence under Rule 13 (c) under No. 16 in Index."– Dist Ct Case CJ 2022-3043. However, I did make these same arguments on p14 of my Response to Order to Show Cause, which is lengthy, but a part of the record there, even though the Supreme Court, in this (Appen C PIE #2) did not allow me to make a Record on Appeal before they dismissed the case.

None of my SJ objections have been controverted by the Defendants or the Court and Plaintiff asks the Court to take this into consideration for a resolution.

In summary, I had requested on appeal that based on the fact that Opinions have been given on the merits, and spread on the district court case, (Ex B – Summary p3 , par 8 – Appen PIE #2 C) -when the case was dismissed only on jurisdictional grounds, on my yet unresolved interlocutory case in the District Court – case cj 2022-3043, that the Order of Dismissal by the Mitchell COA Court from the (Appen A PIE 1) - that was spread in the District Court be considered void and removed from the OK sup ct records and the dist ct. records.

I ask that the Court here resolve issue that the parents have no standing to receive discovery.

I ask that all Orders issued in both Petitions of Error under Appen A and Appen C be rendered as void and vitiated and that the Dist Ct's Orders of Denial to Vacate Dismissal of Madelyne and all other Orders be rendered void because of fraud, and dismissed against the Defendant Madelyn and her parents on the basis of deceit with sanctions against them. That the judges that colluded and conspired in this case receive the justice due them.

Respectfully submitted,

Tanya Tyson

Tanya Tyson on November 15, 2024

Reasons for Granting the Writ

The Appellate Court dismissed my case – PIE #2– Case No. 122314 (Appen C), filed on July 3, 2024, stating it was not an appealable Order. They filed An Ord to Sh Cause Appen D) on July 5, 2024 (to reply as to why it should not be dismissed because it seemed the same as PIE #1, Case No. 121619 (Appen A) dismissed on December 8, 2023, on jurisdictional grounds. I responded on Jul 22, 2024 (Appen K) with 18 pages and 12 exhibits that clearly support their differences. They waited until September 23, 2024 (almost 3 months later) to state that they denied my Appen C appeal.

My appeal involves the denial of my Mot to Reconsider – Motion to Vacate the dismissed Defendant with all of the relevant facts and evidence to support this based on fraud in obtaining a judgment. The Dist Ct judge denied this and cited an improper and irrelevant order (Appen C Order – 12 O.S. 1031.1 to justify this quoting the law supported 30 days to respond and denied it as "untimely", but I have pleaded the law – based on fraud, because I cited the statute supporting 12 O.S. 1031.4 supporting a two year timing to challenge.

I also asked her in my Motion to Recon, if she would not concede to this, to furnish certification for immediate appeal. She would not do this. The Supreme Court ignored both of the above contentions stating there were other claims. However, I proved there were none. The parents of the Defendant have no standing according to 2017 OK rules and briefed this clearly. These are the wrinkles:

In the Appen A PIE #1, B case that was dismissed, the panel COAs then offered Opinions on the merits, which is contrary to law. This dismissal was given as not having jurisdiction and should have been dismissed without ruling on the merits. The merits they issued were not only illegal because they were without authority, but contrary to my own thoughts to be brought before the District Court. On top of this the COA court filed a Mandate 6 months later on May 30, 2024 stating that December 8, 2024 as the date of dismissal (PIE #1, B). This enabled the District onstJohn Hadden sent the mandate to her court on June 5, 2024 and after the Mitchell Court poisoned the merits of my case, which is still active. I totally disagree/d with his Opinions in that regard, but my primary complaint is that he

had no legal authority at all – to opine on my yet unresolved case - no jurisdiction to opine on the merits after he dismissed it for lack of jurisdiction.

The Opinions have become the "law of the case" and totally contradict my own opinions which have not be offered to that court yet. But because of this spreading, the District Court, will, no doubt, use those opinions to rule. Unless this Court reviews this case, my case in that court will rule against me. The parents, who have no standing, are attempting to get discovery from me – interrogatories, depositions, etc. and are not parties to the case.

I believe that the true party in interest who was dismissed should have that ruling reverse and be the party to be sued. On top of that because this case is based on fraud the ruling of a void judgment should be rendered and dismissed against them based on deceit. The judge denied my Mot for Summary Judgment after providing evidence and asking her to judge my inadmissibility to evidence Motion, earlier in the proceedings without any response.

It appears as if the insurance company, and the other actors, have had a great influence on this case. I respectfully ask that this case be reviewed and reversed, or no doubt it will be dismissed In the Dist Ct and the COA and I allege are totally prejudiced against me so that I cannot expect any relief.

In the Appen A and Appen C Petitions in Error, the District Court of OK, the Court of Appeals of Oklahoma, the Supreme Court of Oklahoma have committed great injustices by giving their Opinions and/or allowing this, before a case has been ruled on the merits. Their disregard of the law, prejudicing a case before it is heard and then, when complaining, ignoring the legitimate cries of injustice and refusing to correct their errors, are gross violations of due process. This kind of treatment to Pro Se litigants is not unusual. I invoke Federal rule 60 (b)(3)(4) here as well as U.S.C.A Const Amendment 5 because of the fact that they acted in a matter without due process as well as violations of the 14th amendment.

CONCLUSION

The conduct involved in this case by the officers of the court springs from the engrained prejudice against pro se litigants. Pro se litigants are a class of people that are treated much the way the black community was treated with prejudice and disdain before the courts stepped in and began enforcing their rights under the 5th and 14th Amendment of the Constitution. They disregard the law, disrespect the litigant and when the rightful law is raised in argument, it is either ignored or twisted or dismissed. The officers hope that the ignorance of the litigant will shut them up. Even when you have the proper law and using all the legal steps properly, you are still disregarded.

I am an elderly person in my late 70's and it has been extremely difficult to attempt to litigate my case with the district court now for a period of two years, and also with the appellate court. I do not have the resources to obtain an attorney and these courts have attempted to take great advantage of me. I am sure this is often the case for the "class of pro se litigants." I do not ask the court to weigh my issues that would be contrary to law, with any special favors, but believe when examining the merits and the issues, will find that I have complied in every way.

Martin Luther King Jr. made a speech in 1963 while being imprisoned in jail and said:

"One may well ask: "How can you advocate breaking some laws and obeying others?" ""the answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that an unjust law is no law at all.""

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is no rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust.""

In the Appen A and Appen C Petitions in Error at bar, the District Court of OK, the Court of Appeals of Oklahoma, and the Supreme Court of Oklahoma have committed great injustices to my case, by giving their Opinions, going to the merits, contrary to my own, yet to be decided issues, which are contrary to my own, spreading the mandate, after objections, before my interlocutory Dist Ct case has been ruled on or decided, on the merits.

Their disregard of the law, prejudicing and poisoning my case before it is heard and then, when complaining, ignoring the legitimate cries of injustice and refusing to correct their errors, are gross violations of due process. This kind of treatment to Pro Se litigants is not unusual. I invoke Federal rule 60 (b)(3)(4) here as well as U.S.C.A Const Amendment 5 because of the fact that they acted in a matter without due process as well as violations of the 14th amendment.

In this Appeal to the Supreme Court of OK and to the COA of the denial and dismissal of my Petition in Error are totally unjust. They have offered opinions on the merits of my yet undecided case which is contrary to law and unjust. My due process rights have been violated and am asking this Court to resolve the issues laid out in my Petition in Error, Accelerated Appeal and to reverse their rulings of dismissal, both in the PIE #1 and the PIE#2 cases.

Respectfully submitted,

Tanya Tyson November 15, 2024

Tanya Tyson