

Case No. 2024-000801  
THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**Aug 14 2024**

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

**SC Court of Appeals**

The Honorable Diane S. Goodstein  
South Carolina Circuit Court Judge

Unpublished Opinion No. 2024-UP-023  
Filed January 17, 2024  
Petition for Rehearing Denied April 17, 2024

Appellate Case No. 2020-001130

Wilmington Savings Fund  
Society FSB as Trustee of  
Stanwich Mortgage Loan Trust C.....Respondent,

v.

Nelson L. Bruce, et al.....Appellant,

Of whom Nelson L. Bruce is the..... Petitioner.

**PETITIONER'S REPLY TO RESPONDENT'S RETURN TO PETITION FOR WRIT OF  
CERTIORARI**

## I. INTRODUCTION

Petitioner, Nelson L. Bruce, submits this Reply to Respondent's Return opposing the Petition for Writ of Certiorari. This Reply addresses the Respondent's misstatements, corrects the legal errors made by the lower courts, and emphasizes the significant constitutional and statutory issues that necessitate this Court's review. Given the stakes and the potential impact on established legal principles, Petitioner respectfully requests that this Court grant the Petition for Writ of Certiorari.

## II. THE COURT OF APPEALS' DECISION DEPRIVES PETITIONER OF FUNDAMENTAL CONSTITUTIONAL RIGHTS

### A. The Court of Appeals Violated Petitioner's Right to Petition for Redress by Limiting the Record on Appeal

Respondent's argument that the Petitioner's right to petition was not violated is fundamentally flawed. The Court of Appeals' refusal to consider the full record—particularly key exhibits and evidence—constitutes a violation of Petitioner's First Amendment right to petition for redress of grievances. This right, as articulated in *California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508 (1972), extends to ensuring that appellate review is meaningful and comprehensive. By limiting its review to the face of the initial complaint, the Court of Appeals obstructed Petitioner's ability to seek redress effectively.

The *South Carolina Constitution* and Rule 210(h), SCACR, reinforce this right by requiring that the full record be reviewed on appeal to guarantee that all relevant facts are considered. The Court of Appeals' failure to adhere to this rule, despite Petitioner's submission of a complete record, constitutes a significant procedural and constitutional error that necessitates review by this Court. Moreover, *Plyler v. Burns*, 373 S.C. 637, 645 (2007), mandates that in ruling on a motion to dismiss, courts must view the allegations in the light most favorable to the non-moving party. The Court of Appeals' approach directly contradicts this precedent, thereby prejudicing Petitioner's appeal.

## **B. The Denial of Access to a Complete Appellate Record Renders the Appellate Process Constitutionally Deficient**

The failure to review the complete record not only violates procedural rules but also undermines the appellate process itself. As held in *Borough of Duryea v. Guarnieri*, 564 U.S. 379 (2011), the right to petition encompasses the right to a meaningful appellate process. By refusing to consider the full record, the Court of Appeals rendered the appellate process constitutionally deficient, effectively denying Petitioner the opportunity to fully present his case.

Recent cases such as *Doyle v. Hogan*, 1 F.4th 249 (4th Cir. 2021), further emphasize that appellate courts must ensure that all relevant evidence is considered, particularly when constitutional rights are at stake. The failure to do so, as in this case, constitutes a deprivation of due process that warrants this Court's intervention.

### **III. THE COURT OF APPEALS MISAPPLIED THE FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)**

#### **A. The FDCPA Applies to Respondent as a Debt Collector**

Respondent's narrow interpretation of the FDCPA, relying on *Henson v. Santander Consumer USA Inc.*, 137 S. Ct. 1718 (2017), misrepresents the Act's scope. The FDCPA's primary purpose is to protect consumers from abusive debt collection practices, and it applies to any entity whose principal purpose is debt collection. In *Barbato v. Greystone All., LLC*, 916 F.3d 260 (3d Cir. 2019), the Third Circuit reaffirmed that entities whose principal business is debt collection are subject to the FDCPA, even if they own the debt in question.

Petitioner's counterclaims, supported by specific evidence, demonstrate that Respondent engaged in conduct consistent with that of a debt collector. The failure of the Court of Appeals to apply this broader definition of "debt collector" under the FDCPA is a significant legal error. Furthermore, in *Tepper v. Amos Fin., LLC*, 898 F.3d 364 (3d Cir. 2018), the court held that the FDCPA covers entities that regularly purchase and collect defaulted debts, which aligns with Respondent's actions in this case. This interpretation directly contradicts the Courts of Appeals decision, underscoring the necessity for this Court's review.

## **B. The Court Failed to Apply the Correct Standard for Pro Se Pleadings**

The Court of Appeals' failure to afford Petitioner the liberal construction typically granted to pro se litigants further compounds the error. The U.S. Supreme Court in *Erickson v. Pardus*, 551 U.S. 89 (2007), reiterated that pro se complaints must be held to less stringent standards than those drafted by attorneys. This principle is crucial in ensuring that litigants without legal representation have fair access to justice. Moreover, the Court of Appeals' rigid application of procedural rules without considering the opportunity for Petitioner to amend his pleadings conflicts with the Supreme Court's decision in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), which permits courts to allow amendments to correct deficiencies, especially in pro se filings. This error further justifies the need for certiorari to correct the application of legal standards to Petitioner's claims.

## **IV. THE COURT OF APPEALS' DECISION DEPRIVES PETITIONER OF HIS CONSTITUTIONAL RIGHT TO A JURY TRIAL**

### **A. Petitioner Was Improperly Denied a Jury Trial on His Legal Claims**

Respondent's argument that Petitioner did not adequately plead his claims ignores the constitutional guarantee of a jury trial for legal issues. As established in *Beacon Theatres, Inc. v. Westover*, 359 U.S. 500 (1959), when both legal and equitable claims are present, the right to a jury trial on legal issues must be preserved. The Court of Appeals' decision to dismiss Petitioner's legal claims without affording him the opportunity for a jury trial violates this fundamental right.

Further, in *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33 (1989), the Supreme Court reaffirmed the importance of the jury trial right in legal disputes, particularly when statutory claims under federal law, such as the FDCPA and TILA, are involved. The lower courts' dismissal of these claims without a jury trial, therefore, constitutes a clear violation of Petitioner's Seventh Amendment rights.

## **V. THE COURT OF APPEALS' DECISION CONFLICTS WITH BINDING PRECEDENT AND REQUIRES REVIEW**

### **A. The Court of Appeals Applied an Incorrect Standard of Review**

In dismissing Petitioner's claims under Rule 12(b)(6), the Court of Appeals failed to accept all well-pleaded facts as true and to draw all reasonable inferences in Petitioner's favor, as required by *Ashcroft v. Iqbal* and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). The court's failure to apply this standard resulted in an unjust dismissal of Petitioner's claims and denied him the opportunity for a full and fair hearing.

Additionally, *Chewing v. Ford Motor Co.*, 346 S.C. 28, 550 S.E.2d 584 (Ct. App. 2001), specifically requires courts to consider the entire context of the allegations when ruling on a motion to dismiss. The Court of Appeals' decision to disregard critical evidence and narrowly construe Petitioner's claims is in direct conflict with this precedent, further necessitating review by this Court.

### **B. The Lower Courts' Treatment of Pro Se Pleadings Violates Established Precedent**

The Court of Appeals' handling of Petitioner's pro se pleadings was inconsistent with the standards set forth in *Haines v. Kerner* and *Erickson v. Pardus*, which require courts to interpret such filings liberally. This failure to properly construe Petitioner's pleadings, particularly in the absence of counsel, deprived him of a fair opportunity to present his claims. The refusal to allow Petitioner to amend his pleadings, despite his explicit reservation of this right, constitutes an abuse of discretion and violates principles of due process.

## **VI. CONCLUSION**

For the reasons articulated above, this Court should grant the Petition for Writ of Certiorari. The Court of Appeals' decision not only conflicts with established legal principles but also raises significant constitutional issues that demand this Court's review. The errors committed by the lower courts have deprived Petitioner of his rights under both state and federal law, and this Court's intervention is necessary to correct these injustices.

RESPECTFULLY PRESENTED,

Dated this 14<sup>th</sup> day of August, 2024.

“Without Prejudice”

*Nelson L. Bruce*

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Nelson L. Bruce, Propria Persona, Sui Juris  
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