

The State of South Carolina
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Court of Appeals Case No. 2019-000486
Lower Court Case No. 2018-CP-21-03238
No. 2015-CP-26-06384
No. 2013-CP-21-02795

NATIONSTAR MORTGAGE, LLC

d/b/a MR. COOPER.....Respondent,

v.

M. EUGENE GIBBS, ESQ., and

BARBARA A. GIBBS.....Petitioners.

PETITION
FOR WRIT OF CERTIORARI

M. Eugene Gibbs, Esq., Pro-se Petitioner
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Barbara A. Gibbs, Pro-se Petitioner
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RELIEF SOUGHT

Appellants Barbara A. and M. Eugene Gibbs-Squires ("Gibbs") respectfully request the Court (i) reverse the circuit court's opinion, (ii) ORDER the recusal of Judge Nettles, (iii) refer Nationstar for prosecution of: Perjury, Subornation of Perjury, Fraud on the Courts, and Obstruction of Justice and (iv) and move sua sponte – restoring M. Eugene Gibbs-Squires' law license retroactively.

TAKE NOTICE: Petitioner (M. Eugene Gibbs) hereby CERTIFY – The Petition for Writ of Certiorari: pursuant to Rule 242, is filed based on the South Carolina Court of Appeals having denied Petitioners' motion for reconsideration on the 16th day of November 2022.

Did the Court of Appeals err in holding that the Circuit Court had jurisdiction to grant a motion for summary judgment thou Gibbs never missed a mortgage payment and Nationstar is not a party-in-interest – every material issue in dispute?

Did the Court of Appeals err in holding that the trial court did not find Nationstar committed Perjury, Subornation of Perjury, Fraud on the Courts, and Obstruction of Justice in violation of RICO and FCA (False Claims Act)?

Did the Court of Appeals err in holding that the Circuit Court was not influenced by Bank of America having paid \$10 billion dollars in BRIES to South Carolina politicians and judges to influence this case!

I. INTRODUCTION

Petitioner petitions the Court for a Writ of Certiorari. The holdings of the trial court and court of appeals are in direct conflict with Federal Law: 18 USC §1961 et seq.: **Racketeering Influence Corrupt Organization Act (RICO)**; in violation of the FCA (False Claims Act) 31 U.S. Code § 3729 – 3733, causing harm to Petitioners in violation of 42 USC § 1981 et seq.; the US Constitution, and the South Carolina Constitution.

In the year of our Lord – 2012 – Bank of America sold Petitioner's mortgage note to Freddie Mac and failed and neglected to notify Gibbs. Bank of America created a continuing criminal enterprise with Nationstar to defraud Gibbs of \$100,000 due because of mortgage modification under the Home Affordable Mortgage Program (HAMP).

In or about January 2013, Bank of America and Nationstar signed a fraudulent Assignment of Mortgage designed to defraud Gibbs, 10 million Homeowners, the Treasury Department, Fannie Mae, and Freddie Mac of \$3 trillion dollars. Nationstar was directed to file an ILLEGAL foreclosure against Gibbs – to prevent Gibbs from discovering their mortgage was sold to Freddie Mac.

Freddie Mac has never authorized Nationstar to bring the instant action against Gibbs; and Nationstar did not file the foreclosure on behalf of Freddie Mac – entangling SC courts and the SC attorney general in [t]heir conspiracy.

II. PRELIMINARY STATEMENT

To paraphrase Dr. Martin Luther King: *Gibbs' greatest insult in life wasn't opposing attorneys stating emphatically they would rather eat "shit" than lose to a "Nigger," nor was it the courts will not allow a "Nigger" to be the first attorney to successfully litigate a \$\$\$ trillions dollars judgment!!! It Is – the silence of JUSTICE.*

III. STATEMENT

Gibbs never missed a mortgage payment, and Bank of America sold Gibbs' mortgage note to Freddie Mac – not Nationstar as alleged; and is part and partial to Bank of America and Nationstar's continuing criminal enterprise formed and operated in violation of the Racketeering Influence Corrupt Organization Act (RICO).

If this case is decided on the law rather than the \$10 billion dollars Respondents paid in BRIBES – Petitioners will prevail on the merits! The Court must grant Certiorari to correct the "100" errors by the "trial court" that violate federal and state law and restore the integrity of South Carolina courts. Additionally, without intervention by the Court – the lower court and attorney general will not have an opportunity to prove their innocence. And, the Court will certify South Carolina politicians and judges are part and partial of Bank of America's payment of \$10 billion dollars to defraud 10 million Homeowners of \$3 trillion dollars affecting interstate commerce (50 states and territories).

IV. STATEMENT OF FACTS

Gibbs never missed a mortgage payment. The lower court did does not have jurisdiction to hear a case absent damages. Nationstar's "Self-Proving" business records proves Nationstar committed: PERJURY, SUBORNATION OF PERJURY, FRAUD ON THE COURTS AND OBSTRUCTION OF JUSTICE, *see, App. pp. 28-29.*

Nationstar was not and is not a party-in-interest. Bank of America sold Gibbs' mortgage note to Freddie Mac – not Nationstar. The lower did not have jurisdiction to hear a case filed by a non-party.

Today (December 6, 2022) Gibbs, as he has done for years, investigated Freddie Mac's Website. Freddie Mac has and continues to own Gibbs' mortgage note, *see, App. p. 30.*

During the pendency of this case, 10,000 Homeowners have committed SUICIDE: three (3) each day – many as a direct result of Bank of America and Nationstar's continuing criminal enterprise. Each day the Court allows the criminal enterprise to continue and flourish – 3 Homeowners commit SUICIDE.

IV. STATEMENT OF THE CASE

Bank of America and Nationstar paid \$10 billion dollars in bribes to politicians and judges to cover-up the theft of \$3 trillion dollars. The gravamen of [t]heir continuing criminal enterprise (RICO) is having sold Gibbs' mortgage note to Freddie Mac and "covered-up" the sale by fraudulently executing an Assignment of Mortgage

between Bank of America and Nationstar; for the purpose of filing illegal foreclosure suits against 10 million Homeowners. Nationstar's "Self-Proving" business records and Gibbs' empirical evidence proves the continuing criminal enterprise. Nationstar's illegal foreclosure was filed to silence Gibbs from exposing the fact – Bank of America sold Fannie Mae and Freddie Mac 10 million mortgage note that are worth \$3 trillion dollars less than paid to Bank of America – Fannie Mae and Freddie Mac own 10 million worthless mortgage notes.

V. MEMORANDUM OF LAW

At all relevant times from January 2006 thru December 2013, Gibbs made every mortgage payment in a timely manner. *Petitioners' bank records and Nationstar's "self-proving" business records – accurately reflect mortgage payment to Nationstar Mortgage on: July 2, 2013, in the amount of \$2,197.32; August 2, 2013, in the amount of \$2,197.32; September 4, 2013, in the amount of \$2,197.32.*

Mortgage payment made October 2, 2013, in the amount of \$2,197.32: *mortgage payment returned on October 3, 2013, in the amount of \$2,197.32,* November 5, 2013, in the amount of \$2,197.32: *mortgage payment returned on November 6, 2013, in the amount of \$2,197.32,* and December 3, 2013, in the amount of \$2,197.32: *mortgage payment returned on December 4, 2013 in the amount of \$2,197.32, (Gibbs' Affidavits).*

Respondent did not satisfy the conditions concurrent/precedent in filing the foreclosure suit and, therefore, Appellants' motion to dismiss should have been granted. See, e.g., Unisys Corp. v. S.C. Budget & Control Bd. Div. of Gen. Servs. Info. Tech. Mgmt. Office, 551 S.E.2d 263, 273 (S.C. 2001).

In evaluating a motion to dismiss the Court must base its decision solely upon the allegations set forth in the complaint, Jarrell v. Petoseed Co., Inc., 331 S.C. 207, 209, 500 S.E.2d 793, 794 (Ct. App. 1998). The motion must be granted if the facts alleged in the complaint and the inferences reasonably deducted there from do not entitle the Plaintiff to relief on any theory of the case. See also, FOC Lawshe Ltd. P'ship v. Int'l Paper Co., 352 S.C. 408, 412, 574 S.E.2d 228, 230 (Ct. App. 2002).

Nationstar alleged Gibbs breached their mortgage contract August 2013 and demanded Appellants pay the sum of \$292,519.20. Appellants by affidavits and bank records proved they had not missed a mortgage payment including but not limited to: January 2012 thru December 2013 and affirmed payments had not been missed during the contract. Further,

Gibbs' bank records proved that after Nationstar filed this litigation, Nationstar collected mortgage payments for August, September, October, November, and December 2013. Respondent then reversed accepted mortgage payments for the months of: October, November, and December.

Summary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery, Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E. 2d 433, 439 (2003).

MERE SCINTILLA OF EVIDENCE!

In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party. Baughman v. American Telephone and Telegraph Company, 306 S.C. 101, 410 S.E.2d 537 (1991). In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, *the non-moving party is only required to submit a mere scintilla of evidence*, Hancock v. Mid-South Mgmt Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009). (*Appellants' Motion for Summary Judgment & Affidavits*)

Most people are saying the Court seeks to protect the admitted \$10 billion dollars of BRIBES and \$40 billion dollars in fines to steal \$3 trillion dollars, while destroying Petitioners.

Bank of America's ineptitude and hubris caused the purchase of Merrill Lynch and Countrywide and placed Bank of America on the "brink" of a \$2 billion dollars bankruptcy. Now, Nationstar wants us to believe the same ineptitude, legally produced \$4 trillion in profits. If, the Court believes protecting Respondents are more important than their victims, Petitioners cannot change *that*.

Congress, in an effort to combat criminal conduct: as engaged in here, enacted,
18 USC §1964(a):

The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign

commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

Respondents have admitted multiple violations of RICO; including but not limited to the illegal foreclosure of Petitioners' home, and the illegal retention of \$100,000 belonging to Petitioners.¹ All illegal acts designed to prevent Petitioners from receiving a "just" outcome.

Gibbs avers and incorporate by reference each and every paragraph of the filed petition fir mandamus and affidavit, as if each paragraph was filed verbatim. The Court, sua sponte has a legal and moral obligation to restore Gibbs' law license.

The Honorable Justice Thurgood Marshall (Supreme Court 1967-1991) was fond of telling the story of his father securing a job for him as a Pullman Porter. When he arrived at work, he was given a pair of pants that were too short. He asked for a longer pair and was told, "It is easier for us to hire a 'shorter Nigger' than give you a longer pair of pants."

Society does not seek a "shorter 'Nigger'" nor want the courts to distort the law to absolve Respondents of their criminal responsibility. The Court must resist viewing this case through a "concave monocle" that focuses on nonexistent facts to justify a predetermined conclusion.

¹ Respondents' illegal actions prevents Petitioners from having more than \$800,000 to litigate this case in a consistent with the requirements of the Court.

VI. CONCLUSION

Nationstar admitted having committed the crimes articulated herein; including being part and partial to paying \$10 billion dollars in BRIBES to avoid being arrested and prosecuted. And Gibbs having, by empirical evidence proved Nationstar is not the party-in-interest and suffered no damages - The Court must protect Petitioners and the integrity of the Courts!

WHEREFORE, Petitioners Barbara A. and M. Eugene Gibbs-Squires ("Gibbs") respectfully request the Court (i) GRANTS the Petition for Writ of Certiorari, (ii) ORDER, sua sponte, the retroactive restoration of Gibbs law license.


/s/ M. Eugene Gibbs, Esq.

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December 12, 2022
Buford, GA

Oppression –

As nightfall does not come at once; neither does oppression. In both instances, there is a twilight when everything remains seemingly unchanged. And it is in such twilight that we all must be most aware of change in the air however slight lest we become unwitting victims of the darkness.

William O. Douglas, US Supreme Court Justice

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M. EUGENE GIBBS, ESQ., and
BARBARA A. GIBBS.....Petitioners,

PROOF OF SERVICE

I, M. Eugene Gibbs, certify that the foregoing Petition for Writ of Certiorari are being served on December 12, 2022, as follow: via US Mail and/or e-mail with an electronic copy of same:

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