

No. 17-8081

In the Supreme Court of the United States

SONYA PETTAWAY, PETITIONER

v.

TEACHERS INSURANCE AND ANNUITY
ASSOCIATION OF AMERICA, et al.

ON THE PETITION FOR A WRIT TO CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

INFORMAL PETITION FOR REHEARING

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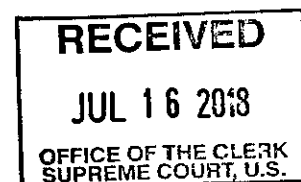


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INFORMAL PETITION FOR REHEARING

Pursuant to Rule 44.2 of this Court, Petitioner, Sonya Pettaway, hereby respectfully request petition for rehearing of the May 14, 2018 denying the writ of certiorari. Although she is not on dead-row, she has been referred to hospice due to advanced ovarian cancer.

STATEMENT

A. Procedural Background

The Court established long ago that the enforcement of the new argument rule or Fed. R. P 60 (b) and (c) rules involving judgment obtained by fraud on the court cases, which is against the Government and society civil interest, does not deny the injured party fundamental right of petition to redress this grievance guaranteed by the Constitution. *See, Hazel Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 246 (1944)*. In that case, the challenges made to the Constitution that the rules abridged or stymied the petitioner, a white male fundamental right of petition to redress judgment. The D.C. Circuit concurred with the Hazel court is controlling law and that the rules do not abridged nor stymied these type of fraud cases. *See, Dausuel v. Dausuel, 195 F.2d 774 United States Court of Appeals District of Columbia Circuit. (March 13, 1952)*. Although Mr. Dausuel failure to raise his fraud on the court argument by motion to the District Court violated argument must be made motion rule, the D.C. Circuit held that rules did not abridge or stymied his fundamental right to petition the court guaranteed by Constitution First Amendment.

B. Fractural Background.

Ms. Pettaway's fraud on the court petition circumstances are similar to those in Hazel with the exception the federal government classified her as black and female. *Id. 322 U.S. 238, 246 (1944)*. As in the Hazel case, TIAA lied to the court that its (spurious adverse medical) document was the opinion of a medical spine expert on the subject matter under review influenced the lower court judges to award them judgment based on opinion of their

phony spine expert is fraud on the court. *See. Pet. App. Pettaway v Teachers Ins. & Annuity Ass'n of Am., 699 F. Supp. 2d 185; 2010 U.S. Dist. LEXIS 30654; Pet. App.A* Like the Hazel case, Ms. Pettaway raised her fraud on the court argument directly to the D.C. Circuit (four) years after the judgment was finalized. Ms. Pettaway raised her fraud on the court argument by motion directly to the district court after TIAA response. TIAA do not deny they obtained the judgment by fraud on the court and did not submit any evidence that was not fraud. Ms. Pettaway, a U.S. military veteran and non-attorney pro se, is a disabled black (African American) woman, which TIAA spelled out to the lower courts (this case stem from an ERISA disability case). Likewise in the Hazel case, TIAA contends these rules are applicable to stymied Ms. Pettaway fundamental right and equal protection of law.

C. Proceeding before this Court.

The D.C. Circuit totally disregarded the decision of the Hazel Supreme Court and its Dausuel case and this Court strict scrutiny standard of review mandate for racial classification in analyzing its decision in Ms. Pettaway case. In doing so, the D.C. Circuit abridged Ms. Pettaway right of petition guarantee by the Constitution afforded similar situated whites males or males violated her equal protection of law civil liberties is illegal discrimination.

GROUND TO GRANT REHEARING

The Questions Presented in this case are too important to leave unsettled with the affirmance by the D.C. Circuit, they are guarantee to recur in the absence of a definitive ruling by this Court. The questions presented involved Ms. Pettaway, as a black citizen and women fundamental right to petition the court and receive equal protection of law guaranteed by the Constitution afford similar situated white male citizens. TIAA challenged the Constitution that Ms. Pettaway as black citizen and woman neither have a

fundamental right of petition nor equal protection of law guaranteed by the Constitution based on rules. This is an important federal question. The D.C. Circuit held rules abridge and stymie Ms. Pettaway fundamental right to petition the court and deny her equal protection of law guaranteed by the Constitution. Yet simultaneously the D.C Circuit held rules must be set aside to ensure similar situated white male fundamental rights. Clearly the D.C Circuit has rendered a decision that discriminates against black citizens and women that it lacks subject matter jurisdiction to make. The D.C. Circuit abridged Ms. Pettaway fundamental right to petition the court that violated her equal protection of law and totally disregard the strict scrutiny standard of review in analyzing its decision as if this discrimination is legal. At the same Ms. Pettaway has no effective means other than the judiciary to enforce her rights which she must invoke the existing jurisdiction of the Court for the protection of her justiciable Constitutional rights. *See. Adarand Constructors, Inc. v. Pena, 16 F.3d 1537 (1995).*

The D. C. Circuit decision regresses back to days of the Dred Scott Court decision and animus attitude toward citizens of Negro-African descent. The Dred Scott Court held that race solely determines where an individual has a fundamental rights guaranteed by the Constitution. *See. Dred Scott v Sandford, 60 U.S. 393 (1857).* Over one hundred fifty years later, is the Court going back to this?

1. The D.C. Circuit lacked subject matter jurisdiction abridged Ms. Pettaway fundamental right violated her civil liberties.

Congress shall make no law . . . abridging . . . the right of the people . . . to . . . petition the Government for a redress of grievances.” First Amendment of the U.S. Constitution.

This Court “recognized this right to petition as one of ‘the most precious of the liberties safeguard by the Bill of Rights.’” *See. BE &K Construction Co. v. National Labor*

Board, et al., 536 U.S. 512 (2002). (Citing *United States v. Cruikshank, et al.*, 92 U.S. 542 (1876). “The very idea of a government, republican form, implies a right on the part of its citizens and . . . to petition for a redress of grievances. See. *United States v. Cruikshank, et al.*, 92 U.S. 542. Courts have a duty to ensure a citizen fundamental right in analyzing its decision. Under the Supremacy Clause, the Constitution trump laws and rules, and laws and rules that conflict with it must be set aside to ensure a citizen civil liberty. The Framers of the Constitution decided to prohibit Congress and the Court power to abridge a citizen fundamental right guaranteed by the Constitution. Neither Congress nor the Court has power to empower or confer subject matter jurisdiction to Article 111 Court and judges to abridge a citizen fundamental right guaranteed by the Constitution. Article 111 Courts and judges have no inherent to power to abridge a citizen fundamental right of petition to redress grievances. The court simply lacks subject matter jurisdiction to abridge or denies a fundamental rights guaranteed by the Constitution. Furthermore, the Hazel Court held that rules may not violate a citizen right of petition to redress judgment obtained by fraud on the court grievances. *Id.* 322 U.S. 238, 246 (1944).

Moreover, in *Dred Scott v Sandford*, the Court recognizes it lack subject matter jurisdiction to abridge a citizen fundamental right guaranteed by the Constitution. *Id.* 60 U.S. 393 (1857). So the Scott Court held that slaves of Negro-African descent are not citizen in order to deny Mr. Scott fundamental right of petition guarantee by the Constitution. However, slavery was later abolished. The Court then held that people of Negro-African descent born in this country are citizens with equal rights as similar situated white citizens. See. *Plessy v. Ferguson*, 165 U.S.537 (1896).

Unambiguously, the First Amendment of the Const. guarantees Ms. Pettaway, a black female citizen, the fundamental right to petition the government to redress the judgment obtained by TIAA fraud on the court. The D.C. Circuit has no inherent to power

to abridge or deny Ms. Pettaway's fundamental right to petition the court to redress her grievances. The Supremacy Clause and Fed. R. P. 60 (d) compels the D.C. Circuit to have set aside the rules that violated Ms. Pettaway fundamental right guaranteed by the Constitution.

Nonetheless, the D.C. Circuit used the very rules that the Hazel Court and it holds does not stymie similar situated white male and male citizen fundamental right of petition nor prohibits a court to set aside the fraudulent begotten judgment to abridge Ms. Pettaway right of petition violated her civil liberty. *See. First Amendment: 322 U.S. 238, 246 (1944); 195 F.2d 774*. The D.C. Circuit lack subject matter jurisdiction to abridge Ms. Pettaway fundamental right to petition the court to a redress her fraud grievances guaranteed by the Constitution violated her civil liberties.

2. The D.C. Circuit violated Ms. Pettaway equal protection of law afforded other similar situated citizen violated her civil liberties is illegal discrimination.

"The very essence of civil liberty certainly consists in the rights of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection," The Court citing *Marburg v. Madison, 1 Cranch 137, 5 U.S. 163 (1803)*. *See. Davis v. Passman, 442 U.S. 228 (1979)*. Every individual citizen has the right to claim the protection guaranteed by the Constitutional when he or she is wronged. As argued above in Grounds 1 and applicable here, rules may not be violate a citizen right of petition to redress a judgment obtained by fraud on the court nor limit a court power to set aside that judgment. *Id. 322 U.S. 238, 246 (1944); 195 F.2d 774*. The Hazel Court holds that judgments obtained by fraud on the court justified a court departure from the rule, which the D.C. Circuit concurred in Dausuel. *Id. 322 U.S. 238, 246 (1944); 195 F.2d 774*. The Supremacy Clause and Fed. R. P. 60 (d) prohibits the D. C. Circuit to used rules that violated Ms. Pettaway fundamental right guaranteed by the

Constitution. Also argued above in Grounds 1 and applicable here, the D.C. Circuit violation of Ms. Pettaway fundamental rights violated her civil liberty. Additionally, the D.C. Circuit denied Ms. Pettaway fundamental right to petition the court guaranteed by the Constitution afforded similar situated white male citizens violated her equal protection of law. Hazel and Dausuel petitioners were similar situated white males as Ms. Pettaway, who is a black citizen and female. *Id.* 322 U.S. 238, 246 (1944); 195 F.2d 774. The title Mr. identifies Hazel and Dausuel petitioner as male and the Government did not classified as being black. Still discrimination based solely on race or gender is illegal.

Undeniably, the D.C Circuit applied the same rules the Hazel Court and its Dausuel Circuit holds must be set aside to entertain petitions by similar situated white males to deny Ms. Pettaway right of petition violated her equal protection rights of law which violates her civil liberties is illegal discrimination. *Id.* 322 U.S. 238, 246 (1944); 195 F.2d 774. *"The guarantee of equal protection cannot be one thing when applied to a one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal."* See. *Regents of the University of Calif v. Bakke*, 438 U.S. 265 (1978). Ms. Pettaway has the same fundamental rights of petition and equal protection of law guaranteed by the Constitutional afforded to similar situated white males and males. *"In numerous decisions, this Court has held that Due Process Clause of the Fifth Amendment forbids the Federal Government to deny equal protection of laws. E. g., Hampton v. Mow Sun Wong, 426 U.S. 88, 426 U.S. 100 (1976); Buckley v. Valeo, 424 U.S.1, 424 U.S. 93 (1976); Weinberger v. Wiesenfeld, 420 U.S. 636, 420 U.S. 638 n.2 (1975); Bolling v Sharpe, 347 U.S.497, 347 U.S. 500 (1954)." Id.* 442 U.S. 228 (1979).

Ms. Pettaway petition to redress the judgment obtained by TIAA fraud on the court exercised her fundamental right guaranteed by the Constitution afforded similar situated white male citizens. She has a constitutional right to be free from race and gender

discrimination from the courts and TIAA. *Id.* 442 U.S. 228 (1979). The Fifth Amendment's Due Process Clause confers on Ms. Pettaway a federal constitutional right to be free from gender discrimination. *Id.* 442 U.S. 228 (1979). The D.C. Circuit total disregard for the decision of the Hazel Court and its Dausual case abridged Ms. Pettaway's fundamental right of petition violated her equal protection of law is illegitimate discrimination.

3. The D.C Circuit failed to analyze its decision under the strict scrutiny standard created a law that discriminates against blacks and women violate their civil liberty.

"Any preference based on racial or ethnic criteria must necessarily receive a most searching examination to make sure that it does not conflict with constitutional guarantees." See, Fullilove v. Klutznick, 448 U.S. 448 (1980).

Historically, African Americans are subject to unconstitutional discrimination even by the judiciary. Prime example: the Dred Scott Court which expressed animus toward African Americans classifying them as an:

"inferior order . . . altogether unfit to associated with the white race; so far inferior that they had no rights with the white man was bound to respect; that the negro might justly and lawful be reduced to slavery for his benefits. He was brought and sold and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. It was regarded as an axiom in morals as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuit, as well as in matter of public concern, without doubting for a moment the correctness of this opinion." See, Dred Scott v. Sandford, 60 U.S. 393 (1857), Chief Roger Taney penned the 7-2 majority decision.

Although slavery has been abolished, this is the animus reality black citizens confront routinely in their daily affair including from the bench. Some currently sitting judges have racist ideology that manifest in their decisions.

However, the Court held it was odious to make a distinction solely on race in a free people society under a doctrine of equality. See. *Hirabayashi v. United States*, 320 U.S. 81 (1943); *Loving, et ux, v Virginia*, 388 U.S. 1 (1967). The Court held that "[A]ll legal

restriction which curtail the civil rights of a single racial group are immediately suspect," to distinguish which court decision is legitimate and illegitimate uses of race. *See. Korematsu v. United States, 323 U.S. 214 (1944)*. A court action that abridges a right deemed fundamental when also violating equal protection, is still held to the more exacting standard of strict scrutiny. *See. U.S. v. Carolene Products Co., 304 U.S. 144 (1938) footnote*. The Court mandates that the D. C. Circuit analyzed its decision under the strict scrutiny standard of review to ensure Ms. Pettaway fundamental rights guaranteed by the Constitution. *Id. 16 F.3d 1537 (1995)*. "*All classification, imposed by whatever federal . . . actor, must be analyzed by a reviewing court under strict scrutiny.*" The Court holds that "*[T]he Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government . . . against any citizens because of race.*" *See. Bolling v. Sharpe, 347 U.S. 497 (1954)*. The federal government classifies Ms. Pettaway as black citizen places her in a suspect class.

Ms. Pettaway has the right to be free of gender and race discrimination. *See. Davis v Passman, 442 U.S. 228 (1979); 347 U.S. 497 (1954)*. The D. C. Circuit abridges Ms. Pettaway right fundamental right of petition at the same also violating here equal protection of law is illegitimate race and gender discrimination. The D. C. Circuit lacked subject matter jurisdiction to have denied Ms. Pettaway fundamental right of petition based on rules that violated her civil liberty. The D. C. Circuit did not applied the strict scrutiny denied her equal protection afford similar situated white males violated her equal protection of law guaranteed by the Constitution. The D.C Circuit decision is a law that discriminates against black citizens and women that violates their civil liberty. The strict scrutiny would have exposed the D. C. Circuit decision as illegitimate race and gender discrimination. The D. C. Circuit total disregard to analyze its decision under the strict scrutiny standard masks its illegitimate race and gender discrimination against Ms.

Pettaway as well as blacks and women in general. The D.C. Circuit disparate treatment of similar situated citizen one way and those of difference color another is not equal protection of law. Ms. Pettaway has the legal fundamental right to petition the D.C. Circuit to analyze its decision under the strict scrutiny standard review. *Id. 16 F.3d 1537 (1995)*.

4. The rehearing benefits the U. S Government and U. S. citizens.

The Court rarely grants certiorari and rarer rehearing. However, this case involves a challenged to the Constitution that black citizen and women do not have right of petition to redress judgment obtained by fiduciary fraud on the court nor equal protection of law afforded similar situated white males is a federal question of exceptional importance. It is of national concern whether the Court will permit the lower courts to regress this county to the days of Dreg Scott v Sandford Court animus attitude and decision. This Court holds that is odious to make a distinction solely on race in a free people society under the doctrine of equality. *Id. 320 U.S. 81 (1943); 388 U.S. (1967)*.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for rehearing, vacate the order dismissing the writ of certiorari, and restore this to its merits dockets.

Respectfully submitted.

July 13, 2018

Signature: _____



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Certificate of Unrepresented Party

I, Sonya Pettaway hereby certify that this Informal Petition For Rehearing is presented in good faith and not for delay and are limited to the other substantial grounds not previously presented.

July 13, 2018

Signature: _____

A handwritten signature in black ink, appearing to read 'Sonya Pettaway', written over a horizontal line.

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