

In the Supreme Court of the United States

No. _____

Petition to U.S. Supreme Court
for Writ of Mandamus & Prohibition

IN RE CHRISTOPHER DAWSON,
Petitioner

CHRISTOPHER DAWSON,
Plaintiff - Petitioner,

v.

Litton Loan Servicing LLP.
(Now Ocwen),

Ocwen Financial Corporation, Ocwen Loan Servicing, LLC., and
Consumer Financial Protection Bureau; CFPB
Defendants - Respondents.

PETITION FOR A WRIT OF MANDAMUS / PROHIBITION

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(i)

QUESTIONS PRESENTED

- Whether Christopher Dawson, a disable and indigent senior citizen of United States, has been denied his due process rights, guaranteed under the Fifth and Fourteenth Amendments to the United States Constitution by US District Court District of Massachusetts, Commonwealth of Massachusetts; Wareham District Court and Plymouth County Superior Court, Litton Loan Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC and Consumer Financial Protection Bureau.
- Whether Petitioner is entitled to relief pursuant to 28 U.S.C. Sec 1651(a) to vacate the order of the Commonwealth of Massachusetts; Wareham District Court, or other relief as this court deems appropriate.
- Whether the Consumer Financial Protection Bureau violated Christopher Dawson's due process rights by failing to act on petitioner's complaint whereas it had exact knowledge of Defendants Ocwen and Litton Loan Servicing LP's misconduct resulted in premature and unauthorized foreclosures, violation of homeowners' rights and protections, and the use of false and deceptive affidavits and other documents.

(ii)

PARTIES TO THE PROCEEDING

RESPONDENTS & DEFENDANTS

- Justice Edward H. Sharkansky is the JUSTICE to whom mandamus is sought.
- Litton Loan Servicing LP 4828 Loop Central Drive, Suite 104 Houston, TX 77081 is a party to proceeding in the Commonwealth of Massachusetts Wareham District Docket no. 1160SU0102.
- Ocwen Loan Servicing, LLC 1661 Worthington Road Suite 100, West Palm Beach, FL 33409 is a party to proceeding in the Commonwealth of Massachusetts Wareham District Docket no. 1160SU0102.
- Ocwen Financial Corporation Now owns defendants and subsidiaries of Litton Loan Servicing LP & Ocwen Loan Servicing, LLC. 1661 Worthington Road, Suite 100, West Palm Beach, FL 33409.

- Consumer Financial Protection Bureau (CFPB)
1700 G St. N.W.
Washington, D.C. 20552.

(iii)

PETITIONER

- Petitioner Christopher Dawson is the party to proceeding in the Commonwealth of Massachusetts Wareham District Docket no. 1160SU0102 and the filer of the complaint to CFPB.

(iv)

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PETITION FOR WRIT OF MANDAMUS AND PROHIBITION

Petitioner respectfully petitions for writ of mandamus and prohibition to vacate the order of the Commonwealth of Massachusetts; Wareham District Court and CFPB's decision not to act on his complaint and prohibit such future orders.

OPINONS BELOW

The order of the Commonwealth of Massachusetts; Wareham District is not reported but is reproduced at Appendix la.

Consumer Financial Protection Bureau's (CFPB) decision not to act against defendants Ocwen Financial Corporation, successor in interest of, Litton Loan Servicing LP, in response to Petitioner's individual complaint against the defenders. Complaints are reproduced at Appendix 66a. and 69a.

JURISDICTION

The Massachusetts; Wareham District entered Order on November 29, 2017. This Court's jurisdiction rests on 28 U.S.C. Sec 1651(a).

Consumer Financial Protection Bureau's refusal to act and significant violations of Christopher Dawson's due process rights by failing to provide evidences it had relevant to Litton Loan Servicing LP's misconduct resulting in premature, unauthorized and foreclosures, violation of homeowners' rights and protections, and the use of false and deceptive affidavits and other documents. This Court jurisdiction rests on 28 U. S. C. § 1651(a).

BACKGROUND

On November 6, 2006, a now 72-year-old, petitioner Christopher Dawson bought the residential property at 12 North Street in Marion, Massachusetts that he believed would become his "American Dream." The property boasted exceptional development potential with almost 6500 feet; 6 bedrooms, 5 baths, golf course frontage, distant water views of Marion Harbor, a carriage house, and a lot of charm and character. Dawson purchased, and set out to develop the property with a total of \$1.8 million in financing. His timing couldn't have been worse. The sub-prime mortgage crisis was just rearing its ugly head and the big banks were "crying foul"

while they blamed millions of homeowners for the mid-2007 recession that almost bankrupted the country after the bursting of the housing bubble. Foreclosures sky-rocketed and Dawson was not spared. On August 27, 2010, Litton Loan Servicing, LP, foreclosed Dawson's \$1.4 million first mortgage and Dawson's dream became Dawson's nightmare. But the story doesn't end here. In fact, Dawson has believed for years that the most important part of the story hasn't been exposed - and he hopes that after years of frustrating litigation, the real story will finally come out and those who actually orchestrated the U.S. financial crisis that ruined so many homeowners' lives will finally get their just rewards. Notwithstanding that Dawson will readily admit that his timing was awful, and eventually he did default on the financing, as he could not juggle successfully between bank's loan modification or Short-sale. He is adamant that he "had a lot of help" doing so by the financial power-houses and the Wall Street crowd who have been given a complete "pass" while Dawson and millions of other homeowners lost everything. He observed, the banks made millions while large numbers of homeowners, like himself, lost millions as abuse of process became the modus operandi for the foreclosure mills. Dawson has tried for years, still without success, to have the foreclosure deed on his former home to be invalidated by a court, as both foreclosure and assignment of deed were authorized by "robo-signing". On May 1st, 2012 Plymouth Superior Court of Massachusetts, Case# PLCV2012-005-41-B, issued the following order;

"Upon review and after hearing, this court is satisfied that Dawson's claims of "material misrepresentation" (Count I) and fraud (Count II) must be dismissed because they fail to state a claim upon which relief can be granted. See Mass. R. Civ. P. 12(b)(6). Dawson's complaint does not contain factual allegations which, if true, raise a right to relief above the speculative level as to these two claims. See *Iannacchino v. Ford Motor Co.* 451 Mass At 636. As to Dawson's claim in Count I alleging "material misrepresentations." He provides no facts as to what misrepresentations were made to him concerning a loan modification, who made them, when, or any specific factual allegations surrounding this claim.

As to his claim of fraud in Count II. Dawson does not sufficiently state the factual circumstances surrounding his belief that the documents surrounding the foreclosure of the property were not properly executed by

LLS (Litton Loan Servicing). See Mass R. Civ. P. 9(b) (requiring circumstances constituting fraud to be stated with particularity). See also *Masingill v. FMC Corp.* 449 Mass 532, 545 (2007) (noting that averments of fraud and circumstances constituting that fraud must be stated with particularity in complaint). Accordingly, LLS' (Litton Loan Servicing's) motion to dismiss pursuant to Mass. R. Civ. P. 12(b)(6) is allowed¹.

ORDER

For the forgoing reasons, it is hereby ordered that defendant Litton Loan Servicing, LP's Motion to Dismiss is ALLOWED. Plaintiff Christopher Dawson's Verified Complaint is DISMISSED.

Dated October 11, 2012.

Richard J. Chin,
Justice of the Superior Court

¹ Since this court is dismissing Dawson's Complaint under Mass R. Civ. P.12(b)(6), the court need not address whether the complaint should be dismissed under Mass. R. Civ. P 12(b)(9).

Dawson unsuccessfully attempted to appeal his loss of ownership and possession of home, the subject property in early 2013 but his appeal efforts were subsequently Denied by the same court due to untimeliness and/or

due to lacking the requirements. His limitations were mainly due to health issues and financial restrictions.

Dawson was becoming to resignation to the fact that he may never be able to recover from the losses he sustained in connection with purchase and eventual loss of his home.

Then in around Mid-2015, Dawson learned about the Consumer Financial Protection Bureau (CFPB) a government agency along with 49 States and the District of Columbia had filed a Complaint and had secured a Consent Judgement against Ocwen, (who had acquired Litton Loan Servicing in 2011). *See 15a.; Appendix C; Exhibit 2 and 41a. Exhibit 3.*

Consumer Financial Protection Bureau (CFPB) is the same government agency to which Christopher Dawson had complained about Ocwen/Litton's wrongful & fraudulent foreclosure practice in and around October 2014. *See 66a.; Appendix D, Petitioner's Complaint / Letter to Consumer Financial Protection Bureau (CFPB) and 69a.; Appendix E, Petitioner's Complaint / Letter to Consumer Financial Protection Bureau (CFPB).*

Consumer Financial Protection Bureau (CFPB) failed to act upon Christopher Dawson's complaint signaling instead that individual consumers must pursue their claims in courts of their jurisdictions.

Not having any other option; Christopher Dawson reverted to the court which ordered loss of his property, threatened his freedom and other damages. *See Appendix C, 4a., Petitioner's Motion for Relief: Commonwealth of Massachusetts; Wareham District Court: Motion And Incorporated Memorandum of Law In Support Thereof for Relief Under, Massachusetts Civil Procedure Rule 60(B).*

Unbelievably, for the exact violations petitioner complained, having a US government Agency, together with 49 states and district of Columbia, successfully secure a consent Judgement against Ocwen's liability of Litton Loan Servicing, LP and Homeward Residential, Inc., at the tune of \$127.3

million for Foreclosed Borrowers and Administration Costs was not enough for Common Wealth of Massachusetts; Wareham District Court. Christopher Dawson's efforts to get any relief was denied so was his efforts to appeal. *See 1a. Appendix A*, Commonwealth of Massachusetts, Wareham District Court Docket Number 1160SU000102. Litton Loan Servicing, LP v. Christopher Dawson and *2a. Appendix B*, Commonwealth of Massachusetts, Plymouth County Wareham District Court, Docket Number 1160SU000102.

As this juncture, petitioner Dawson has no legal recourse left to secure any justice for the violations against him by Litton Loan Servicing, LP causing continues severe damages in terms of property and other harm.

CFPB has refused to act on petitioner's complaint even though it's the agency's core mandate.

STATEMENT OF THE CASE

This case presents the pressing question of whether the Fifth and Fourteenth Amendment protect the due process, fundamental rights of citizens will not be encroached on by government. The Due Process Clause of the Fourteenth Amendment applies only against the states, but it is otherwise textually identical to the Due Process Clause of the Fifth Amendment, which applies against the federal government; both clauses have been interpreted to encompass identical doctrines of procedural due process and substantive due process. Procedural due process is the guarantee of a fair legal process when the government tries to interfere with a person's protected interests in life, liberty, or property, and substantive due process is the guarantee that the fundamental rights of citizens will not be encroached on by government.

- Whether Christopher Dawson, a disable and indigent senior citizen of United States, has been denied his due process rights, guaranteed under the Fifth and Fourteenth Amendments to the United States Constitution by US District Court District of Massachusetts, Commonwealth of Massachusetts; Wareham District Court and Plymouth County Superior Court, Litton Loan

Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC and Consumer Financial Protection Bureau.

"The Due Process Clauses protect civil litigants who seek recourse in the courts." *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 429, 102 S.Ct. 1148 (1982).

The Fourteenth Amendment's Due Process Clause has been interpreted as preventing the States from denying potential litigants use of established adjudicatory procedures, when such an action would be "the equivalent of denying them an opportunity to be heard upon their claimed right[s]". Page 455 U. S. 430. *Boddie v. Connecticut*, 401 U. S. 371, 401 U. S. 380 (1971).

Petitioner claimed loss of his property, he was denied a fair trial in addition to any efforts to appeal denying him due process.

This case presents the Court with an opportunity to resolve this issue before future, in addition to the current homeowners, are harmed by denial of due process resulting in loss of property and other damages. This question is recurring, it has and continue to have a significant impact on the modern economy.

- Whether the CFPB violated petitioner's due process rights by failing to adopt his complaint against the defendants based on exact violations it had successfully prosecuted and had secured a judgment?

Bureau, an independent agency of the United States created by the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. § 5491(a) et seq. The Bureau is authorized to take appropriate enforcement action to address violations of Federal consumer financial law, including the CFPA, and has independent litigating authority. See 12 U.S.C. §§ 5511(c)(4); 5512(a); 5531(a); and 5564(a). Sections 1031 and 1036(a) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a), prohibit unfair, deceptive, or abusive acts or practices, or other violations of Federal consumer financial law, by any covered person or service provider.

Plaintiff States including Common Wealth of Massachusetts was also a beneficiary of this judgement. *See Appendix 41a*. Exhibit 3. But Commonwealth of Massachusetts through its court system Failed to provide any remedy to Petitioner. The Attorneys General was authorized to seek injunctive relief, restitution for consumers, and civil penalties for violation of the consumer protection laws of their States. *See Appendix 26a*. (4).

The judgment in the state court against the petitioner and favor of Defendant was based on illegal; foreclosure, transfer & assignment of deed, and an inside deal which was an infraction on arm's length principals. Such judgement is in violation of due process rights of the petitioner and should be declared void. Please see *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980)

“A judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere”.
Pennoyer v. Neff, 95 U. S. 714, 95 U. S. 732-733 (1878).

Reasons for Granting Petition

Supreme Court Rule 20.1 states that issuance by the Court of an extraordinary writ authorized by 28 U. S. C. §1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any such writ, the petition must show that the writ will be

- a) in aid of the Court's appellate jurisdiction,
- b) that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that
- c) adequate relief cannot be obtained in any other form or from any other court. Or issuance of the writ of mandamus is inappropriate, if less extreme alternatives of remedy were available, *Kerr v. United States District Court*, 426 U.S. 394 (1976).

Petitioner addresses each requirement respectively.

Such Writ Will Aid the Courts' Appellate Jurisdiction: The Supreme Court's appellate jurisdiction to review the State Courts' function as the adjudicators of laws is Not free of constitutional protections and rights afforded to the citizens under the due process clause. State courts for years have decided cases where due process rights of the home owners are directly or indirectly violated by banks and financial institutions presenting documents, affidavits, deeds, assignments, transfers, power of attorneys, and other crucial evidentiary instruments which blatantly were false and or fraudulent. *See 50a - 64a. . (Exhibit 4).*

Most home owners are in the same predicament as petitioner are not having the resources to prove the exact faulty documentation presented in courts in bright daylight.

This court's review of this case will aid its appellate jurisdiction as parties to such cases will rest on faith that their case was adjudicated on evidences that were true.

Exceptional Circumstances: There is no precedent, to the best knowledge of petitioner, that such violations of citizens' due process rights by state courts and CFPB has been directly addressed and or rectified. Supreme Court's jurisdiction over such an extraordinary and densely layered fraud and eventual denial of justice by state courts and CFPB does not exist. Petitioner's rights, along with other home owners certainly in the thousands, are on steak here. These are truly "extraordinary circumstances" indeed.

No other adequate means to attain the Relief: Petitioner has sought and was Denied all other avenues including Relief at Plymouth Superior Court Massachusetts, United States District Court for the District of Massachusetts, Wareham District Court County of Plymouth Massachusetts, Consumer Financial Protection Bureau (CFPB). Banks are equipped with very well-paid power houses of lawyers taunting bogus evidences, petitioner and consumers like him are barred by resources to certifiably prove the inadmissibility of these fraudulent "proofs". Any further legal move on part of petitioner in Massachusetts will be decided in

violation of principles of *res judicata*. See **2a. Appendix B**, Commonwealth of Massachusetts, Plymouth County, Wareham District Court, Docket Number 1160SU000102.

Cited herein, it is evident from the events in petitioner's endeavor that every small "reason" was utilized in hindering his pursuit of justice by means of Denial of petitions, motions, reliefs, appeal and complaints.

Therefore, petitioner proves he has no other real appellate relief available to him at this juncture.

Petitioner's right to mandamus relief is clear and indisputable:

Petitioner, and home owners in similar circumstances, has the right as citizen of this country to the true resolution of the lingering situation where due process is denied by state courts and the government as it has in its possession the facts and evidence of wrongdoings on part of defendants. To petitioner, the Government cannot hide or refute its own evidence against the defendants. Petitioner pleads this court to adjudicate on this a matter of huge significance to him and thousands of other home owner Americans.

Relief Requested

Petitioner, Christopher Dawson requests this court of appropriate Jurisdiction to

- Vacate and Declare the Wareham District Court's Judgement on Docket Number 1160SU000102 void.
- Order examination of petitioner's foreclosure deed evidencing "Sales" to oneself; Litton foreclosure sales to Litton, be subject to true test as set forth by CFPB.
- Order the Consumer Financial Protection Bureau an agency of the U.S. Government to provide the petitioner his rights as mandated by agency's own rules in pursuing the said wrongdoings by the defendants. Further order the agency to establish protective guideline to regulate "inside dealing" by mortgage servicers - such as Litton, so that in future, adequate and timely assistant will be available to consumers like petitioner.

- Any other remedy that court deem justifiable for petitioner and consumers alike.

Respectfully submitted,


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