

No. 25-1367

IN THE
Supreme Court of the United States

ROOFING DESIGNS BY JR, L.L.C.,
DBA ROOFING DESIGNS,

Petitioner,

v.

ROYAL AMERICAN CONSTRUCTION,
INCORPORATED, *et al.*,

Respondents.

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

REPLY TO BRIEF IN OPPOSITION

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REPLY TO BRIEF IN OPPOSITION

I. Respondents wrongly characterize the Fifth Circuit’s reliance on “potential motive” in an attempt to distinguish it from *Keathley*.

The Response categorically states that “[t]his case is not like *Keathley* because the district court and appellate court did not rely on a ‘hypothetical’ or ‘potential’ motive to conceal.” *See Response* at 8. This statement is in stark contrast to the Fifth Circuit’s express holding. The Fifth Circuit noted in this case that “[a] lack of inadvertence may therefore be found when there is any potential motivation for concealing a claim.” *See Appendix*, at 8a. The Fifth Circuit held:

Here, Roofing Designs brought its claims against Royal American and Hartford before it filed for bankruptcy, so there is no evidence that Roofing Designs lacked knowledge of its claims. As the district court correctly observed, there was a ***potential motivation to conceal*** the value of the claims because doing so would allow Roofing Designs to “discharge its debt at a fraction of its value, while keeping the full value of its claims against Hartford and Royal American.” The district court therefore did not err in concluding that the inconsistent positions were not inadvertent.

See Appendix, at 8a-9a (emphasis added). The Respondents’ characterization directly conflicts with the Fifth Circuit’s reasoning here.

Respondents also assert that this Court’s decision not to resolve whether bad faith is required somehow undermines a GVR here. *See* Response at 7. The Fifth Circuit expressly applied the pre-*Keathley* “potential motive” standard in deciding this appeal. Thus, regardless of whether *Keathley* resolved the separate questions of bad faith or the application of judicial estoppel in the bankruptcy context, a GVR remains necessary so the Fifth Circuit can reconsider this case under the standard *Keathley* now requires. Respondents’ attempt to distance this case from *Keathley* is futile, as the Fifth Circuit relied on the same strict legal standard that this Court explicitly rejected in *Keathley*.

Furthermore, Respondents’ attempt to argue that the Fifth Circuit’s consideration aligned with the case-by-case inquiry that *Keathley* requires similarly fails. *See* Response at 8-9. Respondents suggest that the analysis satisfies *Keathley*’s totality-of-the-circumstances standard. This cannot be reconciled with the actual analysis that the Fifth Circuit employed, which reached its conclusion relying on *Coastal Plains* and *Love*, which utilize the same restrictive approach that this Court struck down in *Keathley*. *See* Appendix, at 8a. This Court cited *Coastal Plains* and *Love* when acknowledging that “the Fifth Circuit’s rule allows courts to consider only two circumstances when assessing inadvertence or mistake: whether the debtor knew of the underlying facts of the claim, and whether there was a potential motive to conceal the claim.” *Keathley v. Buddy Ayers Construction, Inc.*, 608 U.S. 647, 146 S. Ct. 1532, 1539 (2026). Respondents cannot transform that analysis into a totality-of-the-circumstances inquiry simply by characterizing it as one.

In *Keathley*, this Court rejected the Fifth Circuit’s rule in *Coastal Plains* and *Love*, explaining that “the rigidity is out of step with equity.” *Id.* The Court further explained that the Fifth Circuit should have examined the totality-of-the-circumstances. *Id.* The two positions cannot be reconciled. The lower courts could not have applied the totality-of-the-circumstances inquiry required by *Keathley* while relying on the very framework that *Keathley* rejected as too rigid. The Fifth Circuit explicitly affirmed summary judgment here based on the “any potential motive” standard without applying a totality-of-the-circumstances standard. That alone supports a GVR here.

Respondents essentially argue that, even if the Fifth Circuit applied the wrong standard, a GVR is unnecessary because the record could support the same result under *Keathley*. See Response at 8 (“if the Court concludes that *Keathley* may affect the judgment, the ordinary limited disposition would be a GVR . . .”). But this is precisely why a GVR should be granted here, and Respondents’ argument actually proves the point.

The question is not whether Respondents can now construct a totality-of-the-circumstances analysis from the record. The question is whether *Keathley* may affect the Fifth Circuit’s judgment and warrants reconsideration under the correct legal standard. Respondents themselves acknowledge that, if *Keathley* may affect the judgment, “the ordinary limited disposition would be a GVR . . .” See Response at 8. That is precisely the relief warranted here.

Petitioner encourages this Court to decline Respondents’ invitation to perform the totality-of-the-

circumstances analysis that the Fifth Circuit never performed. The appropriate remedy is a GVR so that the Fifth Circuit can reconsider this appeal under the correct standard established in *Keathley*.

CONCLUSION

For the foregoing reasons, Roofing Designs urges this Court to grant, vacate, and remand the case for further consideration in light of *Keathley*.

Respectfully submitted,

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