

ORIGINAL

No.: 19-6916

In The
Supreme Court of the United States

FILED
FEB 26 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN RE SHERRI JEFFERSON,
Petitioner,

On Petition for a Rehearing of the Petition for Writ of Certiorari

PETITION FOR A REHEARING

SHERRI JEFFERSON
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Riverdale, Georgia 30274
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PARTIES TO THE PROCEEDING

The following were parties to the proceedings in the Supreme Court of Georgia:

1. Sherri Jefferson filed an exception to or an appeal from the Report and Recommendation entered by a conflicted *special master and review board chairperson* to subject her to disbarment by virtue of default.
2. The State Bar of Georgia Office of General Counsel, William J. Cobb of Decatur, Georgia, Special Master Patrick Longan of Macon, Georgia, and Review Board Chairman Anthony “Tony” Askew of Atlanta, Georgia were the named appellants in the lower-court proceedings.

The following are parties to the proceeding in this Court:

1. Sherri Jefferson is the Petitioner.
2. The Supreme Court of Georgia Chief Judge Harold Melton and the associate justices of said court is the Respondent.

RULE 29.6 STATEMENT

None of the petitioners is a nongovernmental corporation. None of the petitioners has a parent corporation or shares held by a publicly traded company.

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OPINIONS BELOW

In re *Sherri Jefferson*, on October 7, 2019, the Supreme Court of Georgia issued a per curiam order to disbar. In re *Sherri Jefferson*, on November 4, 2019, the Supreme Court of Georgia issued an order denying petitioner motion to vacate and set aside and stay without any finding of fact. Pending before the Court in In re *Sherri Jefferson*, petitioner filed a Notice of Intent to Seek Writ and a Stay of the Mandate on November 5, 2019 and Amended on November 6, 2019, which this Court denied on December 18, 2019. Petitioner filed a Petition for Writ of Mandamus and Certiorari. The Court denied on February 24, 2020.

JURISDICTION

This Court has jurisdiction to recall and enter a stay of the Supreme Court of Georgia's judgment pending review on a writ of certiorari and issuance of a mandamus. See 28 U.S.C. §§ 1254(1), 2101(f) and The All Writs Act, 28 U.S.C. § 1651, and Rule 44 governs this petition for rehearing of the Rules of the Supreme Court of the United States.

STATUTORY PROVISION

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority . . ." U.S. CONST. art. III, §2, cl. 1.

"[N]or shall any State . . . deny to any person within its jurisdiction the equal protection of the laws. . . or deprive of life, liberty, or property." U.S. CONST. amend. XIV. And GEORGIA

PETITION FOR REHEARING ON DENIAL OF PETITION FOR WRIT OF CERTIORARI

Comes now, Sherri Jefferson and hereby files her Petition for Rehearing Pursuant to Rule 44(1)(2) and hereby states its grounds briefly and distinctly together with that it is presented in good faith and not for delay and its grounds are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

OVERVIEW

The intervening circumstances of a substantial or controlling effect of this case that warrants review by this court is the grave impact the *In re Sherri Jefferson*'s holding will have on the legal profession regarding the use of 'market participants' with competing interest to rule adverse to their colleagues. Moreover, the adverse impact that the case will have on permitting the State to shift its burden of persuasion to the accused in an attorney disciplinary case.

Sherri Jefferson is a black attorney whom over objection [also see September 18, 2017 Transcripts] the State Bar of Georgia presented to a conflicted and an all-white male committee for review (prosecutor, special master and the review board chair). In any other setting, an accused is subject to review by a jury of its peers or fair trier of facts, whether in a civil or criminal trial. The State Bar of Georgia's proceedings deny lawyers such relief and constitutional safeguards.

This petition is squared in Rule 44, and petitioner respectfully states that a material factual or legal matter was overlooked by this court in its decision to deny relief. This court overlooked the factual and legal issues that includes the transcripts of the September 18, 2017 hearing proving that the petitioner appeared and testified before the special master and had filed her discovery responses. [September 18, 2017 Transcripts pgs. 2-17]. The order of discipline

accuses of her of failing to do so and by virtue of default she is subject to an order of discipline. Moreover, the evidence proves that the Bar denied due process and abused its discretion when it disciplined.

The transcripts also prove that she raised objections to the special master's role because of conflict of interest and handling of the case and moved to recuse him and that the recusal was pending before he presided over the case. [Transcripts pgs. 2-17 and Exhibit A attached to transcripts].

The decision to deny relief is also overlooked by the fact that there is a new study regarding attorney discipline based on proven disparity and discrimination by race. California recently released its study proven that the state has engaged in disparity. Before this Court is the petitioner's research about the State of Georgia and its disparity and discrimination, which proves that white attorneys are not subject to the same sanctions as black lawyers based upon the same or similar offenses. That black lawyers are 100 times more likely to be disciplined than their white counterparts in Georgia for the same, similar or even less offenses and are denied review by their peers.

Also, after the October 7, 2019 order of discipline issued against the petitioner, on November 4, 2019 the State Bar of Georgia issued an order of disbarment against Millard Farmer [Georgia Supreme Court SY191156] regarding allegations of criminal misconduct. However, his order of discipline was entered after the conclusion of the criminal case where he was found guilty. In the instant matter, the bar filed their compliant during the pendency of the private citizen warrants and aided the grievant in filing. Then, four years after the petitioner's ex-parte private citizen warrant was vacated by a recusal judge and the prosecutor denied to prosecute, the Supreme Court of Georgia entered an order citing misconduct on October 7, 2019.

Respectfully, the denial of relief and opinion is in conflict with 4 decisions of this court noted in the petitioner, but also additional cases herein. Denial of relief will impact the legal profession and all other professions governed by state disciplinary proceedings. The fundamental fairness of these proceedings is critical to constitutional safeguards. This case involves one or more questions of exceptional importance to the legal profession including how race will impact the legal profession if all-white jurors (special masters and review panelist) will preside and decide over attorney disciplinary proceedings.

In addition, this case will decide the impact of Fifth Amendment and abuse of discovery in attorney proceedings. The burden never shifts to the accused. See *Maness v. Meyers*, 419 U.S. 449 (1975), *Hoffman v. United States*, 341 U.S. 479 (1951), *Andersen v. Maryland*, 49 Led 2d 627, 96 S. Ct. 2737 (1976); the abuse of discovery against attorneys as a fishing expedition. *Mazda Motor Corp.*, 123 F. 3d 1353, 1368. See *Spevack v. Klein*, 385 U.S. 511 (1967) and compare *Baxter v. Palmigiano*, 425 U.S. 308, 317-18 (1976) *Leary v. United States*, 395 U.S. 6, 36 (1969).

Petitioner is requesting that this court rehear the petition for writ of certiorari and the petition for Mandamus and Petition for Cert because the Georgia order to disbar is also in direct conflict with several United States Supreme Court cases under *Spevack v. Klein*, 385 U.S. 511 (1967) lawyers cannot be disbarred for exercising their privilege against self-incrimination. Moreover, an adverse inference must be drawn from proven facts. *Leary v. United States*, 395 U.S. 6, 36 (1969). In *Barnes*, this Court cautions lower courts about the use of inferences because of denial of due process. 412 U.S. 837 (1973). Moreover, *In re Ruffalo*, 390 U.S. 544 (1968), mandates notice and full and fair litigation.

Moreover, if given due deference a stay would be granted because

as noted on pgs. 26-28 in the Motion to Stay, the petitioner has suffered

- a. grounds of denial of full and fair opportunity to litigate;
- b. no fair notice,
- c. no legal representation,
- d. special master and review board panelist were conflicted,
- e. denied mandatory Rule 4-213, Rule 4-219 review board hearing, oral argument

before the Georgia court upon request and denied an OCGA 15-19-32 trial by jury,

- f. denied an opportunity to confront and cross-examine witnesses.
- g. denied an adequate opportunity to make all available factual and legal; and, the

Bar failed to meet and could not meet its standard of proof, and denied the petitioner the range of evidentiary issues in a quasi-criminal bar investigation and disciplinary proceeding.

In denying relief, the justices would ultimately uphold a grave injustice and the rulings by a conflicted special master and review board panelist to disbar the petitioner. The Bar and the Court denied petitioner due process and it appears that no judge gave any consideration to the petitioner's pleadings before the Georgia Court as evidenced by their order to disbar, which is replete with factual and legal inaccuracies.

Georgia knowingly violated petitioner's constitutional rights under the Due Process Clause and Self-Incrimination Clause of the Fifth Amendment as well as the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

The State Bar of Georgia knowingly falsely accused the petitioner of wrongdoing, lying to tribunals and having been prosecuted and convicted of a crime. She has never been

prosecuted or convicted of any crime, the private citizens warrants were vacated or dismissed years before the October 7, 2019 order of disbarment. [Pet. Cert. Appx A – Order of Disbarment]

The State Bar of Georgia knowingly falsely accused the petitioner of failing to respond to discovery and raising a Fifth Amendment defense. The petitioner fully responded to Discovery and raised more than 10 specific and general objections, which included her Fifth Amendment privilege and testified that discovery was not presented to her in May 2017; but upon receipt in September 5, 2017 she fully responded. [Pet for Cert Appx G and H and Motion to Stay at 19-20]

The State Bar of Georgia acting with malice and premeditation colluded to disbar petitioner by falsely asserting failure to comply with Discovery. [Motion to Stay at pgs. 13-16 and See Mandamus and Petition for Cert Appx. L and K. Index R. 322-326]. The Bar wrote Ms. Bridget Bagley, counsel for the review board. He said, that the conflicts although apparent will not deny due process because he will file a request for discovery, then will allege that the petitioner failed to comply with discovery, then will seek a sanction and because he will win by virtue of default the Supreme Court of Georgia will deny review. Bagley agreed as the counsel for the review board and denied reappointment. Months later, they accused the petitioner of violating discovery. [Mandamus and Petition for Cert Appx. L and K – Index R. 327-329].

The State Bar of Georgia knowingly and maliciously falsely accused petitioner of lying to federal judge and tribunals who had no knowledge of these accusations. [Motion to Stay at 13, 14 and 15]

Judge TIC. Batten who presided over the Doe v. Deal case, responded below.

[Mandamus and Petition for Cert App. C. at 10, 11, 12, and 13 - November 6, 2019 Amended Notice of Intent to Seek Review by SCOTUS]. Motion to Stay at 13, 14 and 15

-----Original Message-----

From: Suzy Edwards <Suzy_Edwards@gand.uscourts.gov>
 To: Attysjjeff <attysjjeff@aol.com>
 Cc: Uzma Wiggins <Uzma_Wiggins@gand.uscourts.gov>; Lori Burgess <Lori_Burgess@gand.uscourts.gov>; Judith Motz <Judith_Motz@gand.uscourts.gov>
 Sent: Wed, Nov 6, 2019 3:30 pm
 Subject: RE: Order of Court

Ms. Jefferson: Let me be more clear: I have nothing to give you. I know nothing about this. Neither Judge Batten nor anyone else in his chambers was involved in this matter in any way.

Thank you.

Suzy Edwards
 Courtroom Deputy Clerk to
 The Honorable Timothy C. Batten, Sr.

U.S. District Court
 Northern District of Georgia
 (404) 215-1422 (Atlanta)
 (678) 423-3021 (Newnan)

From: Attysjjeff <attysjjeff@aol.com>
 Sent: Wednesday, November 06, 2019 3:17 PM
 To: Suzy Edwards <Suzy_Edwards@gand.uscourts.gov>; attysjjeff@aol.com
 Cc: Uzma Wiggins <Uzma_Wiggins@gand.uscourts.gov>; Lori Burgess <Lori_Burgess@gand.uscourts.gov>; Judith Motz <Judith_Motz@gand.uscourts.gov>
 Subject: Re: Order of Court

Ms. Edwards,

I am not asking you to determine whether the Supreme Court case is on the docket, I know that it is not on the docket. I am asking your office to turn over the statement, order, hearing records, or information that you gave to the State Bar of Georgia that said that I lied to your court in 2015 in the deal case. What information did your office give them to make them advance that claim against me under Rule 8.1 as I never lied, and was never accused by this office of lying or by the court. In other words, ask Judge Batten to provide to you what order he issued regarding a lie or dishonest act that I committed during self representation in Jefferson v.

Deal that would lead the Bar to accuse me of lying to his tribunal as nothing in the order references such and I have all of the order from 2015.

/s/ Sherri Jefferson

The State Bar of Georgia knowingly falsely accused the petitioner of having a romantic relationship with a client when they knew that she was not and had not dated the person during representation and that she sought their permission and guidance for representation. [Motion to Stay at pgs. 21-24]

-----Original Message-----

From: Becky Hall <BeckyH@gabar.org>
To: attysjjeff@aol.com
Sent: Fri, 16 Jan 2009 3:03 pm
Subject: RE: Confidential - Reply from the State Bar of Georgia

Thank you for the clarification. My advice would differ somewhat if A and B were not already divorced. (See *In the Matter of James W. Lewis*, 262 Ga. 37 (1992). Rule 1.7 is the rule on point. The main question you should ask yourself is whether there is any thing now (or in the foreseeable future), including your own interests, that would prevent you from doing your professional best on behalf of Person A. (For instance, if you become so incensed with the situation (or otherwise angry at B), that you are not able to speak to (or otherwise negotiate with) the opposing party, then you should not represent A.) If you are a member of another state/district's bar association, you may want to contact them, as different jurisdictions differ slightly on romantic relationships with clients. I hope you find this helpful.

For the reasons set forth herein, petitioner respectfully seeks a rehearing.

STATEMENT OF FACTS

On January 28, 2017 the State Bar of Georgia filed a shot-gun complaint against the petitioner falsely citing that she refused to testify and honor discovery in their proceedings. The Bar falsely asserted that she violated Rules 3.3 [candor with a tribunal], 4.2 [communication with a person under legal representation], 8.1 [dishonesty during bar proceedings] and 8.4 [dishonesty, fraud or misconduct as an attorney]. On February 1, 2017, Jefferson immediately moved for a trial under Bar Rule 4-213, which states,

(a) Within 90 days after the filing of movant's answer to the formal complaint or the time for filing of the answer, whichever is later, the Special Master shall proceed to hear the case.

From February 1, 2017 through October 7, 2019 when the Supreme Court of Georgia issued its order, the Bar denied due process when it failed to afford Jefferson a trial on the merits of this case and to confront her witnesses under Rule 4-213 or a review board hearing under Rule 4-217.

The Bar fabricated evidence in support of these accusation that were not within the grievances filed by her ex-associate, to include that Jefferson lied to a tribunal when the judge and parties never accused, alleged or were involved in the Bar compliant; that she communicated with them during legal representation; that she lied about the filing of a police report against her by her ex-associate and his friend, when such reports were filed and proven.

The crux of the Bar complaint and order of discipline rest solely on the Bar's rendition of allegations that are unsupported by the evidence or record in this case.

By virtue of default, the Bar issued an order to disbar her from the practice of law falsely asserting that she failed to testify at the hearing or produce discovery. The transcripts attached prove that she attended the sanction hearing on September 18, 2017 and did testify. Plus, the evidence proves that she testified that she had produced discovery as proven by Exhibit A, attached to the transcripts.

Moreover, the special master created a hostile environment that made it impossible to endure or secure due process by a fair and impartial trier of fact. In addition, as noted on pg. 17 Lines 8-20 of the transcripts he demands that the petitioner testify that he accorded her due

process and an opportunity to be heard. He raised his voice, engaged in a threatening posture, and leaned over the bench, and she responded "*I will not affirmatively state that because I've not been afforded the opportunity to do that. My objections are before the court. Thank you.*"

He continued to be threatening, harassing and intimidating including the use of a blue uniformed police officer not a bailiff generally assigned to the court. The special master used the court room of Mercer University's law school graduate judge, Powell. The special master is a law professor at Mercer University. In fact, following the proceedings, petitioner immediately filed another pleading following on the same day to address denial of due process by a fair and impartial trier of fact.

An order of sanctions is a clear abuse of discretion and the entire proceedings a denial of due process and equal protection.

This order of disbarment does not protect the public and the profession.

REASONS TO GRANT THE PETITION FOR REHEARING

I. This Case Involves Clear Conflict of Laws

This case involves clear conflicts among the courts throughout the United States regarding attorney discipline. As referenced in the original petition, from New York to California, Texas to Pennsylvania, all the supreme courts have different requirements regarding attorney disciplinary proceedings. Although governed by state statute, most attorneys are also authorized to practice in their federal courts. Here, these orders of discipline impact the ability to practice before federal courts and therefore is important for this court to set a standard. It has been 53 years since this court has considered this case.

This case also involves violations rights of attorneys regarding Due Process in noncriminal and attorney disciplinary proceedings, the abuse of discovery as a fishing expedition, Equal Protection, the burden of persuasion, right of accused, and the applicability of the Fifth Amendment privilege and adverse inference drawn from such privilege. See *Andersen v. Maryland*, 49 Led 2d 627, 96 S. Ct. 2737 (1976), *Barnes v. United States*, 412 U.S. 837 (1973), *Hoffman v. United States*, 341 U.S. 479 (1951), *Leary v. United States*, 395 U.S. 6, 36 (1969), *Maness v. Meyers*, 419 U.S. 449 (1975), *Mazda Motor Corp.*, 123 F. 3d 1353, 1368, *North Carolina State Bd. of Dental Examiners v. FTC*, 135 S. Ct. 1101, *In re Ruffalo*, 390 U.S. 544 (1968), and *Spevack v. Klein*, 385 U.S. 511, 515 (1967).

II. This Case Involves Unique Circumstances

Unique to this case is that it involves a black female attorney whose entire disciplinary proceeding was maned by three-white males. This court held in *Timothy Tyrone Foster* that the, the prosecution was "motivated in substantial part by discriminatory intent" when they struck all four of the prospective black jurors from serving on Foster's trial. No. 14-8349. Argued November 2, 2015—Decided May 23, 2016.

Here, the State Bar of Georgia is located in Atlanta, Georgia. A city with a substantial black population. However, the State Bar of Georgia knowingly searched for an all-white panel to review the petitioner's case as referenced in the original petition for review, they even forced the petitioner to change her mailing address and lied and said they never knew that she resided in the metro Atlanta area for 17-years effective the date of the special master selection and 19-years as of the date of the October 7, 2019 order of discipline. The justices involved in upholding the State Bar of Georgia decision who presided in this matter were all white and a black justice recuse himself [Justice Benham]. The judge whose law clerk wrote the decision is also white.

Moreover, five out of the seven members deciding this case before the Supreme Court of Georgia are appointed by former Governor Nathan Deal. He is named as a party in the case that subject petitioner to the order of discipline when she challenged the state's private citizen warrant statute. Harold Melton is a republican appointed by Governor Perdue. Perdue represents Houston county, the same county whose judge engaged in the ex parte issuance of the private citizen warrant that was later vacated and dismissed by another county recusal judge. Houston county is the home county of the grievant.

This court also reached similar decision regarding racial discrimination in juror selection in *Flowers v. Mississippi*, No. 17-9572, 588 U.S. ____ (2019) case that exclusion of blacks from the jury is racial discrimination. This process is akin to the role of *private market participants* in review of cases against their colleagues.

This case involves unique circumstances regarding how attorney disciplinary hearings are conducting. This case involves the use of private market participants who are not governed by their bars or their supreme courts and who make decisions to that impinge upon due process and equal protection. In this case, the petitioner is a black female whose case was decided by an all-white male panel [prosecutor, special master, and review board panelist]. This case is unique because it also involves prosecutorial misconduct. The Bar Rules authorizes a trial under Rule 4-213, but the Bar denied the petitioner that trial. This case is unique because it authorizes disbarment by an order of default for allegations of noncompliance with producing discovery to aid the State Bar in its prosecution against the attorney. Absent the discovery, the Bar has no case, therefore, it implies that the Bar shifts the burden to the attorney to prove their case.

III. This Case Involves Evidence of a Total Disregard of Supreme Court Precedent by the Supreme Court of Georgia

This case involves a total and reckless disregard of this court's holdings in jury selections, use of private market participants, Fifth Amendment privilege and equal protection. Moreover, this case is an example of racial discrimination in the workplace, because the rules of bias, inequity and neutral policy designed to prevent diversity in decision making, to use rules that are vague and ambiguous to subject lawyers to attorney discipline regardless of the evidence. Furthermore, this case demonstrates the dangers is shifting the burden of persuasion and the denial of a quasi-criminal policies to protect the rights of attorneys.

CONCLUSION

Based upon the foregoing, petitioner prays that this case is reheard by the court.

WHEREFORE, Petitioner prays that the petitioner for writ of certiorari is granted with relief.

This 26th day of February 2020

/s/ Sherri Jefferson

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