

No. 19-639
IN THE SUPREME COURT OF THE UNITED
STATES

Linda Shao Petitioner - Appellant,

vs.

Tsan-Kuen Wang, Respondent - Appellee.

-000-

On Petition For A Writ Of Certiorari To the
California Sixth District Court of Appeal regarding
its Opinion on June 4, 2019 in H040977 affirming
Superior Court of California, Santa Clara County
Judge Theodore Zayner's Order of March 14, 2014

made without a hearing on
the Remittitur dated January 27, 2012 in H035194,
an appeal from Judge Edward Davila's Order of
September 2009 (S256743 denied review on August
14, 2019)

PETITION FOR REHEARING (Respectfully
Request the Justices and the Court to decide the
REQUEST FOR RECUSAL OF CHIEF JUSTICE
JOHN G. ROBERTS, JUSTICE CLARENCE
THOMAS, JUSTICE RUTH BADER GINSBURG,
JUSTICE SAMUEL ALITO, JUSTICE STEPHEN
BREYER, JUSTICE SONIA SOTOMAYER,
JUSTICE ELENA KAGAN filed on December 20,
2019)

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PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Petitioner respectfully petitions this Court for rehearing of January 21, 2020's Order denying the Petition for Writ of Certiorari. This Petition for Rehearing is based on the extraordinary circumstances of a substantial or controlling effect that

- (1) this Court willfully removed 151 pages of appendix from the Petition for Writ of Certiorari (see App.8) in violation of 18 USC §2071 and 18 U.S.C. §1519 and persisted on refusing to put the 151 pages back in disregard of Petitioner's letter of December 16, 2019 (App.6-7) without any notice, such that the Petition for Writ of Certiorari was incomplete when denied;
- (2) the Request for Recusal filed on 12/20/2019 was concealed from filing by this Court's Clerk's Office for 23 days until 1/13/2020 (App.3);
- (3) the Clerk's Office irregularly required Petitioner to re-serve additional 10 copies of Request for Recusal on 1/9/2020 as a condition to "file" the Request for Recusal, and filed the Request for Recusal on 1/13/2020 (App.3);
- (4) this Court's Clerk's Office further willfully altered the Request for Recusal (App.4) in removing its 44 pages of Appendix (see Request for Recusal, Table of Appendix), despite having been reminded of the law that such removal violates 18 U.S.C. §2071 and 18 U.S.C. §1519;
- (5) each of the 7 Justices of the US Supreme Court again failed to decide the Request for Recusal in violation of 28 U.S.C. §455, and actually conspired not to decide on the Requests for Recusal, when, according to its common

practice as reported by Wisconsin Supreme Court in *State v. Allen*, 2010 WI 10, 35 (2010) each of the 7 Justices was to decide on the Request for Recusal. Yet, each of the 7 Justices jointly failed to decide but participated in the voting to deny the Petition. This caused miscarriage of justice.

**THE EXTRAORDINARY CIRCUMSTANCES
ARE MATERIAL AND INVOLVED FELONIES
OF 18 U.S.C. §§2071, 1519 AND 371 WHICH
EGREGIOUSLY OBSTRUCTED JUSTICE AND
DISRUPTED THE NORMAL FUNCTION OF
THIS COURT, WHEN PETITIONER WAS
SEVERELY PREJUDICED WITH HER DUE
PROCESS RIGHT TO IMPARTIAL TRIBUNAL
AND TO HAVE REASONABLE ACCESS TO
THE COURTS.**

**I. THE SEVEN JUSTICES' WILFUL
FAILURE TO DECIDE THE REQUEST FOR
RECUSAL IS MATERIAL WHEN THE ISSUES
CONTAINED THEREIN WERE ABOUT THE
COURT'S WILFUL ALTERATION OF THE
PETITION FOR WRIT OF CERTIORARI AND
CONFLICTS OF INTEREST WHICH ARE THE
MAIN SUBJECTS OF "THE FOR THE PEOPLE
ACT OF 2019"**

The House in the 116th Congress passed the For the People Act of 2019 (H.R.1) pending Senate's approval to subject the Supreme Court to an ethic code of judicial conduct, including participation of a private club (e.g., American Inns of Court) and receiving gifts (App.10-14). When Chief Justice Roberts disagreed that the Congress may have the power to regulate the Supreme Court, he

conceded that the Supreme Court could be regulated by committing crimes and here, this Petition for Rehearing is dealt with the court crimes.

The first issue that the Request for Recusal filed on Dec. 20, 2019 raised was exactly about this Court's crimes in systematically altering the court's records including this Petition for Writ of Certiorari and refusing to decide, which violated 18 U.S.C §§2071 and 1519 and 371. It was about this Court's silent removal from this Petition for Writ of Certiorari 151 pages when the concealed records created presumptions of this Court's conspiracy with the American Inns of Court, interested third party James McManis, the California courts and hackers pursuant to the doctrine of spoliation of evidence.

Specifically, as discussed extensively in the Request for Recusal, the presumptions include the 7 Justices' financial interest with the American Inns of Court (App.18-24) when the interested third party James McManis has close relationship with the Chief Justice (App.25-26) and many other Justices of this Court which derives from McManis being a leading attorney of the American Inns of Court, a private confidential club that had provided large sum of gifts to these Justices and their clerks since 1996 under the color of "Temple Bar Scholarship" (App.18-24) based on their adjudicative role at this Court. (App.19)

The Supreme Court Justices' participation of this private club of American Inns of Court and even hosted two Chapters (Ruth Bader Ginsberg American Inn of Court and Anthony M. Kennedy American Inn of Court) from the attorneys

practicing in front of them, providing private mentorship, and private regular social relationship with the member attorneys that have confidential membership with this club have been an issues of the Supreme Court Ethics since about 1991(App.10-11), and now the same topics have been passed by the House through the For The People Act of 2019.

Therefore, the Request for Recusal filed on December 20, 2019 involves material issue in the current legislation movement that rehearing should be granted because the Court failed to decide the Request for Recusal..

II. THE EXTRAORDINARY CIRCUMSTANCES CONSTITUTED VIOLATION OF 18 U.S.C. §371

A. THE PETITION FOR WRIT OF CERTIORARI WAS SILENTLY ALTERED DURING DOCKETING WITHOUT ANY NOTICE WHICH CONSTITUTED VIOLATION OF 18 U.S.C. §§2071 AND 1519 AND THIS COURT WILFULLY MAINTAINED THE FELONIOUS ALTERATION WHICH CASTS A REASONABLE LIKELIHOOD THAT THE 9 JUSTICES DID NOT CONSIDER THE MISSING 151 PAGES IN DENYING THE INCOMPLETE PETITION.

As extensively discussed in Pages 1 through 31 of the Request for Recusal filed on December 20, 2019, this Court's silent removal of the 151 pages and refused to make correction in knowing disregard of Petitioner's letter of Dec. 16, 2019(App.6-7) constituted willful violations of 18 U.S.C. §§2071 and 1519.

In the past many cases when this Court removed the Appendix of each of the Requests for Recusal, this Court would post at the last page that "Additional Material from this Filing is Available in the Clerk's Office". This also happened to this Request for Recusal filed on 12/20/2019. Yet, there was not even such notice as to whether this Court would retain the missing 151 pages. It is obvious that the missing 151 pages were never considered by this Court in denying the Petition for Writ of Certiorari, which justifies rehearing.

B. THE SEVEN JUSTICES SOUGHT TO BE RECUSED HAVE JOINTLY CONSPIRED IN NOT TO DECIDE THE REQUEST FOR RECUSAL FILED ON DECEMBER 20, 2019

The Wisconsin Supreme Court in *State v. Allen*, 2010 WI 10 (2010) reported the prevailing practice of handling judicial disqualification of the US Supreme Court was to let the individual justices to decide on their own recusal. Therefore, the fact that none of the 7 Justices filed a response could not take place without a joint conspiracy of all of the 7 Justices to not file a response.

Such conspiracy was willful as it was the 9th Request for Recusal that they jointly failed to decide, and it was the very reason why they were sued by Petitioner with the U.S.D.C. in the District of Columbia in the case number of 1:18-cv-01233 with the appeal case of 19-5014 pending at the DC Circuit. It is unlikely that the 7 Justices were not aware of their Constitutionally-mandated duty to decide on the requests for recusal. The court has a duty to decide Recusal (*O'Hair v. Hill*, 641 F.2d 307 (5th Cir. 1981) ft.1),

which is "absolute" (*Corner v. Murphy Oil USA*, 607 F. 2d 1049, 1057 (5th 2010)) and is constitutionally imposed (*National Education Assoc. v. Lee County Board of Public Instruction*, 467 F.2d 477 (5th Cir. 1972)).

In addition, this failure to decide has been the main subject on each of the petition for rehearing in 17-256, 17-613, 18-344, 18-569, 18-800 and now 19-639.

Therefore, the 7 Justices' failure to decide this Request For Recusal filed on December 20, 2019 is clearly a willful violation of their Constitutionally mandated duty to decide and a significant violation of 28 U.S.C. §455 (b)(1) and (4). 28 U.S.C. §455 by its language is applicable to the US Supreme Court in requiring them to recuse themselves when there are appearance of conflicts of interest.

Besides failure to decide Requests for Recusal, this Court also had failed to decide the Amicus Curiae motion of Mothers of Lost Children in Petition No. 18-800.

**C. IN RESPONSE TO PETITIONER'S
REQUEST FOR CORRECTION IN MID-
DECEMBER 2019, THIS COURT
CONCEALED THE REQUEST FOR
RECUSAL FOR 23 DAYS**

Citing legal authorities, Petitioner's cover letter of December 16, 2020 for filing her Request for Recusal asked the Clerk's Office to put back the missing 151 pages, and asked the Clerk not to remove the appendix for the Request for Recusal (App.6-7). Yet, in response, this Court concealed the Request for Recusal from filing for 23 days, until being inquired by a process server (App.4-5). Despite having got the 10 copies,

the Clerk's Office required the process server to re-submit and re-serve another 10 copies of Request for Recusal on 1/9/2020 as a condition that they would file the Request for Recusal (App.5). The Clerk's Office then eventually filed the Request for Recusal on 1/13/2020 (App.3), altered the docket, and added into the docket the Request for Recusal with a filing date of 12/20/2019. There is a receipt stamp of "Jan 9 2020" shown on the Proof of Service for the Request for Recusal (App.3) but not on the Request for Recusal.

The fact that the docketing clerk entered December 20, 2019 as the filing date indicates that the Court did have kept the 10 copies of the Request for Recusal since December 2019 but refused to file it without Petitioner paying more money to re-serve the same documents to the US Supreme Court (App.5).

When the Request for Recusal was eventually filed, in disregard of the cover letter dated December 16, 2019 (App.6-7), this Court altered the Request for Recusal and refused to decide as having done so in the past 2 years.

D. THERE IRREGULARITIES CONSTITUTE THE CRIME OF 18 USCS § 371.

This Court's function provided to the public includes 9 Justices for performing the duty to decide and a Clerk's Office to perform duty of filing and maintaining the docket in compliance with the regulations and standards of the Judicial Council.

1. The Clerk's Office's normal function has been clearly obstructed and disrupted by its systematic alteration of the court's records in the past 2 years.

Besides the documents the parties file with the court, the Court's docket has also been considered as the court's *records*. *E.g.*, *Mullis v. United States Bank Ct.*, 828 F.2d 1385 n9 (9th Cir. 1987).

In *Critchley v. Thaler*, 586 F.3d, 318 (5th Cir. 2009) and in *Wickware v. Thaler*, 404 Fed. Appx. 856, 862 (5th Cir. 2010), the court held that the clerk has a ministerial duty to file and that a delay in filing constitutes a violation of Due Process.

The clerk is not allowed to tamper with the court's records and refuse to record filing. See, e.g., *Kane v. Yung Won Han*, 550 F. Supp. 120 at 123 (New York 1982); see also, F.R.C.P. Rule 79(a)(1), (d); F.R.A.P. Rule 45(a)(2); 18 USC §2071 and §1519.

The clerk is required to maintain the docket and to record the activity that took place. F.R.A.P. Rule 45, F.R.C.P. Rule 79; *Jackson v. United States*, 924 A.2d 1016 (2007)

While this Court may argue that F.R.C.P. does not apply to the Supreme Court, it was conceded by Chief Justice in 2011 (App.16-17) that the US Supreme Court's Justices and employees are subject to the criminal codes of the US. 18 USC §2071, §1519 and §371 are all felonies that this Court cannot justify its repeated outlawed misconducts.

18 USC§2071 is a criminal code for "whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or with intent to do so takes and carries away any record, ...,"

document..., filed or deposited with any clerk or officer of any court of the United States" including those "having the custody of any such record, proceeding, ..., document, paper or other thing."

18 USC§1519 is a criminal code for "whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence ...[omitted]... proper administration of any matter within the jurisdiction of any department or agency of the United States..."

The above authorities have been officially provided to this Court (many unofficial emails to Jeff Atkins, Donald Baker, Dan Jordan) about 18 times in the Petitions for Writ of Certiorari and Request for Recusal in 17-82, 17-256, 17-613, 18-344, 18-256, 18-800 and this case. The most recent is the cover letter of December 16, 2019 for the filing of the Request for Recusal (App.4-5).

The crimes this Clerk's Office have committed in violation of the two Codes infringing the Petitioner's rights include:

- (1) Alteration of all dockets where James McManis and Michael Reedy were Respondents, including 17-82, 17-256, 18-344 and 18-800.
- (2) Concealed the Amicus Curiae motion of Mothers of Lost Children from filing in 17-82; failed to return the books.

- (3) Alterations of the docket of 18-800, including defiling the Amicus Curiae motion on Dec.9, 2018.
- (4) Failed to file the Request for Recusal in 18-344 and returned.
- (5) Delayed filing of all Requests for Recusal. As for this case, it was delayed 23 days, 4 days until after Petitioner satisfied an unreasonable demand of the Clerk's Office.
- (6) Altered all Petitions for Rehearing except that in 17-256 and 17-613.
- (7) Altered all Requests for Recusals filed with the court by removing all appendixes.
- (8) Altered the Petition for Writ of Certiorari in 18-800 and 19-639 (151 pages were silently removed without a notice of retention)

See, <HTTP://WWW.USCOURTS.GOV/ABOUT-FEDERAL-COURTS/JUDICIAL-ADMINISTRATION INDIVIDUAL COURTS> By statute and administrative practice, each court appoints support staff, supervises spending, and manages court records. The chief judge of each court oversees day-to-day court administration, while important policy decisions are made by judges of a court

Any reasonable person knowing all these facts will believe a major function of the Supreme Court's Clerk's Office was entirely disrupted.

2. Entire fundamental function of the US Supreme Court was disrupted or

obstructed in a conspiracy that violates 18
USCS § 371

18 USCS§371 states, in relevant part, that:
"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both."

18 USCS §371 proscribes not only conspiracies to commit offense under another federal statute but also *any conspiracy for purpose of impairing, obstructing or defeating lawful function* of any department of government; therefore, defendant can be charged with conspiracy in violation of §371 without charging underlying substantive offense that is proscribed by another federal statute. See, *United States v Heinze* (1973, DC Del) 361 F Supp 46, 73-2 USTC P 9756, 32 AFTR 2d 6163.

14 years after *Heinze*, in *Tanner v. United States*, 483 U.S. 107, at Page 128 (1987), this Court held that:

"Section 371 is the descendent of and bears a strong resemblance to conspiracy laws that have been in the federal statute books since 1867. See Act of Mar. 2, 1867, ch. 169, § 30, 14 Stat. 484 (prohibiting conspiracy to "defraud the United States in any manner whatever"). Neither the original 1867 provision nor its subsequent reincarnations were accompanied by any particularly illuminating legislative history. This case has been preceded,

however, by decisions of this Court interpreting the scope of the phrase "to defraud. . . in any manner or for any purpose." In those cases we have stated repeatedly that the fraud covered by the statute "reaches 'any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of Government." *Dennis v. United States*, 384 U.S. 855, 861 (1966), quoting *Haas v. Henkel*, 216 U.S. 462, 479 (1910); see also *Glasser v. United States*, 315 U.S. 60, 66 (1942); *Hammerschmidt v. United States*, 265 U.S. 182, 188 (1924). We do not reconsider that aspect of the scope of 371 in this case. Therefore, if petitioners' actions constituted a conspiracy to impair the functioning of the REA, no other form of injury to the Federal Government need be established for the conspiracy to fall under 371." [emphasis added]

Here, both of Supreme Court's two functions are impeded and obstructed in the Petitions of 17-82, 17-256, 17-613, 18-344, 18-569, 18-800 and this case. As stated above in II.B., the 7 Justices jointly conspired about 9 times not to perform their Constitutional duty to decide each Request for Recusal and not to decide the Amicus Curiae motion in 18-569; and, the Clerk's Office committed about 18 times of crimes of 18 U.S.C. §1519 and §2071.

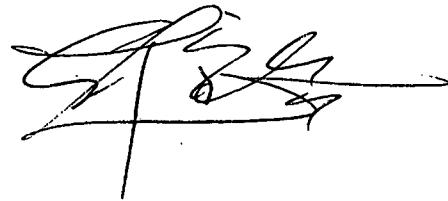
Moreover, under the doctrine of spoliation of evidence, the Supreme Court is presumed to participate the crimes of Respondent's burglary (Exh.001), the burglaries, stalking and computer hackings of Petitioner's home (Exh.002-044).

According to *Tanner*, the lawful function of this Court was completely disrupted or obstructed that constitute violation of 18 U.S.C. §371.

CONCLUSION

As the Court illegally removed 151 pages from the Petition for Writ of Certiorari, concealed the Request for Recusal for 23 days, irregularly required Petitioner to re-serve and refile and conspired not to decide the Request for Recusal the 9th time, further concealed the appendix of the Request for Recusal, when the issues involved are very important involving their participation of a private club of American Inns of Court including obtaining substantial financial interest from the club, the Court apparently did not consider the concealed portion of the Petition and Request for Recusal, and thus the Order denying Certiorari on January 21, 2020 should be vacated, and rehearing be granted.

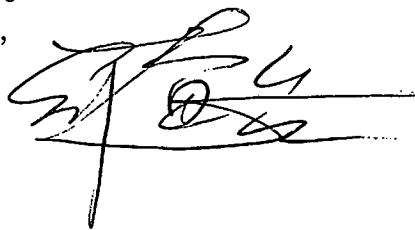
Dated: February 7, 2020
Respectfully submitted,
Yi Tai Shao, Esq.



VERIFICATION

I declare under the penalty of perjury that the foregoing is true and accurate to the best of my knowledge.

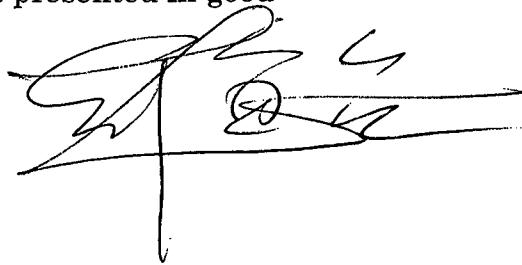
Dated: February 7, 2020
Respectfully submitted,
Yi Tai Shao, Esq.



CERTIFICATE OF COUNSEL

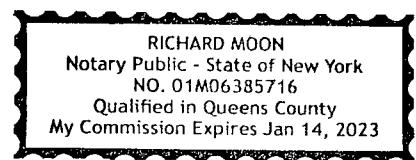
I certify that this Petition is presented in good faith and not for delay.

Dated: February 7, 2020
Respectfully submitted,
Yi Tai Shao, Esq.



On the 12th day of February of 2020, the undersigned notary public licensed by the State of New York with the license number of 01M06385716 certifies under oath under the penalty of perjury of New York that the signature affixed above by Linda Yi Tai Shao is true.

x 



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