

No. 22 - _____

**In The
Supreme Court of the United States**

Kim L. Harper

Petitioner,

v.

JAMES M. ELLIS, Administrator of the Estate, PAT DOE1,
ROCHELLE GREENIDGE, PAT DOE2, BETH RODRIGUEZ, PAT
DOE3, SONYA THOMAS, PAT DOE4, RED WOLF
CONTRACTING SERVICE LLC and MICHAEL SVENCICKI,
LIEN CLAIMANTS, AND

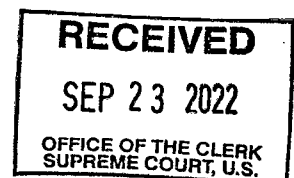
RED WOLF CONTRACTING SERVICE LLC
and MICHAEL SVENCICKI

Respondents;

APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI
To The North Carolina Supreme Court

Kim L. Harper
Pro Se
96 McClain Street
Asheville, NC 28803
(828) 273-7200
victorieschild@att.net

19 September 2022



19 September 2022

To the Honorable Chief Justice, John G. Roberts of the U.S. Supreme Court:

Kim L. Harper, Petitioner, requests an extension through Monday, 03 October 2022 to file her Petition for Writ of Certiorari. The following information is provided to inform you of the date the final judgment was entered, as well as other important information about my case.

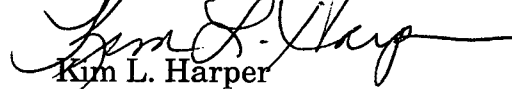
This application is being filed less than 10 days prior to the due date; in fact, my petition is due to be filed today, and I was expecting to be able to do so. I encountered a problem with delivery of the paper required to print her brief. The printer did receive the 60 lb stock today, but we are still waiting on the 65 lb. stock. Despite looking everywhere, I was not able to secure the proper paper due to shipping issues, which came as a surprise to me. As an interim solution, I was attempting to reformat the brief in order to send it off as an 8-1/2 x 11 document, but I encountered difficulties and have a mess on my hand to fix, and no more time to do so. I am filing this request, along with some information regarding the case, including the appendix. This will give you a good understanding of the case.

There are important questions which were determined adversely by the court below. I am providing a certificate of service, and enclosing my filing fee of \$300.00. By the time this application arrives to your location, the paper may have been delivered to my printer. However, I

was informed today that I should anticipate delivery no sooner than the 27th of September 2022.

Thank you in advance for your consideration.

Respectfully Submitted:



Kim L. Harper

96 McClain Street

Asheville, NC 28803

828.273.7200

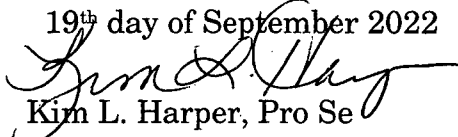
victorieschild@att.net

VERIFICATION

I, Kim L. Harper, Respondent, Pro Se, affirm, to the best of my knowledge and belief, under the penalties for perjury, that the foregoing representation(s) in Harper's APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI filed on 19 September 2022 are true.

Respectfully submitted this

19th day of September 2022



Kim L. Harper, Pro Se

96 McClain Street

Asheville, NC 28803

CERTIFICATE OF SERVICE

North Carolina Buncombe County

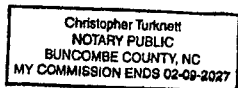
I, Christopher Turknett a Notary for N.C. do hereby certify that Kim L. Harper personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this

19 day of September, 2022

Notary Public Christopher Turknett

My Commission Expires 2-9-2027



Pursuant to Rule 14.1(a):

QUESTION[S] PRESENTED

#1: In the absence of just debts against the decedent, when the appellate court finds the taking of intestate real property for sale to make assets to be an “appropriate” remedy to satisfy a creditor’s claim against an heir of the decedent, and to honor a time-barred claim for funeral expenses specifically disallowed by the Administrator, should the order of the appellate court be vacated and dismissed for want of subject matter jurisdiction?

#2: Prior to the commencement of State appeals, in the absence of authorization under state law, when the Office of the Clerk of Court, ex officio Judge of Probate in North Carolina, takes possession, custody and control of intestate real property to make assets under protest of an heir who claims breach of fiduciary duty against the estate secondary to violations of the Petitioners’ 5th amendment, 8th amendment and 14th amendment rights, should this Court clarify the “Probate Exception” to allow for removal of the issue to Federal Court to resolve, de novo, the controversy in an independent action?

Pursuant to Rule 14.1(b)(i):

PARTIES TO THE PROCEEDINGS

Pursuant to Rule 12(4), as to COA 20-730, COA 20-746, NCSC 319P21, NCSC 370P21, COAP21-357, all parties are referenced in the caption.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 14.1(b)(ii): This petition is not being filed by or on behalf of a nongovernmental corporation.

RELATED PROCEEDINGS

Pursuant to Rule 14.1(b)(iii) and Pursuant to Rule 14.1(c)(d): This case arises from the following proceedings and Orders: Please See Appendix 4.

JURISDICTION

Pursuant to Rule 14.1(e) the following is a concise

statement of the basis for jurisdiction in this Court, showing;

The Supreme Court of North Carolina entered its order(s) in this case on 20 June 2022. The Petitioner did not seek a motion for reconsideration. Pursuant to Rule 30(1), the Petitioner's filing is timely and due on 19 September 2022. The Petitioner invokes the Court's jurisdiction under 28 U.S.C. §1257(a) . The Supreme Court of North Carolina's decision qualifies as a final decree.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or 2 limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use,

without just compensation.

The Eighth Amendment to the United States Constitution provides: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Const. amend. XIV, § 2 provides: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

N.C. Const. Art. I, §18 provides: Court shall be open.

All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

STATEMENT

This petition for certiorari arises from 2-proceedings in the Buncombe County Court House. The first proceeding arose from the Office of the Clerk of Court, Steven D. Cogburn, Probate Division. Both cases are inextricably intertwined.

This matter involving the petitioner's loss of her private property by order of Buncombe County Assistant Clerk, Johanna Finkelstein ("Assistant Clerk Finkelstein"), began when the petitioner was 40-days late filing her annual inventory, The account was due on 28 June 2018. Harper had a medical problem, and needed additional time to appear, which she did on 05 September 2018. The petitioner was summoned by Assistant Clerk Finkelstein to show cause why she should not be found in criminal contempt for failure to file her annual inventory.

The NCCOA repeats false representations made by Admin. Ellis in his representations to the trial court, at App. 1 p 3, the NCCOA states, "Harper failed to timely file an account for the estate, leading to successive orders directing her to do so or be held in contempt or removed as fiduciary."

The misrepresentations regarding the issue of the Petitioner failing to respond to repeated orders to produce

an account are made clear in the transcript. Regrettably, the agreement that the Petitioner made with the transcriptionist forbids her from sharing the transcript, other than by a direct submission to the court. It is very important that this court review the transcript, as it clearly demonstrates extreme misrepresentations to the court in very important respects.

By and through the counsel for the OCCBC, James M. Ellis, Buncombe County Public Administrator, Harper, a citizen of Asheville, NC, alleges that the cruel and unusual conditions surrounding the loss of her home arose as a result of the OCCBC, by and through the counsel for the OCCBC. Admin. Ellis' failure to afford the Petitioner both adequate procedural and substantive due process, as well as by the OCCBC entering orders in light of a clear lack of subject matter jurisdiction regarding the intestate real property.

Assistant Clerk Finkelstein, by and through Admin. Ellis, violated the petitioners rights under the Due Process Clause guaranteed under both the Fifth and 14th amendments. Further, Harper alleges that the OCCBC, By and through Admin. Ellis, failed to secure lawful or otherwise rightful possession, custody and control of the intestate real property, which in North Carolina, is not an

asset of probate, unless the property needs to be sold to pay debts of the decedents and pay for the costs of administration.

The second proceeding arose from the Buncombe County District Court (“Buncombe District Court”). The heirs' agreed to re-roof the inherited property as a matter of urgency. The roofing job commenced and ended on 24 October 2017, although the Petitioner did not learn that the roof had not been fully installed until May, 2017. Redwolf initiated a lawsuit for breach of contract on 17 April 2017, and proceeded to obtain, without standing, a judgment for breach of contract against the petitioner, solely. This came as a result of the co-heirs' obtaining a dismissal from Redwolf through their efforts in court, where they proceeded to prove that they were non-responsible and non-responsive parties to the lawsuit, again, without standing.

The OCCBC, by and through Admin. Ellis, used the Redwolf matter and funeral expenses to gain possession, custody and control of the intestate real property. Neither of these claims were legitimate debts of the decedent. Regarding Redwolf, the property belonged to the heirs' for close to 18-months before Redwolf did any work on the roof; their claim did not represent a debt against the decedent's estate. Regarding the funeral expenses, the petitioner

disallowed their claim. The OCCBC, by and through Admin. Ellis, had no jurisdiction over either matter, yet they used both to gain possession, custody and control of the intestate real property.

The Petitioner immediately appealed the actions of the OCCBC. The Petitioner sought a stay of the Probate order on multiple occasions (See App. 4, pp 51-55) ; first with Probate, and then with the Superior Court. The Superior court denied the petitioner's request. The petitioner next appealed to the NCCOA's for a stay, and that, too, was denied. Within less than 1-month, the first act of outrage and vengeance inflicted upon the Petitioner by the OCCBC for daring to appeal, by and through Admin. Ellis, was to evict the Petitioner from her home, which is against the law in N.C. This happened very swiftly, in a cruel and inhumane manner.

The second act of outrage and vengeance at the Petitioner's determination to appeal came after the Petitioner had docketed her appeals with the NCCOA's. The OCCBC, by and through Admin. Ellis, filed a gatekeeper order to prevent the Petitioner from filing any documents without the review of the Chief Resident Superior Court Judge, the Honorable Alan Z. Thornburg. This gatekeeper order was primarily used both as a shield to

prevent the Petitioner from objecting to the fees charged by Admin. Ellis, and as a form of sanction against the Petitioner, which left the estate with less than half of what the OCCBC, by and through Admin. Ellis, received from the sale of the property.

The latest act of outrage and vengeance has occurred while the Petitioner is, once again, seeking review of the orders of the OCCBC. The Petitioner's Petition for Certiorari is due no later than 19 September 2022. On 23 August 2022, Admin. Ellis scheduled a hearing to be awarded his motion for costs. The Petitioner sent word to the OCCBC and Admin. Ellis that she would be unable to attend, and she asked that the order be sent to her as soon as possible. At this time, the Petitioner is unable to file any documents to oppose the award of his fees, not only because Judge Thornburg, without hearing, denied the Petitioner's timely Rule 60(b)(3) motion regarding both the OCCBC and Redwolf and extended the original gatekeeper order against the petitioner to forbid all filings without an attorney. Furthermore, the NCCOA affirmed the finding of the Superior court, granting the OCCBC, by and through Admin. Ellis, possession, custody and control of the intestate real property, as well as disallowed funeral expenses, and the Petitioner's inheritance to Redwolf.

There is a lot of irregular behavior that has emanated from this court that occurred in between the beginning and where we are now. It took the petitioner quite some time to figure out what the actual problem is that supports this entire travesty of justice, and this leads to my primary Question to this court.