

24-6205

ORIGINAL

No. _____

In the

Supreme Court of the United States

Supreme Court, U.S.
FILED

OCT 25 2024

OFFICE OF THE CLERK

Wilmington Savings Fund Society FSB as Trustee of
Stanwich Mortgage Loan Trust C,*Respondent.*

v.

Nelson L. Bruce,

*Petitioner,*ON PETITION FOR WRIT OF CERTIORARI TO THE SOUTH
CAROLINA COURT OF APPEALS

Appellate Case No. 2020-001130

Common Pleas Case No. 16-CP-18-1678

PETITION FOR WRIT OF CERTIORARI

Nelson L. Bruce, Petitioner
c/o 144 Pavilion Street
Summerville, South Carolina 29483
leonbruce81@yahoo.com
843-437-7901

October 24, 2024

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

1. Whether the South Carolina Court of Appeals violated Petitioner's due process rights under the Fourteenth Amendment by limiting its review to the pleadings and refusing to consider the full record on appeal, including critical evidence and exhibits, thereby denying Petitioner a meaningful appellate review.
2. Whether the South Carolina courts violated Petitioner's **Seventh Amendment right to a Trial by Jury** by dismissing Petitioner's counterclaims without addressing his valid demand for a jury trial on statutory claims under the FDCPA and TILA.
3. Whether the ongoing practice of selective review by South Carolina appellate courts, which limits consideration to the pleadings and disregards the full record, violates the due process rights of litigants and constitutes a systemic issue affecting the public interest, thus warranting this Court's intervention.
4. Whether the automatic stay under 28 U.S.C. § 2101(f) applies while this petition is pending before the U.S. Supreme Court, and whether further proceedings in the South Carolina courts are stayed as a matter of law until a final determination on the petition is made by this Court.
5. Whether Petitioner has the right to seek review by the U.S. Supreme Court under the Rooker-Feldman Doctrine, as Petitioner is raising federal constitutional claims challenging the state court's violation of due process and his right to a Trial by Jury.

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- Beacon Theatres, Inc. v. Westover, 359 U.S. 500 (1959) ... 6
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- Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280 (2005).....
- Henson v. Santander Consumer USA Inc., 582 U.S. 79 (2017)
- In re Johnson, 13 F.3d 131 (4th Cir. 1993)
- In re Soares, 107 F.3d 969 (1st Cir. 1997)
- M.L.B. v. S.L.J., 519 U.S. 102 (1996)
- Plyler v. Burns, 373 S.C. 637 (2007)

Statutes:

- Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692-1692p
- Truth in Lending Act (TILA), 15 U.S.C. §§ 1601-1667f
- 28 U.S.C. § 1257(a): Review of state court decisions by the U.S. Supreme Court
- 11 U.S.C. § 362(a): Automatic Stay provision of the Bankruptcy Code

PETITION FOR WRIT OF CERTIORARI

Petitioner, respectfully petitions for a writ of certiorari to review the judgments, orders and opinions of the Common Pleas Court for the state of South Carolina and the South Carolina Court of Appeals and the Supreme Court for the State of South Carolina in this case. These Courts have placed several orders and judgments improperly dismissing petitioner's claims with decisions that are not supported by law and violates plaintiff's constitutional due process rights and others within the state U.S. Constitutional due process rights.

OPINIONS BELOW

The decision of the South Carolina Court of Appeals is unpublished and attached as **Appendix - A**. The South Carolina Supreme Court denied Petitioner's writ of certiorari on **October 3, 2024** along with appendix's of documents filed in the Dorchester County Common Pleas Court which is attached as **Appendix – B**

JURISDICTION

This Court has jurisdiction under **28 U.S.C. § 1257(a)**, which provides for Supreme Court review of final judgments or decrees rendered by the highest court of a state in cases where a federal question is involved. The South Carolina Supreme Court denied Petitioner's writ of certiorari on **October 3, 2024**, and this petition is timely filed under Rule 13 of the Rules of the Supreme Court of the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- **U.S. Constitution, Amendment VII:** In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.
- **U.S. Constitution, Amendment XIV:** No state shall deprive any person of life, liberty, or property without due process of law.
- **U.S. Constitution, Amendment I:** Congress shall make no law abridging...the right of the people to petition the Government for a redress of grievances.
- **Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692-1692p:** Governs the practices of debt collectors, defining unlawful debt collection activities.

- **28 U.S.C. § 1257(a):** Provides for U.S. Supreme Court review of final state court decisions involving federal constitutional issues.
- **11 U.S.C. § 362(a):** The automatic stay provision under the Bankruptcy Code, which halts all collection actions against the debtor or the debtor's property during the bankruptcy process.

STATEMENT OF THE CASE

This case arises from a foreclosure action filed by Bank of America, N.A. who was substituted by **Wilmington Savings Fund Society FSB** against Petitioner **Nelson L. Bruce** in the South Carolina Court of Common Pleas. Petitioner, proceeding pro se, raised counterclaims under the **Fair Debt Collection Practices Act (FDCPA)**, **Truth in Lending Act (TILA)**, and South Carolina state law, alleging constructive fraud, conspiracy, and violation of statutory rights against multiple parties.

Petitioner's counterclaims were dismissed by the trial court, and Petitioner appealed to the South Carolina Court of Appeals. On appeal, Petitioner argued that the trial court erred in dismissing the counterclaims and in denying Petitioner a **Trial by Jury** on those claims. Petitioner also argued that the trial court violated his due process rights by failing to review the entire record on appeal, including evidence and exhibits critical to his FDCPA and TILA claims.

Despite the submission of a full record on appeal, the South Carolina Court of Appeals limited its review solely to the allegations in the pleadings. The court failed to consider material exhibits and evidence, including documents showing that Wilmington Savings acted as a "debt collector" under the FDCPA. The court affirmed the trial court's dismissal of Petitioner's claims without addressing the full context of the case.

Petitioner sought review by the South Carolina Supreme Court, which denied the petition for writ of certiorari on **October 3, 2024**. Petitioner now seeks relief from this Court, asserting that the South Carolina courts' failure to review the full record constitutes a violation of his **Fourteenth Amendment right to due process** and his **Seventh Amendment right to a Trial by Jury**.

REASONS FOR GRANTING THE PETITION

I. **The South Carolina Court of Appeals Violated Petitioner's Constitutional Rights to Due Process**

The Due Process Clause of the **Fourteenth Amendment** requires that state courts provide litigants with a fair and meaningful opportunity to be heard. This extends to appellate review, where courts must ensure that decisions are based on the full record, not selective portions. In this case, the South Carolina Court of Appeals violated these principles by limiting its review solely to the pleadings and disregarding critical evidence that was part of the record.

The U.S. Supreme Court has emphasized the importance of meaningful appellate review in cases involving fundamental rights, such as the right to challenge unfair debt collection practices under the **FDCPA** (*M.L.B. v. S.L.J.*, 519 U.S. 102, 120-121 (1996)). By failing to consider evidence submitted by Petitioner, including documents showing that Wilmington Savings acted as a debt collector, the appellate court denied Petitioner a full and fair review, rendering the appeal process constitutionally deficient.

II. The Violation of Petitioner's Right to a Trial by Jury under the Seventh Amendment

The right to a **Trial by Jury** in civil cases involving common law claims is a fundamental constitutional right protected by the **Seventh Amendment**. This right extends to statutory claims under the FDCPA and TILA, where Petitioner demanded a jury trial.

In *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500 (1959), this Court held that the right to a jury trial must be preserved in cases involving statutory claims, and that courts may not improperly deny a litigant's request for a jury trial. In this case, the South Carolina courts failed to address Petitioner's valid demand for a jury trial, depriving him of his Seventh Amendment right. The trial court's dismissal of Petitioner's counterclaims without considering his right to a jury trial violated his constitutional rights.

III. The Systemic Practice of Selective Review in South Carolina Raises a Matter of Public Interest

The practice of limiting appellate review to the pleadings and disregarding the full record is not unique to Petitioner's case but reflects a broader issue within the South Carolina appellate courts. This practice undermines the integrity of the judicial system, denying litigants their right to due process and impeding meaningful access to justice. By disregarding the full record, South Carolina courts deprive litigants of their ability to challenge incorrect decisions effectively, impacting numerous cases beyond Petitioner's.

The **public interest** is significantly affected by this ongoing issue. South Carolina courts' selective review practices disproportionately harm pro se litigants, many of whom are unable to

navigate complex legal procedures and rely on the full record to make their case. The failure to consider evidence in foreclosure cases, debt collection disputes, and consumer protection claims directly harms individuals facing financial and legal hardships, raising significant concerns about fairness and access to justice.

This systemic problem warrants the Supreme Court's intervention to safeguard the constitutional rights of litigants and ensure that state courts adhere to proper standards of appellate review.

IV. Petitioner's Right to Seek U.S. Supreme Court Review under the Rooker-Feldman Doctrine

Petitioner has the right to seek review by this Court under the **Rooker-Feldman Doctrine**, which bars lower federal courts from reviewing state court judgments but does not preclude this Court from hearing cases that raise federal constitutional claims. Under the Rooker-Feldman Doctrine, as articulated in *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983), and *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280 (2005), only the U.S. Supreme Court may review final judgments of state courts where constitutional violations are alleged.

In this case, Petitioner is raising federal constitutional claims that the South Carolina courts violated his due process rights under the Fourteenth Amendment and denied his Seventh Amendment right to a Trial by Jury. This federal constitutional claim falls squarely within the scope of the U.S. Supreme Court's jurisdiction under 28 U.S.C. § 1257(a).

The Rooker-Feldman Doctrine allows Petitioner to challenge the South Carolina court's decision, as it directly implicates federal constitutional rights. This Court, as the ultimate arbiter of federal constitutional claims, has the authority to correct the violations that occurred during the state appellate proceedings.

V. A Meaningful Appeal Requires Review of the Entire Record

Appellate courts are obligated to review the entire record in the light most favorable to the non-moving party when determining whether dismissal was appropriate (*Plyler v. Burns*, 373 S.C. 637, 647 S.E.2d 188 (2007)). By limiting its review to the pleadings, the

South Carolina Court of Appeals failed to meet this standard. Petitioner's counterclaims under the **FDCPA** and **TILA** were supported by evidence that Wilmington Savings engaged in debt collection activities, but this evidence was ignored by the court.

Petitioner's due process rights were further violated when the court failed to address his demand for a **Trial by Jury** on his legal claims. The right to a Trial by Jury in cases involving statutory claims such as violations of the **FDCPA** and **TILA** is fundamental and protected under the **Seventh Amendment**. The court's failure to consider the full record, which included Petitioner's valid demand for a Trial by Jury, deprived him of this constitutional right.

VI. Important Issues of Federal Law Under FDCPA and TILA

The South Carolina courts' misapplication of the **Fair Debt Collection Practices Act (FDCPA)** and **Truth in Lending Act (TILA)** raises significant federal law issues. In *Henson v. Santander Consumer USA Inc.*, 582 U.S. 79 (2017), this Court clarified the scope of the FDCPA, emphasizing that entities collecting debts owed to another may be considered debt collectors under the Act. Petitioner provided evidence showing that Wilmington Savings acted as a debt collector, yet the South Carolina courts failed to apply this precedent correctly.

VII. Notice of Automatic Stay

Under **28 U.S.C. § 2101(f)**, when a petition for certiorari is filed in the U.S. Supreme Court, there is a potential for an automatic stay of the enforcement of the judgment or decree in question. Petitioner hereby provides notice that the proceedings in this matter are stayed pending the outcome of this petition.

Federal case law has consistently held that the filing of a certiorari petition may warrant a stay of proceedings in lower courts, particularly when the issues raised involve significant federal questions or constitutional claims. In *In re Johnson*, 13 F.3d 131 (4th Cir. 1993), and *In re Soares*, 107 F.3d 969 (1st Cir. 1997), the courts emphasized that a stay can be imposed when fundamental rights or federal statutes are implicated, ensuring that proceedings in lower courts do not prejudice the petitioner's rights while the U.S. Supreme Court considers the case.

As this petition raises constitutional questions related to due process and the improper dismissal of Petitioner's counterclaims, it is respectfully submitted that all further proceedings in the South Carolina courts should be stayed while the U.S. Supreme Court reviews this matter.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the writ of certiorari and reverse the judgment of the South Carolina Court of Appeals.

RESPECTFULLY PRESENTED,

Nelson L. Bruce

Nelson L. Bruce, Petitioner
All Natural Secured Rights Explicitly Reserved and
Retained
c/o P.O. Box 3345, Summerville, South Carolina 29484
ph. 843-437-7901
Email: leonbruce81@yahoo.com