

No. 19-5165

In The

Supreme Court of the United States

Term of October 2019

Peter DeBellis, Michelle Stoprya Yaney,
Petitioners,

v.

The Superior Court County of San Bernardino,
Judge Bryan Foster.

**MOTION FOR RECONSIDERATION OF FORMA PAUPERIS
AND DISMISSAL OF PETITION FOR CERTIORARI
OUT OF TIME FOR NEW CIRCUMSTANCES OF
“A SUBSTANTIAL EFFECT”**

**On Reconsideration to the California Supreme Court
Case S254279,
There are Companion Cases 19-7937 and 16-8650.**

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June 11, 2020

ORIGINAL

CERTIFICATION IN GOOD FAITH

Pursuant to Rule 44 of this U.S. Supreme Court, I declare this Motion for Reconsideration of Forma Pauperis And Dismissal of Petition For Certiorari Out of Time For New Circumstances of "A Substantial Effect", Case 19-5165 is made in good faith not to delay in any way.

Signed under the penalty of perjury on this day,

June 11, 2020.

Michelle Stoprya Yaney

Michelle Stoprya Yaney,
Petitioner in Propria Persona
78365 HWY. 111 # 302
La Quinta, California 92253

INTERESTED PARTIES

Superior Court of San Bernardino Honorable
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APPENDIX 1 – ORDER ON CASE 19-5165.

**APPENDIX 2 - SUPPLEMENTAL BRIEF ON CASE
19-7937, WITH EXHIBITS 1- 12
COMPANION CASE.**

**APPENDIX 3 -- ORDER S254279, CAL. SUP. CT.,
DENYING REVIEW AND GRANTING
APPENDICES B- G.**

**APPENDIX 4 – COMPLETE PETITION FOR REVIEW
DISMISSED OCT. 7, 2019 UNDER RULE
39.8 U.S. SUPREME COURT.**

**LIST OF EXHIBITS ATTACHED TO SUPPLEMENTAL
BRIEF 1-12**

1. State Bar of California Waiver of Response.
2. Letter Opening Complaint May 20, 2019.
3. Letter of State Bar Dismissing Complaint May 23, 2019 in Just Two Days.
4. Judgment Dismissal of Case Entered by Clerks, May 20, 2019. Order and Docket of Agape v. Adams shows the California Supreme Court denied case S254279 on 4/10/19, one day before unlawful detainer trial on 4/11/19. The trial was rescheduled, they denied case S245815 on 5/15/19 two days before the rescheduled date 5/17/19, S254815 is case 19-7937.

5. Two default judgments entered on 5/7/19 in Yaney v. Turner. The first default was rejected then the trial court received service of review submitted to the California Supreme Court on case S245279; judgment was corrected, “nunc pro tunc” both copies the denial of default and granting on same day 5/7/19 is here.
6. May 24, 2019 Order for Judge to sign ON correction of writ removed from Yaney’s pleading stamped without clerk’s initials.
7. U.S. Supreme Court Certiorari Stamped filed July 8, 2019 Received July 12, 2019 Yaney v. San Bernardino Superior court Judge Bryan Foster, Case 19-5165, and Docket of Trial Court case PSC 1901542, date of July 12, 2020 as first-time defendant Turner files papers.
8. Orders of July 3 and July 11, 2019 trial court, PSC 1901542, and two rejected attempts by Yaney to prepare documents per July 3, 2019 order granting corrections.
9. Tentative Ruling that mentions U.S. Supreme Court certiorari as denied already, March 19, 2020.
10. Petition beginning only with questions that contain the State Bar of California, case S254279 review of E071680 submitted on March 23, 2019.

11. Petition for peremptory writ of mandate, case E071680, Yaney v. Judge Bryan Foster, trial court case DeBellis, Yaney v. Mason, Biery, CIVDS 1518281, Case 19-7937.
12. Case 824820, Petition for Review entitled Michelle Stoprya Yaney v. Shaun Murphy, John Pentecost and State Bar of California. Review of State Bar Case 16-23428. With certified docket page of the removal of Yaney's entire escrow account to the court by attorney Pentecost amount of \$2,364.97.

I. INTRODUCTION

The request to vacate the order on case 19-5165 under Rule 39.8 is best requested by stating how Justice John Paul Stevens of this court viewed Supreme Court Rule 39.8.

That rule allows the court to deny “in forma pauperis,” or IFP, status to frequent and abusive filers, forcing them to pay a filing fee for their petitions to be heard. The order lists from the court routinely contain disapproving language directing the clerk not to accept the filings of a petitioner who has flooded the court with filing after filing. The court’s practice is perfectly understandable. But Justice Stevens routinely dissented from the orders. He explained his reasoning in several dissents in the early 1990’s as;

“The burden on the Supreme Court, he thought, was trivial the challenged petitions were denied routinely on the substance even a heavier burden would be far outweighed by the “shadow it casts on the great tradition of open access that has characterized the Court’s history.”

This court has jurisdiction under the following:
United States Constitution, Article III, Section 1:
The judicial power of the United States shall be
vested in one Supreme Court, and in such
inferior Courts as the Congress may from time to
time ordain and establish.

**MOTION FOR RECONSIDERATION OF FORMA PAUPERIS AND
DISMISSAL OF PETITION FOR CERTIORARI
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“A SUBSTANTIAL EFFECT”**

Petitioner Michelle Stoprya Yaney who is a co-plaintiff in De Bellis Yaney v. Mason, Biery respectfully requests this court reconsider forma pauperis in case 15-5165 Yaney v. Judge Bryan Foster Superior Court San Bernardino and docket the case.

Petitioners Yaney is a co-plaintiff with DeBellis. DeBellis did not file the underlying case, it was a peremptory writ of mandate, case E071680.

Petitioner Yaney declares she did not understand and did not want to over burden this court with filings yet she has been advised since the superior court is a respondent it is important to the other two orders. Additionally, what is written is important now with the new developments.

Petitioners' both of them have a certiorari case 19-7937 it was denied on May 18, 2020. And they have submitted a rehearing to this court. This is the related case along with 16-8650, within the case, E071535. This reconsideration is relevant to this Court's jurisdiction to decide the rehearing on case 19-7937.

Petitioners in the other two cases within appeal case E071535 entitled; DeBellis, Yaney v. Mason Biery are described as DeBellis is a Catholic priest who is not in active ministry and Yaney is a disabled woman who is an SSI recipient.

Both DeBellis and Yaney suffer from certified mental illness; DeBellis suffers from a learning disorder and early dementia; Yaney suffers from anxiety disorder.

II. STATEMENT OF CASE

Petitioner Yaney wrote in case 19-5165 that jurisdiction is important and difficult for those who are not educated in the law to understand.

Petitioner is regretful about how the petition in case 19-5165 is written and asks this court to understand she wrote of what she was living, and it was not good, yet it was the only perspective she had at the time. It was a prospective based on suffering a violation of privacy outside of the court that she attributed to attorneys that were once hers.

Yaney also believed they had caused the lower courts to be wrongly influenced including the California Supreme Court. She had written this to all the courts and they did not believe her.

The new developments bring the obvious that the State Bar would not have reacted as it did otherwise.

Yaney's petition to the California Supreme Court had two questions and one was the same as to this court on case 19-5165. The other one was about the State Bar's new law. This was pending when the new developments detailed below happened as the State Bar choose to severally prejudice Yaney denying her the law.

The question to this court brought to case 19-5165 asking reconsideration was something Yaney still believes is important and it is about a violation of personal privacy.

Yaney also asked a question she did not word right having to do with a fee waiver to have a polygraph. The question was not appropriate, and it was not necessary and she is sorry.

The underlying case to 19-5165 was a peremptory writ of mandate which requested the filing of a motion which had been removed from the docket after Yaney had been given a hearing date. The motion was Motion to Reinstate Case for new facts. The motion was attached. The writ asked regarding the dismissal of the case as; a failure to prosecute with prejudice done under the ADA Civil Rights Bill while referring to an accommodation for a continuance. Petitioners' case is not an ADA case it was a contract dispute.

The events which were documented to the Cal. Sup. Ct. in the petition for review as happening during the case were described by Yaney as a violation of privacy which made anything, she attempted exceedingly difficult. The petition to the California Supreme Court on case S254279 was written in a "Romano's Macaroni Grill" parking lot as Yaney slept in her car with her pets.

The Cal. Sup. Ct. granted in case S254279 the Appendices B-G yet summarily denied the petition. The appendices contained Yaney's efforts to augment relevant court documents and communicate with the lower courts regarding the events happening outside of the court. The events are still happening, and they have isolated Yaney from those who care for her because they are afraid, they will be sued, her own father has explained this to her. The petition for review, and order denying review case S254279, is attached in Appendix 2.

One of the questions on case 19-7937 was did the California Supreme court have a duty to consider how the association affected petitioners' individual constitutional rights differently by definition in the context of a claim of discrimination. They did because Yaney wrote to them regarding the retaliation she believed she was suffering.

This question is the one on personal privacy and it was submitted to this court and to the California Supreme Court, case, S254279;

1. US Supreme Court Justice, Justice Louis Brandeis, explained the value of the right of personal privacy. It is in his writings which may be found by an attorney in the Harvard Law Review or in *Olmstead v. United States*, 277 U.S. 438, 478 (1928). (Brandeis, J., dissenting) "The right to privacy has been called "the most comprehensive of rights and the right most valued by civilized men."
2. The violation of the right of privacy is painful, and it affects almost every aspect of one's life. In petitioner's case it affected her right to petition the courts of her state.
3. The right of personal privacy can be found in many of this court's cases, yet the issue always seems to supersede the precious right, *Roe v. Wade*, 410 U.S. 113 *Griswold v. Connecticut*, 381 US 479, 1965.
4. The question is whether this court should review why the right of personal privacy is not definitive under any First Amendment of our US Constitution in a manner which an average person in our country can understand?

Please consider at the time of writing case 19-5165 and it has not been disputed the same attorneys had encouraged a mover Turner to take all of Yaney's belongings and vehicles it is pending on a writ right now. This is on appeal and pending decision of a writ, case E073428 *Yaney v. Turner PSC1901542*.

The harm of finality in case 19-7937 is here and denying this reconsideration would affect the case making it the fourth case an SSI recipient, Yaney, has lost her property.

III. THE NEW DEVELOPMENTS

There was a supplemental brief and response to the State Bar waiver submitted by both petitioners on case 19-7937. It is relevant to this reconsideration and attached in Appendix 1.

The brief was timely according to Supreme Court Rule 15.8.

Rule 15.8 Any party may file a supplemental brief at any time while a petition for a writ of certiorari is pending, calling attention to new cases, new legislation, or other intervening matter not available at the time of the party's last filing.

This case 19-5165 specifically is important to the intervening circumstances because it is how it happened according to jurisdiction.

As this court is aware it is written under the application of the law that a denial of a writ of certiorari in the U.S. Supreme Court does not affect other relief. The wasting of time by the trial court in the case on appeal Yaney v. Turner, was exactly until the day that the time for certiorari review of orders S254279 / E071680 was over or until Yaney filed a certiorari in this US Supreme Court without merit which is what happened, case 19-5165. This US Supreme Court rejected, case 19-5165.

The certiorari case 19-5165, was filed on July 8, 2019 and served and received in this U. S. Supreme Court on July 12, 2019. The date of July 12, 2019 was exactly when the defendant in this case filed his first document in the trial court PSC1901542. The complaint was filed on March 4, 2019. Only an attorney would understand enough to schedule this. The case is still pending E073428.

The discovered actions are in the third and fourth cases that Yaney, has alleged she has lost personal possessions in the County of Riverside in the State of California.

The first case entitled Agape v. Adams verifies the State Bar prejudiced Yaney after she prevailed for the first time in 5 years as a proper; it was unexpected and for Yaney's second home in the case: Agape v. Adams PSC1900025.

The outcome of the case allowed for the State Bar's new law to be applied to complaints Yaney had filed at the time. Yaney did this due to evidence that her previous attorneys were involved in a fourth case of lost property which occurred in Agape's community. What happened is most likely what caused the Agape case because there was no need, Yaney had moved.: Yaney v. Turner E073428.

The outcome of the Agape case allowed for the State Bar's new law to be applied to complaints Yaney had filed because of a second case which she had to bring against a mover who went Agape's. The new State Bar law was as follows;

Rule 8.4.1 on Prohibited Discrimination, Harassment and Retaliation. It has the expansion of the rule of eliminating the requirement that there be a final civil determination of wrongful discrimination before a disciplinary investigation can commence or discipline can be imposed.

Yaney's answer in the Agape case raised discrimination. Moreover, the proceeding is final for the plaintiff, Agape under the California summary proceeding of unlawful detainer CCP 1161(a).

The State Bar quickly, in just 2 days removed jurisdiction from Yaney a disabled woman for other relief such as the value of her home and property lost.

What the State Bar did was open and close Yaney's complaints in just 2 days or they opened complaints they never intended to and dismissed them in just two days according to the trial an entry of dismissal in Yaney's favor

The State Bar opening and decision documents are in Exhibits 2 on the Supplemental Brief 19-7937. See Appendix 3.

Technically, the State Bar did not have to wait because the California Supreme Court had granted to Yaney a motion for judicial notice under the Extrinsic Fraud Doctrine.

The documents entered to the California Supreme Court were court certified documents that showed Yaney's attorney had collaborated with the opposition attorney. The altered documents included a doctor's declaration removing Yaney anxiety disorder and the changing of the date stamp on Yaney's intent for new trial.

The "New Law" had other provisions for those who are protected which SSI recipients are.

(c) For purposes of this rule:

(1) "protected characteristic" means race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, military and veteran status, or other category of discrimination prohibited by applicable law, whether the category is actual or perceived;

(2) “knowingly permit” means to fail to advocate corrective action where the lawyer knows of a discriminatory policy or practice that results in the unlawful discrimination or harassment prohibited by paragraph (b);

(4) “retaliate” means to take adverse action against a person because that person has (i) opposed, or (ii) pursued, participated in, or assisted any action alleging, any conduct prohibited by paragraphs (a)(1) or (b)(1) of this rule.

The granting of a reconsideration would allow the California Supreme Court to re-examine and review recent actions of the State Bar. This is important because the supplemental brief also brought that they prejudiced Yaney in the Agape Case. This occurred when they issued orders twice just before the trial here is the timeline:

1. The original date of the unlawful detainer trial re: Agape v. Adams was April 11, 2019.
2. The denial of review by the California Supreme Court on case E071680, S254279, was on April 10, 2019, one day before the trial.
3. The trial was re-scheduled for May 17, 2019. The denial of review by the California Supreme Court on case S254815, 19-7937 was on May 15, 2019, two days before the trial. See Appendix 2 Supp. Brief, Exh. 4 Cal. Sup. Ct orders of 4/10/19 and 5/15/19.

IV. STATEMENT OF RELATED CASE 16-8650

The related case 16-8650 brings the question of whether this Court may have missed GVR prior to judgment,

The previous case 16-8650, was a writ of mandate which asked the State Court of Appeal Fourth District Division Two to dismiss petitioners' case without prejudice. Petitioners wrote of the difficulty the case was for them due to mental illness and the substantial prejudice they believed they were suffering.

Petitioners requested writ relief as resolution of their case under the ADA as an accommodation as "dismissed without prejudice," something the trial court had denied them in the normal manner even though they are the plaintiffs and it was before the trial.

Petitioners wrote of the difficulty the case was for them due to mental illness and the substantial prejudice they believed they were suffering. They also wrote regarding the fact the defendants were given an experienced attorney that seemed to work for the court.

Petitioners' question regarding an accommodation shows the effort they made to resolve their case three years before it was dismissed as a failure to prosecute with prejudice under the ADA, case E067142.

Petitioners are now requesting; this court consider a late rehearing of case 16-8650. The first question is relevant now:

1. Can relief by plaintiffs due to the belief of discriminatory procedure in state court and state services be requested under the ADA in an extraordinary writ and is an answer to this mandatory not discretionary as it is for other accommodation requests under the ADA? "Whether a particular public function is covered by the ADA turns simply on whether it is 'a normal function of a government entity.'" 29 U.S.C. § 794(b).

2. Does a mentally handicapped pro per litigant have the right to appointed counsel and the right to know if a court or county who is a party to an appeal has given the opposition in another case which began during the appeal an appointed attorney when uniformity of decision is at stake as well as personal property ownership.
3. Did the Court of Appeal have an obligation to determine if a fair trial was or a manifest injustice would occur given the issues brought to the denied writ worthy of review.

The second and third questions are not review worthy however, they are relevant to the actions of the State Bar of California within the new developments and to the fact, something was wrong.

V. PLENARY CASE TO 16-8650 APPLIES HERE

In the case, Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n, the justices decided the case of a baker who claimed the application of Colorado's public accommodation law violated his free exercise right to decline to bake a cake for a same-sex wedding. In other words, discrimination based on religious actions, rather than merely religious identity, was addressed in this court.

The resolution of the case in this Court decided in favor of the baker, Phillips, and it was a narrow win for many reasons. The court took the opportunity to emphasize that one's faith doctrine cannot be used as reason to set forth to deprive a protected person of an accommodation that effects a fundamental right.

The case, Masterpiece Cakeshop, was decided during petitioner's case 16-8650. The case was not held as it was for others. The question regarding petitioners' ability to dismiss their case due to the belief of substantial prejudice in state court services is now relevant.

VI. WHY A RECONSIDERATION

This was written in the rehearing currently pending on 19-7937. It applies here. What is written here may appear to be too simple for this court, yet it is exceedingly difficult for petitioners to understand they are not attorneys. They believe it is also difficult for other people like them in our country.

Petitioners brought to their certiorari the fact they could never speak in the trial court about their association long enough to adjudicate their case.

Petitioners have realized what they hoped to understand after coming to this court, it is that they need to know what they could have stated so the trial court judge would have allowed them to continue speaking in a court hearing regarding the discrimination they believe they suffered.

The first thought of whomever is reading this will most likely be, there are plenty of laws on discrimination, just get a lawyer, tell them what you suffered and put it in the pleading. The theory is good, yet exceedingly difficult to do when attorneys have decided they cannot help you or you cannot afford one or an attorney believes you deserve discrimination.

There are verbal statements such as, pleading the Fifth Amendment and Declaring Habeas Corpus that command a court's attention. Why isn't there something an average person may state

so they are able to speak and finish speaking regarding discrimination in a court hearing?

Petitioners bring a statement by esteemed Justice, Robert Jackson, that sums up what they are trying to say much better than they can. It can be found in the case coined the Steel Seizure Case, *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, Justice Jackson stated, “The laws need to work in the real world, not just in the writing.”

There are events in our county that have moved many of us and bring the importance of the ability to speak on the belief one has suffered discrimination.

There are riots at this moment outside of the window due to the death of George Floyd. Floyd was an Afro-American man who was allegedly killed by a white police officer on May 25, 2020.

There have been other deaths that are the result of the gathering of protesters. This brings the importance of the right to have the help of an administrative agency such as Law Enforcement and in turn, the importance of the administrative agency’s ability to help without being wrongly influenced regarding a minority.

VII. ARGUMENT

The Court clearly has the power, in its discretion and in the interests of justice, to consider a petition for rehearing filed outside the formal limits imposed by Rule 44.2. See *United States v. Ohio Power Co.*, 353 U.S. 98 (1957) (granting certiorari out-of-time so that the “case might be disposed of consistently with companion cases”; *id.* at 99 (“We have consistently ruled that the interests in finality of litigation must yield where the interests of justice would

make unfair the strict application of our rules.”); Gondeck v. Pan Am. World Airways, Inc., 382 U.S. 25, 26-27 (1965) (granting untimely petition for rehearing where “intervening circumstances of substantial ... effect” merited grant of certiorari after deadline to file for rehearing); Robert L. Stern, et al., Supreme Court Practice § 15.3 (8th ed. 2002) (“But [it] is not necessarily the case [that petitions for rehearing must be filed in time or not at all], provided that the tardy petition is accompanied by a motion for leave to file the petition out of time.”).

The Court has reaffirmed that “[t]he procedural rules adopted by the Court for the orderly transaction of its business are not jurisdictional and can be relaxed by the Court in the exercise of its discretion[.]” Bowles v. Russell, 551 U.S. – (2007) (slip op. at 7) (quoting Schacht v. United States, 398 U.S. 58, 64 (1970)). The absence of any jurisdictional language in Rule 44.4 confirms that it is a Rule governing the orderly processing of claims that can be relaxed by the Court where appropriate. Compare Rule 44.4 (“The Clerk will not file consecutive petitions and petitions that are out of time under this Rule.”) with Rule 13.2 (“The clerk will not file any petition for a writ of certiorari that is jurisdictionally out of time. See, e.g., 28 U.S.C. § 2101(c).”)

The respondents will not be prejudiced by this request they are the Superior Court.

Please allow the attached petition to be granted forma pauperis out of time case 15-5165.

Respectfully, signed under the penalty of perjury, on this 11th day of June, 2020.

Michelle Stoprya Yaney

Michelle Stoprya Yaney

PETITIONER'S VERIFIED AFFIDAVIT

I, Michelle Stopryra, being over the age of eighteen and fully competent to make this statement and having personal knowledge of the matters contained herein this "reconsideration

I, hereby affirm that the above petition and contents, exhibits and inserts are true and accurate to the best of my knowledge. I declare under penalty of perjury under the laws of the United States that the above is true to the best of my knowledge.

Executed on June 11, 2020.

Michelle Stopryra Yaney

Michelle Stopryra Yaney

CERTIFICATE OF COMPLIANCE

Petitioners, Michelle Stopryra Yaney, Peter DeBellis, as required by Supreme Court Rule 33.1(h), certify that the contains words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d) totaling 3,541.

Petitioners declare under penalty of perjury that the foregoing is true and correct.

Executed on June 11, 2020.



Michelle Stopryra Yaney

**Additional material
from this filing is
available in the
Clerk's Office.**