Case Number 21-1978

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

DEBRA BROWN

Plaintiff-Appellant

v.

BANK OF AMERICA CORPORATION; FANNIE MAE

Defendants-Appellees

On Appeal from the United States District Court for Massachusetts
Case No. 1:10-cv-11085
The Honorable George O'Toole

PETITION FOR REHEARING OF APPELLANT DEBRA BROWN

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Plaintiff-Appellant

September 2, 2024

PETITION FOR REHEARING

For it is written in 1 Corinthians 1; 27

> God chose the foolish of the world to shame the wise, and God chose the weak of the world to shame the strong, and God chose the lowly and despised of the world, those who count for nothing to reduce to nothing those who are something, so that no human being might boast before God.

This Appellant is foolish[1], weak and counts for nothing but en route to the U.S. Supreme Court she petitions this U.S. Court of Appeals for the First Circuit for a rehearing or confirmation of the August 26, 2024 decision (Exhibit A) ("decree") by three of your members that is beyond my comprehension. This matter was fully briefed in June 2022 and after two years, two months and no oral argument the panel decreed ***that there is no merit to law and facts in the First Circuit.***

The panel decreed that (1) the U.S. Government can take homes of U.S. citizens (who by admission of all parties was not in default on her mortgage) without due process; (2) void judgments (decided by a U.S. District Court Judge with a reported long-standing financial relationship with one of the parties) are not void and the argument that they are void is without merit; and (3) all evidence submitted to the Court establishing facts

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[1] Since my first day in law school some thirty-nine years ago I loved the law. I remember the first day and the lecture on professional responsibility. Do not drink and drive, always pay your bar dues on time and avoid conflicts of interest. Mantra the wheels of justice grind slowly, but slowly they do grind.

beyond a reasonable doubt (including a contract between the U.S. Treasury and Federal National Mortgage Association ("FNMA") designating FNMA as their financial agent) – mooting the Montilla decision that the Court relied on in support of their decree - are without merit.

By issuing this decree, this Court[2] understands that they are unleashing an evil of such magnitude as is unimaginable into a Commonwealth where daily newsfeeds include videos of families sleeping in the International Terminal of Logan Airport for months and now on MBTA station platforms.[3]

That this Court understands that Harmon Law (Exhibit B) is responsible for more deaths in this Commonwealth than murders, vehicles, tobacco and cancer over the last fifteen years. Harmon Law is responsible for destroying nearly every court and registry in the Commonwealth with toxic fraudulent affidavits and filings. This Court through this decree affirms that the United States Constitution and the Bill of Rights no longer

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[2] In fairness the Court is not the only responsible party as all the lawyers and all the law firms who have participated in this matter from the start are equally responsible.

[3] A ruling in favor of Appellant in this matter would have no consequence except to show that there is a boundary set by the U.S. Constitution when taking property. There are no other Rule 30(b) depositions of FNMA Officers admitting that there was no default and hopefully not many decisions by Judges with the party's name on their financial statement for 15 years.

exist in the First Circuit and there is no integrity in this judicial system left to preserve.

This Court is aware that it is not just migrants sleeping on the streets – it is families of all walks of life.[4] So many families executed by Harmon Law on behalf of FNMA. When the law is gone – evil and death prevail.

This case was never about a house – but about the rule of law. No one should lose their home just because they have a mortgage and no other case was presented where the homeowner was not in default and the parties admitted that the homeowner was not in default.[5] This case is not about me but about you – everyone who reads these documents and fails to act. [6]

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[4] Recently in Northeast Housing Court I witnessed a Judge issue an execution to a young mother with two children and a six-week old baby. She did not know what the word "execution" meant and he told her she had time to figure it out.

[5] In response to a Rule 28J filing of a decision in the Second Circuit that voided a District Court Judge's decision where his wife owned Bank of America stock, the Appellees states "Here, Judge O'Toole *previously* owned Bank of America shares, but sold them *before* taking the case in 2010, retaining only a deposit account. *See* Dist. Ct. Dkt. 76 Ex. E. Hence, he had no "conflict-creating ownership" of a defendant's shares while presiding. *See Litovich* at .4. Yet Rule 1.7 of the Massachusetts Code of Professional Responsibility states: A conflict of interest may exist before representation is undertaken, in which the representation must be decline. Makes it look like the judge sold his shares to rule in favor of the bank. Appellant does not know the nature of the Judge's financial interest in Bank of America except that it is reported for over 15 years in the Judge's report to the Administration that he signed.

[6] One Goodwin attorney filed an appearance in this matter and then quickly withdrew – he won a case in the U.S. Supreme Court.

Imagine if everyone who read this called the Goodwin counsel and complained, instead everyone says they are "not surprised" by this Court's decision.[7]

Justice Thurgood Marshall opened his dissent in Payne v. Tennesee with this line: Power, not reason, is the currency of this new court's decision making.

In Sherrily Ifill's Remarks on the Future of Our Democracy from the 2022 ABA Thurgood Marshall Award Ceremony she stated:

> "We are in a moment of grave democratic crisis. Not saying it doesn't change the truth. We're in a crisis moment, and I hope that you all will feel inspired, encourage and convicted to behave as though we are in a crisis moment and that you will use your voice in this important organization to ensure that we uphold the oaths that every one of us took when we became lawyers. Democracies unravel when the rule of law unravels. There is no place that is a democracy that doesn't uphold the rule of law. So, we're an essential part of the future of this country."

Void not Voidable

> 28 U.S.C. §455(b)(4) requires a Judge with a financial interest in one of the parties to refrain from presiding in that case. If the Judge accepts the case assignment with a conflict– all rulings and judgments are void not voidable.
>
> A void judgement is from its inception a legal nullity.

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[7] That statement made by a countless number of lawyers amplifies the loss of integrity in this Circuit, but I ask what have they done to try to change it? That is what this matter was about.

CONCLUSION

There was never any loss to the Appellees in this matter - neither admits to being a real party of interest (financial investment in the property) in the proceeding. Wherefore, this petition requests a "rehearing" and a "hearing" of this matter with a panel that applies the law to facts and the facts to the law. This Appellant is foolish, weak and counts for nothing but would lay down her life to save a child and probably anyone in distress.

RESPECTFULLY SUBMITTED
BY APPELLANT:

/Debra Brown/

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September 2, 2024

CERTIFICATE OF COMPLIANCE

I certify that this petition complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) because (1) the brief contains 816 words excluding parts of the brief exempted by Fed. R. App. P. 32(f) and (2) the petition complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this petition has been prepared in 14 point font proportionally spaced using Times New Roman font.

Dated: September 2, 2024

/s/ Debra Brown
Debra Brown
Attorney-Pro Se

CERTIFICATE OF SERVICE

I, Debra Brown, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on September 2, 2024.

/s/ Debra Brown
Debra Brown

Exhibit A

United States Court of Appeals
For the First Circuit

No. 21-1978

DEBRA BROWN,

Plaintiff - Appellant,

v.

BANK OF AMERICA CORPORATION; FANNIE MAE,

Defendants - Appellees.

Before

Kayatta, Gelpí and Rikelman,
Circuit Judges.

JUDGMENT

Entered: August 26, 2024

Plaintiff-appellant Debra Brown appeals from the denial of her motion pursuant to Fed. R. Civ. P. 60(b)(4). Having considered all of the parties' submissions and the record, we affirm the denial of plaintiff's Rule 60(b)(4) motion as both untimely and meritless. See, e.g., Farm Credit Bank of Baltimore v. Ferrera-Goitia, 316 F.3d 62, 66-67 (1st Cir. 2003) (six and a half year delay in bringing Rule 60(b)(4) motion was "extreme" and "untimely" "[b]y any measure"); Montilla v. Fed. Nat'l Mortg. Ass'n, 999 F.3d 751, 759-60 (1st Cir. 2021) (holding, in pertinent part, that Fannie Mae is not a government actor subject to mortgagors' Fifth Amendment due process claims), cert. denied, 142 S. Ct. 1360 (2022). We add that plaintiff's recusal argument regarding the district court judge lacks merit.

The order of the district court is affirmed. All pending motions, to the extent not mooted by the foregoing, are denied. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:
Debra M. Brown
James W. McGarry
Chad W. Higgins
Edwina Clarke
Marissa I. Delinks
Thomas Joseph Walsh
Neil David Raphael
Samuel Craig Bodurtha

Exhibit B

COMMONWEALTH OF MASSACHUSETTS

ESSEX , ss.

HOUSING COURT DEPARTMENT
OF THE TRIAL COURT
NORTHEAST DIVISION
DOCKET NO. 12H77SP003422

FEDERAL NATIONAL MORTGAGE ASSOCIATION
PLAINTIFF,

V.

DEBRA M BROWN [redacted] AND
ALL OTHER OCCUPANTS,
DEFENDANTS.

PLAINTIFF'S MOTION TO VACATE STAY, ISSUE EXECUTION AND RELEASE ESCROW FUNDS.

Now comes the Plaintiff, Federal National Mortgage Association ("Fannie Mae" or "Plaintiff"), and requests that the Court: 1) vacate the stay imposed by its Orders dated August 17, 2018 and September 5, 2018, 2) issue an execution for possession forthwith, and 3) Order that any appeal bond and/or use and occupancy payments made by Ms. Brown pursuant to this Court's previous Orders, shall be paid to Fannie Mae. As grounds for this motion, Fannie Mae states as follows:

1. Fannie Mae acquired title to 99 Homestead Circle, South Hamilton, Massachusetts, 01982 (the "Property"), following a foreclosure sale on May 10, 2010.
2. Debra M. Brown [redacted] ("Ms. Brown" or "Defendant") is the former owner who continues to hold over and remain in possession of the Property following the foreclosure.
3. On October 7, 2015, this Court entered a judgment for the Plaintiff.

4. Following a notice of appeal, the Court ordered Ms. Brown to pay $1,500.00 per month to the Court in use and occupancy payments, in lieu of an appeal bond. Ms. Brown complied with the Court's Order, making payments totaling $40,000 during the course of her (first) appeal.

5. The Appeals Court affirmed the Court's judgment on May 16, 2017.

6. The Supreme Judicial Court ("SJC") denied Ms. Brown's request for further appellate review on December 21, 2017.

7. On August 17, 2018 and September 5, 2018, this Court entered Orders staying the execution pending the disposition of appeal(s) that had been filed by Ms. Brown in other cases.

8. In the more than six years that followed, Ms. Brown embarked upon a scorched earth litigation campaign by filing actions in several state and federal trial and appellate courts (including multiple petitions for certiorari to the U.S. Supreme Court) challenging the underlying foreclosure sale.[1]

9. On May 8, 2019, the Court ordered Ms. Brown to pay use and occupancy in the amount of $1500 per month to the plaintiff's attorney to be held in escrow pending further order of court.

10. On May 12, 2023, the Court entered an Order that the appeal bond/escrow funds should continue to be held by the Court in escrow pending a disposition of Ms. Brown's pending appeals before the SJC and the United States Court of Appeals for the First Circuit ("First Circuit").

[1] For the sake of brevity, Fannie Mae declines to summarize all of the cases filed by Ms. Brown as they are not necessary or relevant to the Court's determination of this motion.

11. On May 16. 2023. the SJC affirmed a decision of a single justice denying Ms. Brown's request for relief under the SJC's superintendence powers under G.L. c. c. 211. § 3. A copy of the SJC's decision is attached as **Exhibit A**.

12. In a judgment dated August 26. 2024. the First Circuit disposed of Brown's pending appeal "affirm[ing] the denial of [Brown's] Rule 60(b)(4) motion as both untimely and meritless." A copy of the First Circuit's decision is attached as **Exhibit B**.

13. To the best of Fannie Mae's knowledge. information and belief. there are no other cases brought by Ms. Brown concerning the foreclosure sale and Fannie Mae's title pending adjudication.

ARGUMENT

Fannie Mae acquired this Property at a foreclosure sale nearly fourteen years ago and obtained a judgment for possession from this Court more than eight years ago. Despite this. Fannie Mae has been unable to take possession of its Property due to the pendency of excessive litigation brought by Ms. Brown in the trial and appellate courts of the Commonwealth and in the federal court system. Ms. Brown has had a full and fair opportunity to contest the foreclosure and Fannie Mae's title in this case and in several other venues. but her challenges have been unsuccessful. Following the First Circuit's recent judgment. each of Ms. Brown's appeals have been decided and it is no longer necessary or appropriate to continue to stay the execution and delay the lawful transfer of possession to Fannie Mae.

In addition to issuing the execution. Fannie Mae also requests that the Court order that the appeal bond and any use and occupancy payments made by Ms. Brown be forfeited to Fannie Mae. Ms. Brown has remitted $40.000 to the Court and $96.000 to Fannie Mae's counsel to date. Although these sums seem large. these payments were intended to compensate Fannie

Mae for the extreme delay(s) in taking possession of the Property due to the pendency of other proceedings.

WHEREFORE, the Plaintiff, Federal National Mortgage Association, respectfully requests that this Honorable Court:

1. Vacate its stay orders dated August 17, 2018 and September 5, 2018;
2. Issue an Execution for Possession forthwith;
3. Order that the funds being held by the Court in lieu of an appeal bond shall be released to the Plaintiff;
4. Order that the Use and Occupancy payments held by Fannie Mae's attorneys may be remitted to the Plaintiff; and
5. Grant such other relief as the Court deems just and proper.

Respectfully submitted,
FEDERAL NATIONAL MORTGAGE ASSOCIATION
By its Attorneys,

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Dated: August 28, 2024