

IN THE
Supreme Court of the United States

LARRY E. PARRISH, P.C.,

Petitioner,

v.

NANCY STRONG, *et al.*,

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
SUPREME COURT OF TENNESSEE, MIDDLE DIVISION**

**BRIEF IN OPPOSITION TO
PETITION FOR A WRIT OF CERTIORARI**

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QUESTIONS PRESENTED

Whether Tennessee's Supreme Court Rule 10B is unconstitutional.

Whether the trial court judge's refusal to recuse constituted a violation of the Petitioner's Fourteenth Amendment due process rights under the precedent set in *Williams v. Pennsylvania*, 579 U.S. 1 (2016).

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STATEMENT

The petitioner challenges the constitutionality of Tennessee Supreme Court Rule 10B. Pet. App. 18.

Petitioner also asserts violation of its Fourteenth Amendment rights as stated in *Williams v. Pennsylvania*, 579 U.S. 1 (2016) and *Rippo v. Baker*, 580 U.S. 285 (2017) because the trial court judge refused to recuse himself. Pet. App. 16-7.

The petitioner failed to properly comply with Tennessee's Supreme Court Rule 10B procedural deadline for filing a recusal appeal in the Tennessee Court of Appeals. Pet. App. 3. The petitioner now asserts that the Tennessee Supreme Court Rule 10B is unconstitutional. Pet. App. 18.

The present case is just the latest proceeding initiated by petitioner against its former client Strong in a course of litigation now in its fifteenth year. Due to the unusual way in which petitioner filed this case, the relevant history is best supplied in one of the numerous court opinions. *Larry E. Parrish, P.C. v. Bennett*, No. 3:20-cv-00275, 2020 U.S. Dist. LEXIS 121639, at *2 (M.D. Tenn. July 10, 2020). The damages award was previously affirmed by the Tennessee Court of Appeals. *Parrish v. Strong*, No. M2017-02451-COA-R3-CV, 2018 Tenn. App. LEXIS 758, at *34 (Ct. App. Dec. 28, 2018). The petitioner then brought suit against the three Tennessee appellate court justices in federal district court asserting violation of its Due Process and Equal Protection rights under the Fourteenth Amendment. *Larry E. Parrish, P.C. v. Bennett*, No. 3:20-cv-00275, 2020 U.S. Dist. LEXIS 121639, at *1 (M.D. Tenn. July 10,

2020). Petitioner made a due process violation argument based on *Williams v. Pennsylvania*, in that same federal litigation. *Parrish* at *10. Petitioner was unsuccessful at the federal district court level. *Parrish* at *11.

Petitioner perfected a timely appeal to the Sixth Circuit Court of Appeals. *Larry E. Parrish, P.C. v. Bennett*, 989 F.3d 452 (6th Cir. 2021). Petitioner was unsuccessful at the federal appellate level. *Id.*, at *454.

SUMMARY OF ARGUMENT

The Petitioner seeks to expand the *Skinner v. Switzer* precedent of the Rooker-Feldman doctrine in order to challenge the constitutionality of a Tennessee Supreme Court rule and asserts that the trial court judge's refusal to recuse violates its Fourteenth Amendment Due Process rights. Pet. App. 16-18; 23.

ARGUMENT

This Case presents no federal issues properly reviewable by this court under 28 U.S.C. § 1257(a) nor United States Supreme Court Rule 12. A litigant may not utilize the federal courts to relitigate that which is already been decided in state courts. *Autry v. Estelle*, 464 U.S. 1, 3, 104 S. Ct. 20, 22 (1983). Known as the Rooker-Feldman doctrine, this precedent precludes federal courts from relitigating state court judgments. *Reed v. Goertz*, 598 U.S. 230, 235, 143 S. Ct. 955, 960-61 (2023). However, there is a narrow exception to this doctrine that, "... a statute or rule governing the decision may be challenged in a federal action." *Ibid.*; *Skinner v. Switzer*, 562 U.S. 521, 532, 131 S. Ct. 1289, 1298 (2011).

THE CONSTITUTIONALITY OF TENNESSEE RULE 10B

The Petitioner admits that the Tennessee Court of Appeals found its appeal to be untimely filed. The Tennessee Supreme Court affirmed this finding. Pet. App. 18. Petitioner's argument that Tennessee Supreme Court Rule 10B is unconstitutional is an attempt to improperly extend the *Skinner* precedent to allow it to again attack the state court judgments against itself. This invalid attempt to extend *Skinner* brings petitioner's case back into the mainstream cases of the Rooker-Feldman doctrine, i.e. "brought by state-court losers . . . inviting district court review and rejection of [the state court's] judgments," *Skinner* at 532, 1297. Further, to accept Petitioner's argument and for this Court to find a state court procedural time limit rule unconstitutional would have vast negative public policy consequences for all United States courts, state and federal.

Petitioner is attempting to relitigate its previous arguments that the judgments rendered against it are invalid because the trial court lacked subject matter jurisdiction. Pet. App. 19. The subject matter jurisdiction issue has been litigated extensively at the state court level, is res judicata, no constitutional issue claimed and is therefore outside the purview of this Court under the Rooker-Feldman doctrine. *Parrish v. Strong*, No. M2017-02451-COA-R3-CV, 2018 Tenn. App. LEXIS 758, at *13 (Ct. App. Dec. 28, 2018).

RECUSAL

Petitioner bases his rationale for requiring recusal on the fact that the trial court judge made a self-deprecating remark that he was “not smart enough” to determine jurisdiction. Pet. App. 16, App. A 5a. The judge’s remark has been properly found to be self-deprecating and not a statement of fact or determination of a question of law. *Parrish, P.C. v. Strong*, No. M2024-01141-COA-T10B-CV, 2024 Tenn. App. LEXIS 364, at *2 (Ct. App. Aug. 21, 2024). The judges remark does not rise to an “ . . . unconstitutional “potential for bias.” *Williams v. Pennsylvania*, 579 U.S. 1, 8, 136 S. Ct. 1899, 1905 (2016). There is no constitutional issue here.

Finally, the petitioner claims the trial court lacked subject matter jurisdiction. The Tennessee Court of Appeals rejected this argument. There is no invalid judgment, but rather a fully enforceable final judgment against the petitioner. Petitioner has unsuccessfully previously raised Due Process Clause and Equal Protection Clause in the district and Sixth Circuit courts. *Larry E. Parrish, P.C. v. Bennett*, No. 3:20-cv-00275, 2020 U.S. Dist. LEXIS 121639, at *4 (M.D. Tenn. July 10, 2020); *Larry E. Parrish, P.C. v. Bennett*, 989 F.3d 452, 455 (6th Cir. 2021). Petitioner was also unsuccessful in raising Fourteenth Amendment Due Process Clause violations under *Williams v. Pennsylvania* at the state appellate level. In RE Tennessee Supreme Court Rule 10B. W2004-00932-SC-UNK-CV; Pet. App. 12a-13a.

CONCLUSION

Petitioner's petition for writ of certiorari should be denied.

Respectfully submitted,

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