

IN THE SUPREME COURT OF THE UNITED STATES

Bernice Rutland,

Appellant

v.

NO. 2022-CA-00720-COA

Regions Bank as Trustee of the
William Hunter Rutland Family Trust

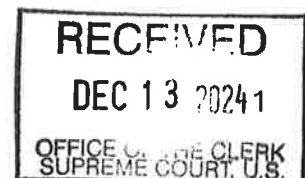
Appellee

**APPLICATION FOR A FURTHER EXTENSION OF TIME TO
FILE PETITION FOR WRIT OF CERTIORARI PURSUANT TO RULE
13(5)**

To THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE AND
CIRCUIT JUSTICE FOR THE STATE OF MISSISSIPPI:

Pursuant to 28 U.S.C. § 2101 (c) and Rule 13, and Rule 29 (1)(2) of the Rules of this Court. Applicant, Bernice Rutland, Pro Se, respectfully requests a further extension of time, to and including January 17, 2025, within which to file a Writ of Certiorari to review the judgement of the Mississippi Court of Appeals in this case. The Mississippi Court of Appeals opinion was filed on January 16, 2024, Exhibit "A" and a timely-filed Petition for Rehearing was denied on May 21, 2024, without an opinion, Exhibit "B." The Mississippi Supreme Court denied a timely-filed Writ of Certiorari on August 21, 2024, "Exhibit "C". The Chancery Court of Coahoma County Final Order of June 17, 2022, Exhibit "D".

Bernice has already been granted a 45-day extension, 24A489, through January 03, 2025, however has recently discovered that the supreme court press, legal printer, will be closed from December 20, 2024 until January 01, 2025, and believes that good cause exists for further extension.



Unless extended, the time to file a petition for a Writ of Certiorari will expire on January 03, 2025. This Court has jurisdiction over the judgement under 28 U.S.C. § 1257(a).

Bernice acknowledges that review of a writ of certiorari is not a matter of right but of judicial discretion. However, this case presents one of national importance and significance because it conflicts with well-established rules and principles of summary judgement and conflicts with this Court and other Federal Courts.

This case also involves Fed. Rules of Evidence, Article II. Judicial Notice, Rule 201. (e) taking in the final order to reach a conclusion of law without giving defendant, Bernice Rutland, the Opportunity to be Heard.

On April 16, 2021, Regions filed a Petition for a Declaratory Judgement against Bernice Rutland, Individually, and as Executrix of the Estate of William Hunter Rutland, Sr. This case is about an irrevocable trust worth \$500,000.00 plus interest, that was divided 50/50 in a Property Settlement Agreement along with the other assets in the divorce of William Rutland and Joann Sparks Rutland. The Property Settlement Agreement was made between William and Joann and their attorneys, carefully going over every detail and even making handwritten adjustments in Joann Sparks Rutland's attorney's office, M. Lee Graves. Mr. Rutland's attorney was not there. The hearing on the divorce was on December 03, 2010, and the Final Decree of Divorce upon irreconcilable Difference was filed on December 06, 2010. The agreement was presented to the Honorable William G. Willard, Jr., who presided over the case. There was no testimony on this case. The Trust Insurance policy was

included in the 50/50 split. The chancellor in the order of June 17, 2022, Exhibit "D" line 5 acknowledges the fact that the trust was included in the Property Settlement Agreement.

Bernice filed a Motion on July 15, 2021, to do depositions on Gwendolyn Kyzar, Misty Singletary, and others, however, the trial court denied motion on November 29, 2021 to do depositions and Bernice was granted only limited Rule 56(f) relief only to produce relevant documents. Bernice produced the following:

1. The Property Settlement Agreement.
2. The Final Divorce decree.
3. A case that Mr. Rutland presented to the judge in his divorce of 2010, from the Supreme Court of Montana, which was similar.
4. A copy of the Trust, where the asset page "A", is blank.
5. The financial statement of William Rutland, which includes the trust.
6. Four (4) notarized statement one from Joann Sparks Rutland and the three (3) children, William Jr., Melanie and Lady, being together during the time of the divorce in M. Lee Graves office.
7. Two (2) letters of communication between both attorneys, for some reason both letters were filed with the court by M. Lee Graves, on March 03, 2011. These letters were not adjudicated facts, only communication between two attorneys and filed 3 months after the final order of divorce.

Regions provided:

1. The same trust agreement that Bernice had with the asset section "A" being blank.
2. A sworn affidavit from Misty Singletary; however, Ms. Singletary did not produce the documents she swore under oath that these documents were attached to the affidavit, and she did not have firsthand knowledge of those records that were never provided.

Ms. Singletary was one of the witnesses Bernice wanted and needed to take the deposition of but was denied. Regions did not meet the burden of proof on Summary Judgement base on case law, *Celotex Corp. v. Catrett*, 477 U.S. 317, 333 (1986).

In the Chancery Courts Final Order, on Bernice's Motion for Reconsideration of Order Granting Motion for Summary Judgment and Request for Specific Findings of Fact and Conclusion of law, the court took judicial notice and conducted some research of its own in the divorce file between the decedent and the late Joanne Sparks Rutland. Exhibit "D" (ii) page 5. The trial court in this case was not the same Chancellor that presided over the divorce in December 2010. Judicially noticed was a Contempt Order, Line 6, "Exhibit "D" and Consent Order, Exhibit "D", and stated what was in those orders. Neither the contempt nor the consent order was in the record. The trial court introduced questionable evidence that was not made available to Bernice and used a letter dated March 03, 2011, from Joann Sparks Rutland's attorney that was only communication between two attorneys and not an adjudicated fact, and was never presented to the trial court in the December 03, 2010 divorce hearing. This letter was used with the judicial notice information to change the Final Order of December 03, 2010, of the Honorable William G. Williar, Jr., a decision that was never appealed. *In American Prairie Const. v. Hoich, 560 F.3d 780, 797 (8th Cir. 2009)*, When taking judicial notice of adjudicative facts, the judge is required to use the procedures set forth in Fed Rule of Evidence 201. "One of the requirements of Rule 201 is procedural, namely, that the parties be given notice and an opportunity to object to the taking of judicial notice." *United States v. Hoyts Cinemas Corp., 380 F.3d 558, 570 (1st Cir. 2004)*; see also Fed. R. of Evidence. 201(e) ("A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial

notice and the tenor of the matter noticed)". Since the judicial notice was first taken in the Final Order, Bernice was denied her right to be heard.

Even the Supreme Court of Mississippi that denied Bernices writ on August 21, 2024, has stated; The Supreme Court of Mississippi further stated in, *Id. Enroths*, one further point requires note." *Rule 201(e)* provides that a party affected by the Court's taking judicial notice of a fact is entitled to an Opportunity to be Heard. This accords with our pre-rules law. *Eidt v. City of Natchez*, 421 So.2d at 1230-31. In our February 21, 1990, order for remand, we directed that the Chancery Court "afford the Enroths a reasonable opportunity to be heard in opposition." *Enroth v. Memorial Hosp. at Gulfport*, 566 So. 2d 202, 205 (Miss. 1990).

This would also second guess the decision of the Honorable William G. Willard, Jr., the Final Order of December 03, 2010, Thirteen (13), years later. This divorce Property Settlement Agreement was never appealed and would set a bad precedent.

Summary Judgement was improperly granted, and the chancery court erred when it took Judicial Notice on its own in the final Order and did not give Bernice Rutland the Opportunity to be Heard per Rule 201(e). The fact that the judge took judicial notice to find a conclusion of law only proves that there were still disputed material facts.

Appellant has already been granted a 45-day extension, 24A489, through January 03, 2025, however, has recently discovered that the supreme court press, legal printer, will be closed from December 20, 2024 until January 01, 2025, and believes that good cause exists for further extension. Bernice is pro se and has been

working on three (3) separate cases since her previous attorney quit, and all the cases seem to have run together. Besides the above case, Rutland v Regions, there are two other cases; A writ of Certiorari, Bernice Rutland v Robinson Properties, L.L.C., et al. that was due by October 25, 2024, NO. 24-491 and Bernice Rutland v Todd C. Stewart 2023-720, Arkansas. Bernice has continued all three cases and has completed every motion and appeal and has never been late on any of these cases.

For the foregoing reasons, Appellant, Bernice Rutland, prays that an Application for a Further Extension of Time through and including January 17, 2025, be granted to finish the Writ of Certiorari in the above case and have it printed.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Bernice Rutland, do hereby certify that I have e-mailed a copy of this motion on December 10, 2024, to the following:

Butler Snow LLP
John Dollarhide
Phone 601-948-5711
Email john.dollarhide@butlersnow.com



Bernice Rutland