

NO 17-A633

IN THE
SUPREME COURT OF THE UNITED STATES

ALI YAZDCHI-PETITIONER

V.

JPMORGAN CHASE BANK, N.A. AND WILLIAM E. RYAN-RESPONDANTS

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PETITION FOR WRIT OF CERTIORARI

ALI YAZDCHI, PETITIONER, PRO SE
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Issues presented:

1. Whether a remand order from a Federal Court to a state court for lack of subject matter jurisdiction can be revoked by the same Federal Court after the state court has docketed the remand order?
2. Whether the United States Court of Appeals for the 5th Circuit can dismiss a case without giving a reason?
3. Whether a dismissal of appeal to one defendant can be final to all defendants in a multi defendant case?
4. Whether Summary Judgment can be granted to defendant when there are genuine issues of fact to be decided by a fact finder?

ISSUE PRESENTED

1. CLARIFICATION OF DENIAL OF PETITION FOR REHEARING EN BANC BECAUSE THE UNITED STATES COURT OF APPEALS FOR THE 5TH CIR. DOES NOT HAVE JURISDICTION OVER A REMAND ORDER TO STATE COURT FOR LACK OF SUBJECT MATTER JURISDICTION, BY DISMISSING APPEAL AND NEVER HEARD THE MERITS OF THE CASE, THIS DECISION CONFLICTS WITH ALL CIRCUITS AND 5TH CIR.
2. TEXAS STATE COURT CURRENTLY HAS THIS CASE BUT CANNOT PROCEED UNTIL THIS COURT MAKE A RULING THAT WHO HAS JURISDICTION BUT 5TH CIRCUIT DOES NOT CLARIFY A DISMISSAL ORDER THAT IT WAS DISMISSED BASED ON THE REQUEST OF APPELLEE AND NOT CLARIFY THE DISMISSAL OR DESPITE PETITIONER REQUEST BECAUSE OF RESPONDENT REQUEST (JP MORGAN CHASE BANK, N.A.) (NO OPINION) BECAUSE OF WHY NO JURISDICTION? OR WHY DISMISSING APPEALS FOR WHAT REASON?
3. THIS DISMISSAL OF APPEAL CANNOT BE FINAL BECAUSE THERE WAS NO JUDGMENT FOR WILLIAM E. RYAN (2ND DEFENDANT) SO JUDGMENT WAS NEVER FINAL DESPITE REMINDING OF THE COURT OF APPEAL AND TRIAL COURT BECAUSE THERE IS A THIRD-PARTY DEFENDANT AND NO JUDGMENT WAS NEVER SIGNED IN ANY FORM FOR 2ND RESPONDENT (WILLIAM E. RYAN) AND THIS DECISION CONFLICTS WITH THIS COURT AND OTHER CIRCUITS.
4. SUMMARY JUDGMENT CAN NOT BE GRANTED BECAUSE ALL THE FACTS HAVE BEEN DISPUTED BY SWORN DECLARATIONS AND BY HANDWRITING EXPERT AND BOARD DOCUMENT EXAMINER AFFIDAVIT THAT FAKE POWER OF ATTORNEY WAS NEVER SIGNED BY PETITIONER SUBJECT OF LAW SUIT.

PLEASE SEE ATTACHED.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

LIST OF PARTIES

JP MORGAN CHASE BANK, N.A., RESPONDANT

ATTORNEY FOR DEFENDANT

MR RANDALL OWENS

ATTORNEY AT LAW

ONE RIVERWAY, SUITE 2200

HOUSTON, TX 77056

VIA FAX 713-572-4320

AND

WILLIAM E. RYAN, RESPONDANT, PRO SE

1320 WAUGH DRIVE, 631

HOUSTON, TEXAS 77019

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix D₁ & D₂ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix A₁ & A₂ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 11, 2017.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 6/19/2017 ~~5/11/17~~, and a copy of the order denying rehearing appears at Appendix D₁ ~~D₂~~.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including Dec. 8, 2017 (date) on Dec. 12, 2017 (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL AND STATUTE CLEARLY STATED THAT DUE TO LACK OF DIVERSITY, FEDERAL COURT DOES NOT HAVE JURISDICTION OVER THIS CASE AS IT IS A STATE CASE , ALL CIRCUITS AGREES WITH PETITIONER INCLUDING 5TH CIRCUIT BUT COURT REFUSED TO CLARIFY HIS DISMISAL AND STATE COURT CAN NOT CONTINUE THIS CASE UNTILL THIS COURT MAKE A RULING IN THIS CASE (CURRENTLY PENDING) SEE STATUTE 28 U.S.C. 1447 (C) (LACK OF SUBJECT MATTER JURISDICTION MAY BE RAISED AT ANY TIME) COBB V. DELTA EXPORTS INC. 186 F. 3D 675. SIXTH CIR. 503 F. 3D 532 THE COURT OF APPEAL JUDGE HOLDING 1. DISTRICT COURT ORDER OF REMAND FOR LACK OF SUBJECT MATTER JURISDICTION; TRIGGERING STATUTE BARRING APPELLATE REVIEW OF REMAND ORDER, APPEAL DISMISSED, SEE FREEMAN V. STATE FARM LLOYDS 2014WL12591886, IN THIS CASE FEDERAL COURT DOES NOT HAVE JURISDICTION TO VACATE A REMAND ORDER ONCE IT WAS DOCKETED IN STATE COURT FOR LACK OF SUBJECT MATTER SMITH V. TEXAS CHILDREN HOSPITAL 5TH CIR. MAY 3 1999 172F. 3d 923, PLEASE SEE ATTACHED.

STATEMENT OF THE CASE

PETITIONER SUED THE CHASE BANK IN STATE COURT FOR BREACH OF CONTRACT , FRAUD, NEGLIGENT AND OTHER CAUSES OF ACTION AND BECAUSE CHASE ALLOWED AN INDIVIDUAL WITHDREW CASH IN A LARGE AMOUNT MORE THAN 147 TIMES WITH A FAKE POWER ATTORNEY NOT SIGNED BY PETITIONER BUT CHASE MOVED THE CASE TO FEDERAL COURT BASED ON DIVERSITY BUT CHASE SUED THE DEFENDANT WHO STOLE PETITIONER FUNDS IN CHASE BANK ACCOUNT BUT WHEN CHASE SUED DEFENDANT WILLIAM E. RYAN WHO STOLE PETITIONER'S FUNDS, DIVERSITY WERE DISSOLVED AND TRIAL JUDGE REMAND THE CASE BACK TO STATE COURT AND WITHDREW HER SUMMARY JUDGEMENT IN FAVOR OF CHASE DESPITE THE FACTS THAT ALL THE FACTS AND SUMMARY JUDGEMENT WERE DISPUTED BUT SAME JUDGE VACATED HER REMAND ORDER FOR LACK OF SUBJECT MATTER JURISDICTION WHEN THE CASE WAS ALREADY DOCKETED IN STATE COURT MORE THAN 30 DAYS BUT ALL THE FEDERAL COURT CASES CLEARLY STATED ONCE CASE WAS REMANDED TO STATE COURT FOR LACK SUBJECT MATTER JURISDICTION FEDERAL JUDGE DOES NOT HAVE JURISDICTION AND IT IS THE JURISDICTION OF STATE COURT NO MATTER HOW ERRONEOUS FEDERAL COURT JUDGE REMAND ORDER IS WHEN REMAND ORDER WAS NOT ERRONEOUS AND REMAND ORDER SHOULD NOT BE VACATED BECAUSE FEDERAL COURT JUDGE LOSES HER JURISDICTION TO STATE COURT JURISDICTION , REMAND ORDER IS NOT REVERSIBLE AND IS NOT APPEALABLE.

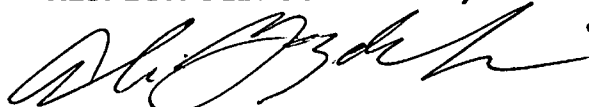
REASONS FOR GRANTING THE PETITION

NUMBERS OF REASONS WHY THIS COURT SHOULD GRANT CERTIORARI ARE BECAUSE NOT ONLY VACATING A REMAND ORDER TO STATE COURT FOR LACK OF SUBJECT MATTER JURISDICTION WAS ERRONEOUS AND EVEN REMAND ORDER WAS NOT REVIEWABLE OR APPEALABLE AND ARE AGAINST ALL CIRCUITS DECISIONS AND 5TH CIRCUIT AS WELL AS THE NATIONAL IMPORTANCE OF HAVING THE SUPREME COURT DECIDE THE QUESTION INVOLVED BUT ALSO THE LOWER COURT VACATING A REMAND ORDER FROM STATE COURT FOR LACK OF SUBJECT MATTER JURISDICTION ONCE WAS DOCKETED ,THEN IT BECAME THE JURISDICTION OF STATE COURT NOT FEDERAL COURT NO MATTER HOW ERRONEOUS REMAND ORDER IS WHEN IN FACT REMAND ORDER WAS NOT ERRONEOUS AND THIS DECISION IS AGAINST ALL CIRCUITS INCLUDING 5TH CIRCUIT AND COURT APPEAL DID NOT CLARIFY HIS DECISION FOR DISMISSING, THE APPEAL WAS ERRONEOUS AND NOT ON THE MERIT AND PETITIONER DOES NOT KNOW AND NO LAWYER KNOWS WHY AND COURT OF APPEAL REFUSED TO CLARIFY WHY APPEAL WAS DISMISSED DESPITE OF SEVERALS REQUESTS AND MOTIONS.

CONCLUSION

LOWER COURT DECISION IS AGAINST ALL CIRCUITS INCLUDING 5TH CIRCUIT FOR VACATING A REMAND ORDER TO STATE COURT FOR LACK OF SUBJECT MATTER JURISDICTION ONCE WAS DOCKETED IN STATE COURT FOR THAN 30 DAYS OR ANY DAY AND NOT REVIEWABLE OR APPEALABLE.

RESPECTFULLY SUBMITTED,



ALI YAZDCHI,

PETITIONER,

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PROOF OF SERVICE (SEE ATTACHED)

TO THE HONORABLE JUDGES OF THE COURT:

**THIS IS A CASE THAT COURT OF APPEAL COULD NOT HAVE JURISDICTION
OVER THE APPEAL NEITHER IN TRIAL LEVEL DUE TO REMAND ORDER TO
STATE COURT FOR LACK OF SUBJECT MATTER JURISDICTION SEE DOC 53
REMAND ORDER TO STATE COURT FOR LACK OF SUBJECT MATTER
JURISDICTION SO THE CASE MUST BE DISMISSED AND REMANDED TO
STATE COURT**

Remand order is not reviewable or appealable once district court lose jurisdiction by mailing remand order to state court it becomes state jurisdiction and district court could not vacate her order even if it is erroneous order, 28 U.S.C. 1447(d) which provides that a remand order is not reviewable on appeal or otherwise New Orleans Public Services, Inc v. Majoue 802 f 2d 166 1986 divests the court of authority to reconsider the remand order -Barnes v. All state Insurance Co. Fifth cir. 2008 WL 425566, Smith v. Texas Children Hospital Fifth Cir. 172 F. 3d 923 May 1999, Linton v. Airbus Industries Fifth Cir. 30 F. 3D 592 Aug 1994 and many cases on point.

Court of appeal does not have jurisdiction over remand order to state court that stated on the order due to lack of subject matter jurisdiction and docketed in state court please see the order so any order or judgment is and was void and only state court has jurisdiction over the case.

**STATE COURT NEEDS CLARIFICATION FROM FEDERAL COURT OR US
SUPREME COURT TO CONTINUE PLEASE.**

If dismissal of appeal is because court of appeal dismissed the appeal because it does not have jurisdiction over remand order to state court due to lack of subject matter jurisdiction because all the case laws support appellant position once the case was remanded to state court for lack of subject matter jurisdiction see (doc. 53 attached) court of appeal is without jurisdiction and cannot make any ruling and also any judgment in trial court

is void because Federal court signed order and remanded the case stated no jurisdiction for lack of subject matter jurisdiction and therefore this is a state case not Federal court once case was docketed in state court it cannot be vacated by Federal court no matter how erroneous order is see attached cases to support appellant position (Brown v. State Farm Mut. Auto. Co. Tex. Civ. App. -Fort Worth 1969 449S.W.2d 93 where federal court to which case has previously been removed from state court remands cause, order of remand ipso facto terminates jurisdiction of federal court and jurisdiction is thereby restored to state court Hsin-CHI-SU V. VANTAGE DRILLING COMPANY 14TH DIST JULY 14, 2015 474 S.W. 3d 2284. Also see 114 A.L.R. 1476, Stockley v. Clsna ten. , pioneer sav. Loan co. v. peek, Talbott & sons v. planters' oil co. tex. Civil app., Texas & p. RY.CO. V. CONWAY, WESTERN UNION TEL. CO. WICHITA COUNTY WATER IMPROVEMENT DIST 19 S.W. 2d. 186 and please see all federal cases attached to petition for review by the en bac in fifth circuit...

SUMMARY

This case was originally filed in Texas state district court 129 there was only plaintiff that was Texas citizen and defendant Chase was Ohio citizen but it was removed to Federal court based on diversity of bank that is Ohio citizenship but Mr. Ryan was added as third party defendant, Texas citizen once Mr. Ryan was added that destroyed diversity and trial judge remanded the case back to original court for lack of subject matter jurisdiction once remanded to state district court on June 27, 2017 (doc. 53 see attached) for lack of subject matter jurisdiction because there are two defendants, defendant Mr. Ryan perpetrator Texas resident and citizen and resident and plaintiff is citizen and resident of Texas per statute no diversity and because defendant Mr. Ryan has Texas citizen and plaintiff have same citizenship court remanded the case to original state court since there was not no more diversity and no federal claim except state claim Mr. Ryan was necessary party who committed fraud with help of the Chase

bank against plaintiff stole more than 147 times from plaintiff bank account in a large amounts from plaintiff Bank account (more than \$337,000.00) since case was remanded to state court for lack of subject matter jurisdiction and docketed in state court per statute of federal court 1447 (c) and (d) remand order of federal court, Federal court was divested of jurisdiction and cannot vacate her remand order because state court has jurisdiction not Federal court and Federal remand order is not reviewable and court of appeal does not have jurisdiction over remand order for lack of subject matter jurisdiction so appeal was dismissed but was not remanded to state court by federal appeal court.

Appellant would reply and emphasize that petitioner is indigent and Federal trial court judge vacated the remand order more than 30 days later on Aug 2, 2016 in violation of this court previous ruling see attached cases once a remand order was issued based on lack of subject matter jurisdiction and docketed in state court federal district court lose jurisdiction to vacate the remand order no matter how erroneous remand order is see Meek v. Swift Trans Inc , Fifth Cir. 2010 398 Fed appx. 980, see in favor of remand Gutierrez v. Flores, 543 f. 3d 248, 251(5th Cir) , see Cobb v. Delta exports Inc. 186 f. 3d 675 because district did not have jurisdiction to vacate remand order) but this case is currently is pending in state court 129.

BACKGROUND

Appellant had his saving account in the Chase bank with over \$337,000 for many years but unfortunately he was wrongfully incarcerated for about 5 years without any prior notice and currently wrongfully incarceration is on the review by court (writ of habeas corpus cause # 1161934-A, AND 1161935-A HARRIS COUNT COURT# 184) and through attorney Randy Schaffer while he was incarcerated his bank accounts in Chase and four other banks were drained by fake power of attorney and forgery in a large

amount while appellant were incarcerated , appellant never been in prison before or declared a vexatious until 2015 in his absent, appellant never had a full trial yet on any of his claim, and all of his claims are currently pending this case was filed in Texas state court 129 but wrongfully was removed to federal court based on diversity but there was third party defendant joined in federal court but federal court signed a summary judgment in favor of chase but no judgment or order has been signed for third party defendant

(Mr. Ryan third party defendant)(summary judgment could not even be final because Ryan judgment still pending no judgment for Ryan so not all claims have been disposed of and not final summary judgment so it could be appealed and District court dismissed appellant claim against chase, appellant filed motion to remand the case to original state court due to lack of subject matter jurisdiction because there is no diversity because third party defendant and plaintiff are Texas citizen and resident and no federal claim and Appellant all of his claims are state claims, judge on June 27, 2016 (trial Doc. 53) attached granted appellant motion to remand and remand was docketed in state court for lack of subject matter jurisdiction and summary judgment in favor of bank was vacated since for lack of subject matter jurisdiction but trial court vacated a remand order when she did not have jurisdiction to revise her remand order due to lack of subject matter jurisdiction because it was docketed in state court it says on her order of June 27, 2016 (no jurisdiction) so any order federal trial judge signed is not appealable and is void because she did not have jurisdiction once it was docket in state court is in jurisdiction of state court not federal court , jurisdiction can be raised at any time please see 28 U.S.C. 1447d prohibits review of remand order any time the district court remand is based on lack of subject matter jurisdiction please see Meek v. Swift Trans, Inc Fith Cir. 2010 398 Fed appx. 980 obviously any summary judgment was signed previously void due to jurisdiction of federal court also there is another defendant in this case Mr Ryan and no judgment issued for him as

of yet so it could not even be final judgment, please see American Maritime officers v. Marine Engineers Beneficial Asso. Sixth Cir. 503 F. 3d 532 the court of appeal judge holding 1. District court ordered of remand for lack of subject matter jurisdiction, triggering statute barring appellate review of remand order, appeal dismissed, see Freeman v. State farm Lloyds 2014 WL 12591886 (lack of subject matter jurisdiction may be raised at any time 28 U.S.C., 1447 (c) given that removal raise significant federalism concerns, any doubts about the propriety of removal are resolved in favor of remand Gutierrez v. Flores, 543 f. 3d 248, 251 (5th Cir.), see Cobb v. Delta exports Inc. 186 F. 3d 675.

In short since District court remanded this case to state court for lack of subject matter jurisdiction and jurisdiction can be raised at any time district court did not have any more jurisdiction to vacate her order no matter how erroneous remand order is according to case laws and further any summary judgment are void because judge stated did not have jurisdiction on June 27,2016 even court of appeal did not have jurisdiction once trial court did not then court of appeals did not have authority to review the remand according to 28 U.S.C. 1447(c)and (d) since this case is currently pending in state court appellant asking this court to remand this case to state court for judgment per all the case law and supporting documents for interest of justice since courts are in favors of remand to original state court this was (just a summary judgment) not full trial and statute 28 U.S.C sec 1447 (c) removal statutes strictly construed in favor of reman and against removal SEE BOSKY V. KROGER TEX 288F. and (d) are in favor of remand see Federal Nat. Mortg Ass. V. Siharah 2011 WL 3521985. (UNITED STATES DISTRICT COURT N.D. DALLAS TEXAS) . please see all the cases attached supporting appellant position.

Prayer

Wherefore, premises considered, petitioner prays that this court to remand this case to Texas Harris County state court 129 and vacate void summary judgment due to lack of subject matter jurisdiction per court order of June 27, 2016 please see attached for interest of justice.

Respectfully submitted,



Ali Yazdchi, Petitioner, pro Se

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served by mailing and /or fax a copy to the opposing parties on 12/08/2017.



Ali Yazdchi

NO. 17A 633

SUPREME COURT OF THE UNITED STATES

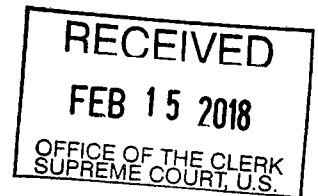
IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT NO 17-20232

ALI YAZDCHI, PLAINTIFF -APPELLANT

V.

**JP MORGAN CHASE BANK, N.A., AND WILLIAM E. RYAN, DEFENDANTS-
APPELLES**



REVIEW ON CERTIORARI

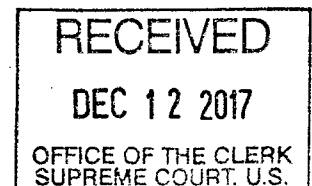
PETITION FOR A WRIT OF CERTIORARI WILL EXCLUSIVELY SEEK REVIEW OF THE JULY 11, 2017 ORDER BY THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, AND WILL NOT SEEK REVIEW OF THE SUBSTANCE OF ANY EARLIER ORDER IN THIS CASE FOR CLARIFICATION OF DENIAL PETITION FOR REHEARING EN BANC BECAUSE THIS COURT HAS NO JURISDICTION OVER REMAND ORDER TO STATE COURT FOR LACK OF SUBJECT MATTER JURISDICTION, THIS PETITION IS TIMELY BECAUSE PETITIONER FILED MOTION TO EXTEND TIME TO FILE FOR REVIEW SEE ATTACHED

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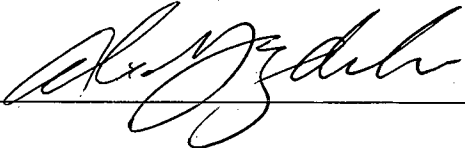
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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 12/08/2017