No. _____

In the

Supreme Court of the United States

In Re: *Anthony Pappas*,

Petitioner.

Petition for Writ of Certiorari
to the United States Court of
Appeals for the Second Circuit

PETITION

February 27, 2019

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QUESTIONS PRESENTED:

1) Did the Second Circuit Court of Appeals commit reversible error when it denied a Writ of Mandamus sought by Petitioner as a candidate for Congress to prevent the seizure of his campaign funds by a state divorce court in a case subject to recurrence?

2) Under the extraordinary circumstances of this case featuring a four-month conversion of federal campaign funds by a bank, divorce lawyer and ex-spouse, was it a neglect of duty for the Second Circuit Court of Appeals to allow a federal district court to delay decision on an emergency application until after Election Day?

3) In a two-sentence summary order, was it serious error for the Second Circuit Court of Appeals to disregard a prior restraint on free speech issued in 2011 by a divorce judge along with other retaliatory impositions which seriously harmed a candidate's ability to campaign for federal office?

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The final order of the United States Court of Appeals dismissing Petitioner's original mandamus action in the Second Circuit was filed on December 21, 2018. It is not a reported opinion and is reproduced in the Appendix at 1a

JURISDICTION

The summary order of the United States Court of Appeals for the Second Circuit was filed on December 21, 2018. Jurisdiction is proper under 28 USC 1254(1) and the All Writs Act, 28 USC 1651.

CONSTITUTION AND STATUTES

The First Amendment provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The Fourteenth Amendment provides in relevant part that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person the equal protection of the laws."

28 USC Section 1651(a), the All Writs Act, provides:

The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

42 USC section 1983, Civil Rights Act of 1871, provides, in relevant part:

> Every person who under color of law of any statute, ordinance, regulation, custom or usage, of any state... subjects, or causes any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law.

STATEMENT OF THE CASE

Petitioner Anthony Pappas brought an action in the United States District Court for the Eastern District of New York on July 24, 2018 pursuant to the All Writs Act, 28 USC Section 1651 to challenge violations of federal Election Law. As a candidate for Congress in New York's 14th district, he sought emergency relief when his campaign funds were seized through a property execution issued by a divorce lawyer under authority of a divorce court. He also sought related relief under 42 USC section 1983 to remedy violations of his federal statutory and constitutional rights, 5a.

Petitioner sought emergency relief by way of a show cause application executed on July 24, 2018 regarding the first of two notices of seizure sent to him by TD Bank earlier the same month, 2a. The bank was named as a defendant in Petitioner's action in addition to his divorce judge, opposing divorce lawyer and ex-spouse because this is where his campaign account had been established under its own name and tax identification number. That show cause application asked the district court to temporarily restrain the pending seizure of campaign funds until an injunction could be litigated.

Two weeks later, in August, 2018, District Court Judge Joanna Seybert issued a scheduling notice to decide Petitioner's emergency application without signing his proposed show cause order. That process continued without decision until after Election Day on November 6, 2018. Later that month, Judge Seybert offered the parties an option of filing motions directed to Petitioner's Verified Complaint which is reproduced in its entirety in the Appendix at 5a. As of the time of this Petition, there is no decision issued on the motions and cross-motion which were eventually filed.

Because Petitioner was dependent on the campaign account for the viability of his race for Congress, and because the eventual seizures of donated funds could recur during this campaign and later ones, an original action was filed in the United States Court of Appeals for the Second Circuit seeking extraordinary relief pursuant to Rule 21 of the Federal Rules of Appellate Procedure. It was brought in the nature of mandamus but drew upon the full supervisory and equitable authority of the appeals court to direct a restraint upon

the executions pending before Judge Seybert. That relief was denied in a one page, two sentence order issued on December 21, 2018. Relief was denied "because Petitioner has not demonstrated that exceptional circumstances warrant the requested relief." The court cited *In re von Bulow*, 828 F.2d 94, 96 (2nd Cir. 1987) as its lone authority, see Appendix at 1a.

For background, in March, 2018, Petitioner was endorsed by the Republican Party committees of Queens and Bronx counties as their candidate for Congress in New York's 14th District. Accordingly, a campaign account was set up to facilitate his campaign. Petitioner opened this account as "Anthony Pappas for Congress" with a tax identification number that was different from his personal social security number.

The Respondent below, TD Bank, located in Astoria, Queens County, New York was entrusted with the monies deposited in this account. One month after its creation, donations began emerging from persons across the country. The nationwide draw arose unexpectedly because on June 26, 2018, Alexandria Ocasio-Cortez defeated longtime incumbent Joseph Crowley in the Democrat primary in the same election district (Northern Queens and Eastern Bronx).

The upset victory gained national headlines as the primary winner proceeded to campaign across the country with the likes of current presidential candidate Bernie Sanders. Their joint progressive agenda caused opponents to make donations to this account for the prime objective of defeating Ms. Ocasio-Cortez in the general election set for November 6, 2018. In contrast,

relatively few donations arose from persons within the 14th Election District, believed, in part, to be caused by a voter registration ratio of six-to-one Democrats over Republicans. Petitioner was also a political newcomer.

The contributors donated such monies exclusively for campaign purposes, and Petitioner was prohibited by federal Election Law, with certain exceptions, from applying them for any non-campaign purpose under penalty of criminal prosecution. However, because of a divorce case in New York state court, still ongoing after more than fourteen years, Petitioner was made subject to various impositions which seriously impeded his candidacy, including an overbroad restraining order on all accounts, direct or indirect, for purposes of equitable distribution of marital assets.

The divorce case was filed against Petitioner in December, 2004 and the restraint on accounts was issued on December 12, 2013 by state Supreme Court Judge Hope Schwartz Zimmerman. Respondent Henry Kruman operated a divorce practice at 353 Hempstead Avenue; Malverne, New York, and Respondent Maria Pappas was his divorce client for most of that divorce case. Since 2013, they have issued restraining notices on individual and joint accounts belonging to Petitioner and various third parties including his adult children.

Judge Zimmerman denied motions and requests by Petitioner to lift the overbroad restraints or limit their scope between the years 2014 and the time of her self-recusal in 2017. Her replacement, Respondent Judge Lorintz denied Petitioner's motion and request to do the same from that year to the time of the campaign for

Congress. This left Petitioner with only a partial salary after garnishment. More bizarre, it created a condition of having restrained assets unavailable for payment of the unsatisfied portion of judgment.

The unpaid divorce judgment was a substantial amount approximating one million dollars accruing interest at 9% annually. National and local media exploited that fact during the campaign after making inquiries into Petitioner's divorce case. Without a clear understanding of the foregoing anomaly, they depicted Petitioner as a delinquent bent on depriving his ex-spouse of her divorce entitlements.

Petitioner's ability to defend against such public accusations was further impaired by a gag order imposed in 2011 by a prior assigned divorce judge. It was directed at all of Petitioner's court criticisms both in and outside of proceedings. That order has remained intact without modification or limitation by any of the judges assigned to date. The latest one, Judge Joseph Lorintz, has also done little or nothing to expedite the satisfaction process. Petitioner has maintained that this protracted interest penalty period is, in reality, yet another punishment for his public criticisms of the Nassau County divorce courts and judiciary in general.

The protracted and overbroad restraint was then exploited to harm Petitioner's campaign and its donor-based account at Respondent TD Bank. The above described actions and inactions were not a part of any good faith divorce process. They were also far distinct from the events which formed the subject matter behind a federal court action which Petitioner brought

to challenge the earlier orders in 2013, cited as *Pappas v Zimmerman*. That case was dismissed one year later. Events since then occurred in retaliation for offensive speech exercised before and during the campaign.

During that campaign for Congress, Petitioner exposed a corrupt divorce process in reply to media inquiries. His replies necessarily included a hearing officer's fabricated findings of physical abuse of the Respondent ex-wife during the parties' marriage. In a 2010 decision footnote, Petitioner was found to have caused some $8,000 in reconstructive surgery to the ex-wife's face without any medical records or incident reports to back it up. There were also false narratives about threats made by Petitioner during proceedings "in the idiom used by the perpetrator of the Fort Hood Massacre."

This 14-year divorce case then became a major focus of the campaign with scant campaign funding to counter it. Judge Zimmerman endorsed such fabrications made by earlier assigned judges to issue a 20-year protection order in 2013 contrary to established procedure and without any request from the allegedly injured ex-wife. Petitioner's reputation as a professor of economics at St. John's University was thereby severely disparaged. All efforts to correct this false court record failed, and Judge Lorintz refused to take corrective action as well.

So harmed was the Petitioner that he offered to surrender himself for criminal prosecution after presenting these judicial findings to the FBI and local district attorney. Both refused to take any action on the felonies which such findings would otherwise support. Petitioner's publication of these injustices caused a

systemic bias in the state divorce case. A series of judge assignments further complicated a timely conclusion. In March, 2017, Judge Zimmerman recused herself without motion, order or explanation and was replaced by Respondent Judge Joseph Lorintz.

These and other draconian impositions were made in retaliation for Petitioner's exposure of corruption in these courts. Such conclusion was easily made by the proximity of impositions to the public criticisms coupled with their extreme and irrational nature. A divorce judgment exceeding $2 million for marital asset distribution was issued by Judge Zimmerman against Petitioner in 2013 and modified downward on appeal by the Second Department in 2015. However, the restraint and process have continued indefinitely with delayed executions and no expedited recourse as sought by Petitioner before Judge Lorintz.

These impositions also placed campaign volunteers at risk of third-party contempt of the gag order and a reluctance to be identified in any manner with the Pappas campaign. Campaign volunteers dwindled to only a few active participants by Election Day, and donations failed to exceed $15,000 altogether. In short, the maliciously protracted divorce seriously harmed all aspects of Petitioner's liberties. The citizenry was denied a choice in the federal election process while guaranteeing Ocasio-Cortez' victory on Election Day.

Efforts to raise funds, and thereby diffuse the adverse media reports, were crushed by the first of divorce judgment levies occurring on July 10, 2018 in the amount of $1,718.69. Petitioner advised TD Bank of his

protest under the federal Election Law, but no action was taken to set aside the funds while judicial review could be had in a court of proper jurisdiction. Similarly, Respondents Lorintz, Kruman and Maria Pappas failed to withdraw or rectify these levies by motion or otherwise after full knowledge of their impropriety was given to them when this action was filed and served.

REASONS FOR GRANTING WRIT

A writ is crucial in this extraordinary case to establish precedent in matters of campaign financing and to prevent state interference in federal elections. A theft of campaign funds occurred under authority of a divorce judge who refused to limit or vacate an overbroad restraining order on all accounts containing any resemblance to "Anthony Pappas." With the ongoing bias existing in his state divorce case and deprivation of discovery in the pending federal action, Petitioner is unable to learn about bank practices that could impact other victims. Such bias was then abused by the remaining Respondents to complete this theft.

Despite such facts, the Second Circuit Court denied Petitioner's Application for a Writ of Mandamus brought pursuant to Rule 21 of the Federal Rules of Appellate Procedure. That Application sought an order directing the district court judge to rule upon Petitioner's emergency application for relief, 2a. Alternatively an order was sought against the Respondents directly. A single case was cited in the Second Circuit order denying mandamus relief, *In re Von Bulow*, 828 F.2d 94, 96 (2nd Cir. 1987). 1a.

In Von Bulow, mandamus was deemed proper to decide a discovery issue bearing upon important aspects of attorney-client confidentiality. Such confidentiality would be rendered moot if not addressed by mandamus, i.e. the horses could not be put back in the barn on appeal should the confidentiality rule prevail over a claim of waiver. In that decision, the Second Circuit analyzed cases of this Court.

For example, in Schlagenhauf v Holder, 379 US 104, 110 (1964), this Court held that mandamus should not be used as a substitute for appeal and that it is reserved for extraordinary situations. The Second Circuit itself fleshed out extraordinary circumstances in Von Bulow by citing a "usurpation of power, clear abuse of discretion and the presence of an issue of first impression," American Express Warehousing Ltd v Transamerica Co. 380 F.2d 2787, 283 (2nd Cir. 1967).

However, when the Second Circuit applied such rulings to this case, the same circumstances incurred a disappearing act. How much more extraordinary can a case be than one which raises a case of first impression involving a theft of federal campaign funds by a state divorce court? How can the motions still pending in the district court or an appeal therefrom restore Petitioner to active campaign status in July, 2018 when donations were beginning to take shape? What does such an extraordinary theft mean for future campaigns?

To detract from this theft, Respondents jointly asserted in their district court motions that the federal Election Law provides no right of action to a candidate or private

party and that the lack of subject matter jurisdiction precludes a decision here on the merits. If correct, such reasoning would mean that a theft of monies needed to properly exercise free speech in a federal election process is not a civil rights violation. It would also promote acts of a criminal nature since these are third party funds obtained in 2018 which could form no part of a marital estate or divorce court jurisdiction.

None of the Respondents named here can defend on grounds of civil negligence, inadvertence, mistake or ignorance because detailed notice was provided to all by this civil suit filed and served by August 1, 2018. Nevertheless, on November 26, 2018, subsequent to the filing of this action, a second levy was made by the same three parties in the amount of $1,699.16 bringing the campaign account to a negative balance. That execution was maliciously or recklessly made based on the venom exhibited against Petitioner throughout the fourteen-year divorce and equitable distribution case.

Petitioner was effectively prevented from seeking relief in his divorce proceedings due to the bias sufficiently explained in the foregoing Statement of the Case and Appendix. In addition, because the Federal Election Commission lacked jurisdiction over a state court, federal court became the proper avenue for recourse. At the very least, mandamus was necessary to decide jurisdiction so that recourse could be sought in a proper forum. A timely restraint and disposition would be consistent with the Second Circuit's supervisory duties over lower district court judges. It would also be consistent with the duties of all federal courts to hear and decide federal claims under the Constitution.

Point One: The Second Circuit Court of Appeals committed reversible error when it denied a Writ of Mandamus sought by a candidate for Congress to prevent a seizure of federal campaign funds by a state divorce court.

This Petition should be granted to preserve the integrity of our nation's election process. It features a candidate for high federal office, thereby elevating public interest in multiple contexts. Undisputed facts raise vital issues of suffrage, free speech and due process in addition to statutory regulation.

Petitioner believes that his emergency application to prevent a theft of campaign funds in federal district court was purposefully delayed so as to render it moot after Election Day. Such bad faith, however, is easily overcome on established exceptions to justiciability defenses and other technical obstacles. This Petition features a case capable of repetition in future elections. Hence it is fully justiciable under authority dating back to the landmark decision in Marbury v Madison, 5 US (Cranch) 137 (1803). See also Roe v Wade, 410 US 113 (1973). Such an exception needs no elaboration here.

In the courts below, defense counsel asserted that a private right of action does not exist under the Federal Election Law, hence the district court, and by extension the Second Circuit, lacked subject matter jurisdiction to entertain Petitioner's claims. However, no case on point was raised anywhere in the dismissal motions still pending for decision, making this a case of first impression and ideal for adjudication by this Court.

A summary of cases raised and distinguished in the motions and cross motion below begins with Dekom v New York. This was a challenge to state election requirements relating to the gathering of signatures (designating petitions) to qualify for placement on the ballot. It had nothing to do with a theft of campaign funds from a federal election account by a divorce court, lawyer and bank. Petitioner submits that other aspects of that case support his claims raised in the pleadings. For example, the standing and sovereign immunity defenses were denied in that case, and there was nothing so invasive as a theft of campaign funds needed to succeed in a congressional race.

In Hayden v Pataki, a convicted felon was challenging his disenfranchisement under state law based on his status as a criminal. The only parallel is the status of Respondents as potential criminals. Petitioner's case is highly distinct insofar as his exercise of speech and candidacy rights are at the core of First Amendment values. There is no "compelling state interest" for promoting criminal behavior simply to satisfy a longstanding divorce judgment. Petitioner's core Constitutional rights prevail over any rationalization being asserted to deny him a proper remedy.

In the next case relied upon by Respondents, Patterson v JP Morgan Chase Bank, the outcome was based on a seizure of a private bank account having nothing to do with free speech, federal election or a campaign account. The type of agreement relied upon in Patterson and by the bank here does not authorize a theft of funds placed in a separate account having a distinct purpose under federal law. The facts are

easily distinguished to make the bank a joint state actor in an intentional and unlawful conversion of funds after notice was clearly provided.

Finally, as a general proposition, Respondents assert that Petitioner was not an aggrieved party because he continued to exercise his free speech after the seizure of third-party funds. This is an utterly absurd argument which has no application here because it is tantamount to voiding the First Amendment.

Respondents are effectively stating that in order to show a constitutional violation, Petitioner should have resigned or suspended his campaign without any further speech and commentary about the election at the point when the funds were seized. Respondents are claiming that Petitioner should have relied on an arduous legal process before the FEC, divorce court, this Court or all three to avoid waiver of crucial rights or an erroneous choice of forums.

The Petitioner did, in fact, test such recourse with an immediate action and exigent application in the district court three weeks after notice of execution. However, as stated, that action remains pending even now, seven months later and long after the election concluded. Also as stated, resort to state court had been tested to no avail by motions and requests before Judge Zimmerman and/or her replacement, Judge Lorintz, to remove or modify the overbroad restraint and gag orders. These events occurred in 2016 and 2017 well after the dismissal of the earlier action.

Adding to the absurdity of Respondents' standing or aggrieved party defense is their assertion that a gag

order did not exist simply because its plain directive on the divorce court record was never acted upon. This sort of contempt by ambush or risk by trial is the same as arguing that a litigant can pick or choose which court order he cares to observe from one day to the next in this 14-year divorce travesty.

The extraordinary facts of this case permit a private right of action because there would be no remedy for a complete usurpation of our federal elections by state collection agents. A private right is also urged by the importance of rights violated under the United States Constitution, Bivens v Unknown Named Agents, 403 US 388 (1971); Mullen v Bureau of Prisons, 843 F.Supp. 2d (DDC 2012). In their motions for dismissal of the underlying action, Respondents shift from pre-2014 events encompassed by an earlier federal decision in *Pappas v Zimmerman* to present day events which are pigeon-holed into exclusive federal agency jurisdiction. Absent are the vital Constitutional issues.

Petitioner need not address arguments asserting the express absence of a private right of action in the language of the Election Law. Such right was intended by Congress in the context of this action. In analyzing such an intent, the Supreme Court has gone through an expansive and then restrictive phase over the years.

In Cort v Ash, 422 US 66 (1975), a four-factor test was established to determine whether a statute created a private right of action. They are: 1) whether the plaintiff fell in a class "for whose special benefit the statute was enacted" 2) whether there was an indication of an intent to deny or create such a remedy;

3) whether the remedy was consistent with the underlying purpose of the legislation; and 4) whether the subject of the cause of action was one traditionally reserved to state law.

This test was modified in more recent decisions to place the focus more squarely on whether Congress intended to provide for a cause of action in favor of a plaintiff, Touche, Ross & Co. v Redington, 442 US 560, 575 (1979); Wright v Allstate, 500 F. 3d 390, 395 (5th Cir. 2007). Hence, Petitioner here will address the four factors together on the issue of intent.

The campaign funds at issue in this case were intended to facilitate free speech and debate on crucial federal issues. They were not monies that came into a marriage that ended with a 2004 divorce action and decree several years later. Under no set of circumstances could it be argued that Maria Pappas or her divorce lawyer had any entitlement to these donated funds. Hence it cannot be said that their conversion was a proper subject for state redress.

These were funds donated by third parties through electronic transfers to a campaign website established by Nation Builder, a company devoted to campaign services nationwide which plaintiff had secured. Those funds were and remain highly regulated pursuant to a statutory scheme established by Congress to encourage participation in the election process.

The statute at issue here had a prohibitive aspect to it insofar as conversion by any person or misuse by the candidate was expressly made unlawful with both civil

and criminal consequences, i.e. Jackson v Birmingham Bd. Of Educ., 564 US 167, 173 (2005)(Title IX implies a private right of action because it *prohibits* sex discrimination). The Election Law expressly prohibits third parties from achieving through the back door that which cannot be done by the candidate or his campaign staff. Interference with the federal election process is at the heart of this Petition.

All supporter donations were documented individually on that Nation Builder website and diverted to the TD account. Petitioner' campaign had carefully monitored the donations to fulfill their duties under the same Election Law. All three Respondents had their own distinct duties to act by either withdrawing their levies or seeking a court order to determine any claims they believed they had, however absurd they may have been. Instead, they simply seized the entrusted funds for their own private purposes. This made them liable under 42 USC section 1983.

Had Petitioner withdrawn those funds and applied them to his divorce judgment, he would assuredly have been prosecuted as a criminal not unlike Michael Cohen and others engaged unlawfully in campaign activity. Under Title 52, section 30114, the statute cited in the pleadings, campaign donations into such a bank account are regulated by "Permissible uses" and "prohibited use." Satisfaction of a divorce judgment is neither expressly permitted nor expressly prohibited, but "conversion" of such funds by anyone is prohibited and may constitute a criminal violation.

Petitioner would not be able to timely rectify such a theft during the four months remaining in his campaign when the first July, 2018 levy was made. His filing of a complaint with criminal and prosecuting authorities would not save his campaign. Similarly, the Federal Election Commission would not be able to act timely given the complaint and administrative process to obtain a civil remedy. Instead, Congress imposed a duty upon a candidate and committee to safeguard such funds. That, in turn, translated into a private right of action properly taken before this Court.

A private right of action is backed by the overall scheme of Title 52 and the limitations of the Federal Election Commission. The statute's purpose is to facilitate federal election campaigns, candidacies and voting rights. Its provisions make clear that use of campaign funds for a private or non-campaign purpose subjects the "person" doing so to criminal and civil penalties. Person is broadly defined to include a wide range of individuals, corporations and organizations. All those named here presumably fall within that definition of "person" found at 52 USC section 30101(9). It is a term not limited to candidates or their campaign staff.

POINT TWO: It was serious error for the Second Circuit Court of Appeals to disregard a prior restraint on free speech issued by a divorce judge along with other retaliatory orders which seriously harmed a campaign for federal office.

Respondents are claiming authority to seize campaign funds under color of state law. In doing so they knowingly or recklessly impaired Petitioner's rights as a citizen, candidate and voter separate from any domestic relations case. This triggers jurisdiction and liability under 28 USC 1331 and 42 USC section 1983. The latter, Civil Rights Act of 1871, provides, in relevant part:

> Every person who under color of law of any statute, ordinance, regulation, custom or usage, of any state... subjects, or causes any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law.

Among those rights, free speech is paramount. In Snyder v Phelps, 562 US 443 (2011), Chief Justice John Roberts emphasized that "[S]peech on 'matters of public concern'...is 'at the heart of the First Amendment's protection,' " citing Dun & Bradstreet v Greenmoss Builders, 472 US 749, 758759 (1985). He also described this right as crucial to self-governance:

> The First Amendment reflects "a profound national commitment to the principle that

> debate on public issues should be uninhibited, robust, and wide-open," citing New York Times v Sullivan, 376 US 254, 270 (1964). That is because "speech concerning public affairs is more than self-expression; it is the essence of self-government," citing Garrison v Louisiana, 379 US 64, 74-75 (1964). Accordingly, "speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection," citing Connick v Myers, 461 US 138, 145 (1983).

Hence a private right of action is not only allowed but it is imperative to achieve the goals of Congress under these exceptional circumstances. Resort to the courts below was proper, at a minimum, to obtain a declaratory judgment against a state judge and civil damages against the remaining non-judge defendants. The state's sovereign immunity does not extend to these defendants in their individual or other capacities.

The divorce lawyer and his client, for example, were acting in an enforcement capacity and not as lawyer or client here, see i.e. Ferri v Ackerman, 444 US 193, 202, n. 19 (1979); Kimes v Stone, 84 F.3d 1121, 1128 (9th Cir. 1996). This Court should find a private right of action under the Election Law but it should also consider a more compelling right under the United States Constitution. Otherwise neither the statute nor Constitution would have a remedy to encourage political speech and candidacy. see Daniel Tokaji, Public Rights and Private Rights of Action: *The Enforcement of Federal Election Laws*, Vol 44, Indiana Law Review, 114.

Due to various immunities and abstention doctrines fashioned by our federal courts over the years, a great void is found in Supreme Court precedent on the subject of matrimonial law and as it interfaces with the United States Constitution. This has produced a clash between state and federal law that necessitates a proper forum for decision. The magnitude of violations and abuse of powers in the record brings this case outside of any domestic relations exception as well, see i.e. Marshall v Marshall, 547 US 293 (2006).

In Marshall, this Court emphasized that "the Ninth Circuit had no warrant from Congress, or from decisions of this Court, for its sweeping extension of the probate exception." Writing for a unanimous Court, Justice Ginsberg opened her opinion with an excerpt taken from Chief Justice Marshall in Cohens v. Virginia, 6 Wheat, 264, 404 (1821), to wit:

> "It is most true that this Court will not take jurisdiction if it should not; but it is equally true, that it must take jurisdiction, if it should .... We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given ....."

On this premise, decisions were fashioned to permit aggrieved victims of constitutional transgressions to find refuge in our federal courts as the principal forum for vindicating basic federal rights, see i.e. Colorado River Water District v. United States, 424 U.S. 800, 817 (1976)(federal courts are bound by a "virtually unflagging obligation ... to exercise the jurisdiction

given to them"); Ex Parte Young, 209 US 123 (1908); Gerstein v. Pugh, 420 U.S. 103 (1975); Supreme Court of Virginia v. Consumers Union, 446 U.S. 719 (1980); Dombrowski v. Pfister, 380 US 479 (1965) ; Roe v. Wade, 410 US 113 (1973).

While conflicting jurisdiction may be raised here, the rule is nevertheless "well settled that the pendency of an action in state court is no bar to proceedings concerning the same matter in the Federal Court having jurisdiction", McClellan v Carland, 217 U.S. 268, 282 (1910); McLaughlin v United Virginia Bank, 955 F. 2d 930, 934 (4th Cir. 1992).

Jurisdiction clearly exists in this Court and the courts below over the important constitutional questions raised in the pleadings. In contrast, jurisdiction in state court is not being exercised in good faith. Hence, the alternative ground for dismissal under Younger abstention is also unavailing, Younger v Harris, 401 US 37 (1971); Dombrowski v Pfister, 380 US 479 (1965)(bad faith prosecution and enforcement excepted in later Younger decision by citation to Dombrowski); see also Sprint Communications v Jacobs, 571 US 69 (2013)(lower federal courts abusing Younger Abstention doctrine).

CONCLUSION

By reason of the foregoing, Petitioner asks this Court to Grant a Writ of Certiorari on this case together with such other relief as may be just and proper.

February 27, 2019

Respectfully submitted,

Anthony Pappas, pro se