

ORIGINAL

Docket No. ____

United State Supreme Court

Washington State Supreme Court No. 92967-0

Washington State Court of Appeals No. 72504-1-I

King County Superior Court No. 14-2-09533-3

Vanessa Ward, Petitioner

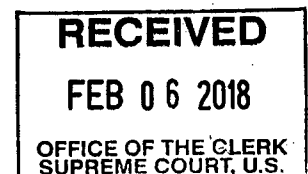
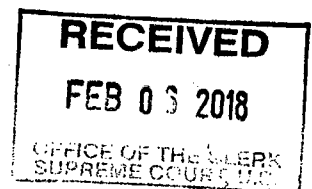
v.

Selene RMOF II REO Acquisitions

On Amended Motion for Extension of Time to File Petition for Writ of Certiorari to the United States
from the Washington State Supreme Court

Amended Motion of Petitioner

Vanessa Ward, *Pro se*
7911 S 115th Place
Seattle, WA
206-384-6502



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3 **I. Motion and Relief Requested**

4 COMES NOW THE Petitioner Vanessa Ward, and requests that this court grant an extension of
5 60 days to file a writ of certiorari.

6 **II. Statement of Facts**

7 1. Procedural History

8 The Petitioner is the defendant in an unlawful action. She appeared at a summary proceeding on
9 September 15, 2014 in King County, Washington. The trial court issued a writ of restitution in favor of
10 Selene RMOF II-REO Acquisitions (hereinafter "Selene"). Ward appealed that decision and the Court of
11 Appeals reversed the trial court's decision and dismissed the case on February 29, 2016. The Plaintiff
12 filed a petition for review and the Washington State Supreme Court accepted review. On August 23,
13 2017, the Washington Supreme Court decided in favor of Selene, in a 5-4 decision. Petitioner filed a
14 motion for reconsideration on August 23, 2017, which the court denied without comment on September
15 27, 2017.

16 The issues in this case involve the interplay between the Deed of Trust Act and the Unlawful
17 Detainer Statutes, statutory interpretation of the deed of trust act, and what defenses may be raised in an
18 unlawful detainer action. The Defendant argued on reconsideration that the Court's statutory
19 interpretation makes both statutes constitutionally invalid – facially and as applied.

20 Petitioner timely filed a motion for a 60 day extension to file the writ of certiorari, but the court clerk
21 sent it back because it did not include the decisions of the lower court. The clerk requested that she
22 resubmit it with those decisions. Petitioner mailed a copy of her motion for an extension to file the writ
23 of certiorari through UPS December 20, 2017. UPS guaranteed delivery by December 21, which was
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1 still 5 days before the deadline. However, on January 9 Petitioner received a letter from the court clerk
2 and it was stamped received on December 28. Petitioner called UPS and they confirmed it was delivered
3 on December 26. Petitioner filed a complaint with UPS because they did not deliver by December 21 as
4 promised. See attached letter with declaration of Vanessa Ward.

5 2. Substantive Facts

6 For ease of reference, the facts in this motion cite to the Clerk's Paper pages on appeal and to the
7 report of proceedings from the show cause hearing. The pages cited are attached to this motion. Vanessa
8 Ward became the legal title holder to the property commonly known at 7911 115th place S in Seattle,
9 WA when she purchased the property in 1999. RP 2, CP 29. Her mortgage payments were around
10 \$2,100 per month and the payment included taxes and insurance. Id. Ms. Ward never sold her home, nor
11 did she give permission for anyone to sell it. RP 1, 6; CP 19, 29. In fact, Ms. Ward continued to make
12 her mortgage payments to Homecomings from 1999-2007. CP 29; RP 8-12. Unbeknownst to Ms. Ward,
13 sometime in 2001, Dorsey forged Ms. Ward's signature to a quitclaim deed. RP 13. The forged
14 quitclaim purports to convey this property to Dorsey in lieu of foreclosure. CP 79. Thereafter, sometime
15 in 2005, Dorsey sold Ms. Ward's property to Fred and Grace Brooks. Id.; RP 13. On or about 2007, the
16 Brooks executed a special power of attorney to Dorsey. CP 29. Dorsey then sold the home to James
17 Drier. CP 79. On or about April 2007, Mr. Drier secured a loan from First Franklin in the amount of
18 \$565,000. CP 4, 79, 116. It is that deed of trust that was foreclosed upon on January 30, 2009. CP 116-
19 18.

20 Ms. Ward never received the required notices pursuant to RCW 61.24 before the foreclosure sale on
21 January 30, 2009. RP 6, 17. She only received notices two or three years after the foreclosure sale. RP
22 17.

1 Once Ms. Ward learned of the fraudulent transfer of her home, she sought legal advice. CP 29. On or
2 about January 30, 2009, Ms. Ward filed a complaint in King County that alleged the fraudulent transfer
3 of her home. Id. More importantly, she attached the signed, notarized quitclaim deed from Dorsey to
4 Ward. CP 45. The quitclaim deed transferring the property back to her in 2004 was in writing, signed by
5 Mr. Dorsey, and acknowledged before a notary public. Id. Moreover, in the trial court she asserted that
6 she has legal title to the property, produced the executed, notarized quitclaim deed and reiterated that she
7 was the rightful owner of the property. CP 45; RP 1-2.

8 LaSalle Bank had actual knowledge of the title defect. CP 55, 30, 37. Ms. Ward filed and served a
9 lawsuit against multiple defendants including La Salle. CP 29; RP 2. Ms. Ward answered LaSalle's
10 initial 2009 unlawful detainer complaint by asserting that she was the legal owner of the property and
11 put LaSalle on notice of the fraudulent transfer of title. CP 29, 55. In return, LaSalle did not pursue the
12 unlawful detainer action but instead purportedly transferred its rights to US Bank. CP 60-63. On or
13 about December 2012, US Bank filed an served a subsequent unlawful detainer action against Ms.
14 Ward. CP 61-67, 116-17, 120. Ms. Ward objected, asserting she was the legal owner. CP 30. The
15 unlawful detainer action filed by US Bank was dismissed for lack of prosecution. CP 30.

16 LaSalle sold the property to the Plaintiff via specialty warranty deed on October 12, 2012. CP 120-
17 21. The Plaintiff then commenced this action in 2014.

18 **III. Jurisdiction**

19 This court has jurisdiction under Rule 10 (c) because the Washington State court of last resort's
20 decision violates the federal constitution and this case raises an important constitutional question that
21 has not been, but should be, settled by this Court. The State Court's decision violates both the
22 substantive and procedural due process clauses and possibly the separation of powers and takings clause.

1 The United States Constitution guarantees that federal and state governments will not deprive an
2 individual of "life, liberty, or property, without due process of law." U.S. CONST. amends. V, XIV, § 1.
3 *Amunrud v. Board of Appeals*, 158 Wn.2d 208, 216, 143 P.3d 571, (2006). No state can uphold a law
4 that deprives a property owner of their fundamental right to their property without subjecting it to strict
5 scrutiny. U.S. Const. Amend. 5; *Amunrud*, 158 Wn.2d at 220 ("State interference with a fundamental
6 right is subject to strict scrutiny.").

7 The State Court interpreted Washington's unlawful detainer statute, codified at RCW 59.12, to
8 prevent Ward from raising ownership as a defense to an unlawful detainer even though it was not her
9 loan that was foreclosed upon.

10
11 The State Court ignored the plain language of Washington's deed of trust act, codified at RCW
12 61.24, that provides in relevant part, "The purchaser at the trustee's sale shall be entitled to possession of
13 the property on the twentieth day following the sale...." RCW 61.24.060(1); See *State v. Armendariz*,
14 160 Wn.2d 106, 110, 156 P.3d 201, (2007) ("In interpreting a statute, this court looks first to its plain
15 language. If the plain language of the statute is unambiguous, then this court's inquiry is at an end.")
16 (citations omitted). Instead, it read the phrase "and subsequent purchasers" into the statute where it did
17 not exist, in order to elevate the policy of having a quick and efficient method of nonjudicial foreclosure
18 over an individual's right to defend his or her property. In doing so, it crossed the line from interpreting
19 the law to making new law, which is within the province of the legislature. This is the exact opposite
20 approach than the one it took to interpret RCW 49.60.030(1) in *State v. Arlene's Flowers, Inc.*, 187
21 Wn.2d 804, 389 P.3d 543 (2017), which has been accepted for review by this Court. It is clear from
22 reading Ward's case and *Arlene's Flowers*, that the Washington Supreme Court is interpreting the
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1 State's statutes in a way that is creating new policy and new law in violation of the Separation of Powers
2 clause.

3 **IV. Judgment Sought to be Reviewed**

4 Petitioner seeks review of the decision of the Washington State Supreme Court issued on August 3,
5 2017 and of that court's denial of Petitioner's motion for reconsideration.

6 **V. Issues Presented**

7 **A. Should an extension of 60 days be granted to file the writ of certiorari?**

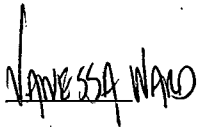
8 **VI. Argument and Authority**

9 "For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period
10 not exceeding 60 days. An application to extend the time to file shall set out the basis for jurisdiction in
11 this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order
12 respecting rehearing, and set out specific reasons why an extension of time is justified. The application
13 must be filed with the Clerk at least 10 days before the date the petition is due, except in extraordinary
14 circumstances. " Rule 13 (5).

15 There is good cause to extend the time for filing the writ of certiorari by 60 days. Ward's case will
16 impact homeowners in multiple states. Therefore, it should be argued by a team of experienced
17 attorneys. Ward has diligently searched for an organization to take up her case, but the process is quite
18 lengthy. She was just informed on December 20, 2017 that a not-for-profit that focuses on property
19 rights has almost completed the process and they are interested in taking the case. If the extension is
20 granted, and the organization ultimately declines the case, the other party is not prejudiced by 60 extra
21 days. However, if the extension is not granted, Ward may not be able to adequately articulate the issues
22 or be able to file the writ at all.

1 There were extraordinary circumstances that justify a late filing of this motion as well. Ward just
2 found out on December 20, 2017 that the not-for-profit was interested in her case. This was four days
3 after the 10 day cutoff in Rule 13(5). This was through no fault of her own. She diligently searched for
4 an organization to take her case and followed all the steps necessary to submit her case. If the
5 organization ultimately declines the case, no one will be prejudiced. But, it is not granted, these
6 extremely important issues will likely not be heard.

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8 Respectfully submitted this 1st day of February, 2018

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11 Vanessa Ward
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