

No. 24-5769

In the Supreme Court of the United States

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Tanya Tyson,

Petitioner

v.

QuikTrip Corporation,

Respondent.

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**PETITION FOR REHEARING UNDER RULE 44.2**

On Petition for Writ of Certiorari to the Oklahoma Supreme Court

(Order Denying Petition Entered on December 9, 2024)

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Tanya Tyson

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PMB 104

Tulsa, OK 74137

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## GROUNDS FOR REHEARING

### UNDER RULE 44.2

### JURISDICTION

On December 9, 2024, this Court entered an Order Denying the Petition for Writ of Certiorari to the United States Court of Appeals of the Oklahoma Supreme Court.

A Petition for Rehearing under Rule 44.2 must be filed within 25 days after the date of the Order Denying the Petition for Writ of Certiorari. Rule 44.2 provides that the Petition for Rehearing should be limited to intervening circumstances or a substantial or controlling effect or to other substantial grounds not previously presented. This Petition for Rehearing under Rule 44.2 is timely filed and raises substantial grounds upon which the Petition for Writ of Certiorari should be granted.

In addition, there are documents attached as \*Exhibits substantiating the grounds I bring forth which are:

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*\*Exhibits 1-13 filings with the Oklahoma Supreme Court – and Orders after the Petition for Certiorari here was filed; and \*Exhibit 13 – letter from Respondent attorney – after Denial of the Petition and explanations of relevant arguments following, below.*

My Petition for Certiorari was filed on August 8, 2024 and denied on December 9, 2024.

Because the following events took place after my appeal in this court was docketed, the substantial grounds herein were not previously presented, and thus I was not able to raise these issues earlier. I furnish my rationale to the below exhibits, and connecting with other

examples of due process violations demonstrated under the Questions listed in my Petition for Certiorari, explained below.

History of filings in the Supreme Court of Oklahoma (specific exhibits follow):

I filed a Notice of Petition for Writ of Certiorari to Supreme Court of Washington on August 13, 2024. (Exhibit 12)

On September 10, 2024 the Sup Ct of Oklahoma filed an Order to Show Cause why they shouldn't lift the stay on the mandate and asked me to give explicit response, informing me that the timing to file a petition for writ of certiorari had expired, giving a deadline of September 25, 2024. (Exhibit 1)

On September 25, 2024 I responded and furnished correspondence to and from the Supreme Court of the United States demonstrating to the Supreme Court of OK that I had filed my case with them. My time had not expired (Exhibit 2,3,4,5)

On October 14, 2024 the Supreme Court of Oklahoma furnished an Order stating I failed to provide sufficient evidence that I had done so. (Exhibit 6)

On October 16, 2024 I filed a Response and Objection by overnight mail to their lifting of the suspension on the Mandate, citing the above Exhibits and using them as attachments. (Exhibit 7)

On October 21, 2024 the Supreme Court of United States sent a service copy to the Supreme Court of Oklahoma – their date of October 16, 2024 stating that the case was docketed with them. (Exhibit 8)

On October 28, 2024 that Oklahoma Supreme Court then denied my Response and Objection to lifting the stay of the mandate (despite the fact that your Court had notified them of the filing of the case. (Justice Kane and J. Gurich dissented) J Kauger recently ousted) (Exhibit 9)

As further proof to this Court, (1) I filed a Motion to Stay Mandate on May 24, 2024 (Exhibit 10), and (2) On May 24, 2024 the Motion to Stay was then granted. (Exhibit 11)

On December 11, 2024 Nate Clark, counsel for Respondent QuikTrip wrote me a letter (Exhibit 13) informing me that my case had been denied by your court; that Mandate had already issued from the Oklahoma Supreme Court and warning me if I filed any proceedings in that court with the state court, that they would seek sanctions and any other remedies if there were further filings on the matter in state court. I am preparing this on December 21, 2024 and I have yet to receive a copy of that denial (on December 9, 2024) from your court, although I looked it up on line.

I believe that Nate Clark sent that letter, knowing (as any attorney would) that I would have the opportunity to file a Petition for Rehearing before a Mandate could officially be entered; and he was trying to intimidate me so that I would not raise the issues in Exhibit 9 of the Supreme Court of Oklahoma of their denial of my request to lift the stay and chill my rights.

In my Response document to them my (Exhibit 7) I stated under No. 4:

"I believe this to be an abuse of discretion (denial of lifting the mandate suspension) and this court should immediately lift that mandate that was issued based on their false presumption. If not. I will supplement my appeal..."

My Petition for Certiorari here was not heard, or denied based on the merits. If this would have been the case, there would be an Opinion rendered. But now, In demonstration of the bias from the Oklahoma Supreme Court, *continuing after this case was filed*, and as part of the evidence reflected in the Orders and exhibits filed in the Oklahoma Supreme Court thereafter, I attach the following as explicit exhibits relevant to the above statements and connective arguments (following) from this case:

Exhibit 1: Journal entry dated September 10, 2024 – Order to Show Cause re: why the suspension of the mandate in this (Sup Ct of OK) case no. 121145, should not be lifted and I was given a time line of September 25, 2024 to respond.

Exhibits 2 - 7 were all filed in the Supreme Court of Oklahoma as part of my evidence and Response to their Order to Show Cause:

Exhibit 2 – Response to Order to Show Cause – filed September 25, 2024:

Exhibit 3 – attached to Ex 2 – cvr letter from US Sup Ct- of deficiency dated Aug 12, 2024 and allowing 60 days to respond

Exhibit 4 – attached to Ex 2 – cvr letter to US Sup Ct sending Aug 12 Pet for Cert to Sup Ct on Oct 10, 2024

Exhibit 5 – attached to Ex 2 – proof of mailing to US Sup Ct on October 15, 2024

Exhibit 6- attached to Ex 2 - Order from the Sup Court of OK notifying me they lifted their suspension of the Mandate despite the evidence filed October 14, 2024.

Exhibit 7 – Response and Objection to Exhibit 6 Order signed on October 16, 2024, filed October 17, 2024 and my statement that I considered it an abuse of discretion to have lifted this suspension.

Exhibit 8 – Service Copy from Supreme Court of US notifying that this case was filed on August 8, 2024 and docketed Oct 16, 2024, and received and filed on October 21, 2024 by the Oklahoma Supreme Court.

Exhibit 9 – Order signed by V. Chief Rowe, and all justices concurring, denying my Exhibit 7 reasons to uphold the suspension of the mandate - with dissenting votes from Chief J C.J. Kane and J. Gurich.

The Ex 9 Order, of refusing to lift the suspension of the Mandate, quotes Rule I.16 that “It is within the sound discretion of this Court whether to suspend the effectiveness of the mandate until final disposition by the United State Supreme Court and in its par 2 quotes Tomahawk Resources Inc. v. Craven, 2005 OK 82 supp op Par 1, 130 P.3d 222,

224-225 which case involves issues of liens, attorney fees and losing parties. It has absolutely nothing to do with my request to lift the suspension of the Mandate. They quote (as if my Response and Objection "was a Rehearing request) and that I am a losing party "Rehearing is not for presenting points which the losing party overlooked, misapprehended or failed to fully address." These statements are a sham.

Further proof exhibits reflecting timely filing of Motion to Stay Mandate and Order granting same, and NOA,

Exhibit 10 – Motion to Stay Mandate – May 23, 2024

Exhibit 11 – Motion to Stay Mandate granted - May 24, 2024 (giving time to file status of filing no later than August 16, 2024 – (see Exhibit 12 below)

Exhibit 12 – Notice of Filing a Petition for Certiorari in U.S. Supreme Court – NOA filed August 13, 2024

Exhibit 13 – letter from opposing counsel dated December 11, 2024 notifying me that the Sup Court of USA had denied my Petition for Writ of Certiorari. In that letter he stated that "the Oklahoma Supreme Court had already issued mandate and the matter is now in all aspects complete." He further threatened that "We wanted to put you on notice that we will seek Rule 11 sanctions and any other remedies available if there are further filings on the matter in state court."

Rule 45 (2)- In a case on review from a state court, states that the mandate issues 32 days after the entry of the judgment, unless the Court or a Justice shortens or extends the time, or unless the parties stipulate that issue sooner. The filing of a Petition for Rehearing stays the mandate until disposition of the Petition, unless the Court orders otherwise. If the petition is denied, the mandate issues forth.

Rule 45 (3) states that in a case on review from any court of the United States, as defined by 28 U.S.C. SS 451, a formal mandate does not issue unless specifically directed; instead the Clerk of the Court will send the clerk of the lower court a copy of the opinion or the order of this court and a certified copy of the judgment. The certified copy of the judgment, prepared and signed by this Court's clerk, will provide for costs, if any are awarded. The copy of the opinion or order and judgment will be sent 32 days after the entry of the judgment, unless

the Court or a Justice shortens the time, or unless the parties stipulate that it be issued sooner. In all other respects, the provisions of Paragraph 2 of this Rule apply.

Quoting the Exhibit 9 Order on October 28, 2024, it quotes on par 2 from Sup Ct R. 1.16 "It is within the sound discretion of this court whether to suspend the effectiveness of the mandate until final disposition by the United States Supreme Court."

This Petition for Rehearing is filed with the evidence to demonstrate the bias received from the OK Supreme Court, by their filing a Mandate on this case before any final disposition of the Petition for Rehearing comes forth, ignoring and denying all the proof sent to them and that was on the record reflected in the above exhibits, when they had not yet received notice from this court of a final disposition and were without jurisdiction to do so.

This is coupled with further related arguments involving some of the issues that may have been overlooked formerly and are part of the ongoing bias from the Supreme Court of Oklahoma in the proceedings in this case.

The above referenced exhibits clearly demonstrate the bias exhibited by the Supreme Court of Oklahoma, their officers and quasi staff, by ignoring the law and attempt to chill my rights as a litigant, to file a Petition for Rehearing before entering their Mandate. According to Rule 44 (2) and Rule 45 (2), there would be a total of 57 days from the time of decision of denial of a petition for certiorari, and then a denial of a petition for rehearing, before the time a formal certified copy of the entry of the judgment be entered and given to the Oklahoma Supreme Court.

Apparently, the Supreme Court of Oklahoma attempts to (illegally) jumpstart the process.

These actions point to the biased conduct displayed in my Case No. 24-5769 Petition for Certiorari filed here.

I ask that the Court rehear my case and look to unconsidered issues and statutes that were violated and which arguments were previously denied by the Supreme Court of Oklahoma in my Petition for Certiorari there. (see Appendix D – Dismissal Order of OK Sup Ct. - in Pet for Cert here).

Petitioner raised her arguments in the Questions Presented:

1. Did the Supreme Court err in their (APP C) June 12 (4) , 2023 Order dismissing my Motion to Dismiss the Default Order of October 11, 2021, asserted in my first March 13, 2023 Petition of Error (PIE #1) as premature when it had already been certified and docketed on March 17, 2023? (raised also in \*Pet for Cert filed March 28, 2024 – OK, p1. No.!) )
2. Was it err then to further deny and moot my filed (APP Ca) PIE #1, in their Order on June 14, 2023 for these, as yet at the time, two unrul ed on Petitions, to be treated as Companion Petitions in Error as one (*I was discerning* that because no ruling had issued on March 13 PIE #1 and should have been considered first, and would be considered as held in suspense?) The second PIE #2 Petition had a different main argument: and that the District Court did not have jurisdiction to have conducted that second PIE #2 hearing because the first docketed Petition PIE #1 was in suspense, and not yet ruled on at the



time J. LaFortune conducted this hearing and then issued a new Order of denial to the same October 11, 2022 Mot to Dismiss in his Default Order on April 19 (8), 2023? *(raised also in \*Pet for Cert -March 28, 2024 OK p1, No. 1)*

3. Did the Sup Ct err when they mooted my request in my Companion Motion where I was requesting consideration of the PIE #1. Should this second PIE #2 (appealing April 19 DC Ord) and all related documents thereto be mooted because the first one was still standing and had not been ruled on when they conducted that hearing and ruling?  
*raised also in \*Pet for Cert -March 28, 2024 OK p1, No. 1)*

APPEN D:

4. Did the Court of Appeals (APP D) err when not reviewing and overlooking my statements and contentions made in my PIE #2 Amended Petition in Error, Exhibit C, supported by the ROA, where I cited crucial statutes, specifically alleging irregularities rulings from the District Court, contradicting the criteria stated in:
  - a. 2015 OK 20 see Schweigert v. Schweigert – 348 P.3d 696, under “Judgment Requirement in rule (10) governing notice of taking default judgment of filing a motion and giving notice of default is applicable any time a \*party appears before a court whether by filing a document (Petition) or physically participating in a hearing; rule (10) provides that not only that a motion must be filed and notice be given to a party who has appeared, but that the motion must be filed even if no notice was required, and even if the party fails to make an appearance.12 OK St Ann SS 651(1). 1031(3). *(raised also in Pet for Cert. under 2 and 2(a) (p6) filed March 28, 2024 OK)*

5. Was it further error when Judge B. Swinton and the concurring justices did not consider the evidence required in 12 Okla Stat. 2001 SS 1038 (no Motion for Default filed – therefore appellant not properly served.) The judgment roll is absent of any filed or served Motion for Default. *(raised also in Pet for Cert. under 3 (p6) filed March 28, 2024 OK)*
6. Did the Swinton appellate court further err when they overlooked the basic controlling criteria listed in 2014 OK Stat Title 12, 2004 (Chapter 39 – under c – “Service by mail shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by Defendant – *(raised also in Pet for Cert. under 4 (p7) filed March 28, 2024 OK)*
7. Did the Swinton appellate court further err In the Opinion from Appendix D, COA, J. Swinton stated “Tyson also contends the trial court lacked jurisdiction to rule on her motion to vacate, apparently because she had filed a petition in error appealing the default judgment. The filing of a premature or untimely petition in error does not deprive the trial court of jurisdiction to rule on post-trial motions. Tyson has not shown that the trial court lacked jurisdiction to rule on her motion to vacate.” p8 under 13.

when the Supreme Court of Kansas and the statutes differ with the Swinton Opinion language where she said that my docketed Petition “would not deprive the trial court of jurisdiction”, but as stated in the Kansas court in State v. Dedman 640 P.2d 1266, 230 Kan 793:

Their 2: "When an appeal is docketed, the trial court's jurisdiction ends and the sentence may then be modified only after the mandate from the Supreme Court or Court of Appeals is returned....." (raised also in Pet for Cert., par 2,3,4 (p5) filed March 28, 2024 OK)

8. Did the Swinton appellate court further err In the Opinion from Appendix D, COA, J. Swinton stated in her p4, at 6 where she quoted QuikTrip's statement that "a party has a statutory duty to maintain a current address with the Court..." when at the time the hearing rendering that I was in default on October 11th, I was living out of state, was represented by counsel, had no idea my attorney withdrew and that the hearing was being held and received no notice of any kind and therefore would have no obligation to maintain an address with the court.

After a review of the issues contained in the Questions Presented here, it will be obvious that the Supreme Court of Oklahoma and Court of Appeals was biased by ignoring the statutes violated and dismissing my case anyway. My case and all dismissals should be rendered void, both in the Supreme Court of Oklahoma, and the District Court, based on the facts presented.

I point this Court to all of my arguments along those lines, made in the Statement of the Case in my Petition of Cert here, in p 5-17, supporting the above cited Questions, and in particular (all involving Statement of Case), on p5, par 5, p10, par 6, p1, par 2,3,6, p12, par 1-7, p13, par 2-7, p14 in its entirety, p15, par 1 -7, p16, par 1-6, p17, the entire page.

Coupling the above with the Oklahoma Supreme Court's refusal to lift their premature Mandate in this case (see Exhibits 1-10 above) even after this Supreme Court of US sent them a

courtesy copy of the fact that this case had been docketed reflecting that I had, indeed filed my Petition for Certiorari here, reflects the bias demonstrated by that conduct.

I discern that because they had already denied my Petition for Certiorari in OK Sup Ct, wherein I spelled out all of the details on p 4-8 there, which are similar to the ones enumerated above in the Statement of the Case, that despite the rules of procedure in your court, as to timing; i.e. - that the Supreme Court of U.S. would notify them as to whether they would hear a Petition for Rehearing or deny it, and wait for the time indicated as to when the mandate would issue formally, they assumed *if they jumped the gun*, that I would be intimidated and not proceed with any arguments in a Petition for Rehearing. Allegedly, they all know (both the Sup Ct of OK and counsel Nate Clark, the proper timing and procedure, and that fact that they violated this due process procedure, and did not want to risk the chance that this Court would take the case, or at least have a record of their alleged conduct and is at the least an Abuse of Process and even maliciously so.

#### **RATIONALE TO ACCEPTING THIS PETITION FOR REHEARING**

Under Justia - under the Annotations under Procedural Due Process Civil – Fourteenth Amendment – Rights guaranteed and Immunities of Citizenship, Requirements of Due Process under Impartial Tribunal., p3, par 4, states “In addition, although “[p]ersonal bias or prejudice ‘alone’ would not be sufficient basis for imposing a constitutional requirement under the Due Process Clause” there “are circumstances ‘in which experience teaches that the probability of actual bias on the part of the judge or the decisionmaker is too high to be constitutionally tolerable.”<sup>771</sup>

The above issues would warrant this Court to review this case because of bias and the violation of due process under the 14<sup>th</sup> Amendment in depriving my right to have had a fair trial and a fair and impartial panel to review my case.

I draw from the work of Brian De Vito, Seton Hall University, University of Michigan:

“When U.S. Supreme Court Decisions are not final: an examination of the Rehearing Rule and the Court’s Application of It in Kennedy v. Louisiana” by Brian De Vito, J.D. Candidate, May 2010, Seton Hall University, University of Michigan”

He quotes from p4, under

## **II. The Rehearing Rule**

“The rehearing rule traces back to British equity courts. Rehearing was useful because there were no higher courts to which litigants could appeal; the Chancellor’s judgment was final. \*Thus parties seeking rehearing were required only to convince the Chancellor that rehearing was in the interest of justice. \*19 (*the highest court in Britain, by comparison, required litigants to show clear error before considering rehearing.*) This is similar to the opaque standard at issue today.

The United States Supreme Court derives its authority from Article III of the United States Constitution. With the passage of the Judiciary Act of 1789 Congress conferred on the Court the power to adopt the rules that are necessary for it to carry on its business....

See p7 par 3 “Yet because cert denials are not issued as written opinions, there are few plausible grounds on which a party seeking rehearing can petition other than those enumerated in Rule 44.2. Kennedy illustrates this point, *id* Louisiana argued that the Court overlooked a critical piece of information, the NDAA. Without the benefit of a written opinion,

Louisiana could have argued that the NDAA unjustifiably overlooked because Louisiana could not have known how the law applied to the Court's rationale, nor could it have known that the law was even overlooked. So the apparent additional burden articulated by Rule 44.2 is just an assertion of the only practical means by which the Court would grant rehearing."

My case in the District Court of Oklahoma requesting a Motion to Vacate because, among other issues I never received notice, has been denied. This denial carries a presumptive dismissal with prejudice. I have attempted to address my rights and receive compensation for my medical bills and emotional suffering in courts for two years. Although my arguments are clear and sound in law, I have not been able to receive the relief that the law should afford me. I believe the reason is that I am a pro se litigant and the courts easily disregard and deny justice to this class of litigants.

#### **RELIEF REQUESTED**

This Petition for Rehearing on the Order Denying the Petition for Writ of Certiorari asks this Court to grant rehearing under Rule 44.2 and grant the Petition for Writ of Certiorari to the Supreme Court of Oklahoma and to remand the case to the Court of Appeals with instructions to determine the issue of whether Petitioner has been denied Due Process guaranteed by the Fourteenth Amendment of the United States Constitution by the dismissal of her appeals – Petitions in Error – under Appendix A – March 13, 2023 and Appendix B – May 18, 2023 (see both appendices in Petition for Certiorari here) from the same dismissal and denial Order from the District Court – the rulings should be considered void on their face;

And that the premature mandates asserted by the Supreme Court of Oklahoma be suspended and lifted in their Court and that they are instructed to alert the District Court to remove the mandates issued therein, until all decisions from this court are made.

Because the evidentiary reports reflecting bias and due process violations above, are critical to determining this case and the fact that there is no Opinion to draw from, This case should be reviewed and reheard in the interest of justice, and Petitioner respectfully requests that this Court do so.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Tanya Tyson", written in black ink.

Tanya Tyson, Pro Se

9521-B Riverside Parkway – PMB 104

Tulsa, Oklahoma 74137 - 214-907-2562

Date: December 23, 2024

CERTIFICATE OF COUNSEL ATTACHED AND

Proof of Service to opposing counsel included

**CERTIFICATE OF COUNSEL**

I hereby certify that this Petition for Rehearing, is presented together with this certification of counsel (I as a pro se litigant) and is restricted to the grounds specified and that it is presented in good faith and not for delay.

Signed by: Tanya Tyson, Pro Se on

  
\_\_\_\_\_

December 23, 2024



PROOF OF SERVICE OF PETITION OF REHEARING

Tyson v. QuikTrip – case 24-5769 – United States Supreme Court

I Tanya Tyson certify that a copy of the above cited Petition for Rehearing will be hand delivered to Attorney Nate Clark at 2 West Street, Suite 1000, Tulsa, Oklahoma 74103.

A handwritten signature in cursive script, appearing to read "Tanya Tyson", written over a horizontal line.

Tanya Tyson

December 23, 2024

9521-B Riverside Parkway-PMB104

Tulsa, Oklahoma 74137

Phone: 214-907-2562

Attorney Clark has waived his right to respond to the Petition for Certiorari, but the rules require that he receive a copy of this Petition. If the Court requires a Response he will be notified.