

BEFORE THE UNITED STATES SUPREME COURT

WENDY ALISON NORA,
Movant-Petitioner,

v.

THE SUPREME COURT OF MINNESOTA OFFICE OF
LAWYER PROFESSIONAL RESPONSIBILITY,
Prospective Respondent.

MOTION FOR EXTENSION OF THIRTY (30) DAYS' ADDITIONAL TIME
TO FILE PETITION FOR WRIT OF CERTIORARI UNDER
28 U.S.C. SEC. 1257(a) AND SUPREME COURT RULE 13.3
FROM SEPTEMBER 26, 2019 TO OCTOBER 26, 2019

TO: The Honorable Brett Kavanaugh
Circuit Justice for the Seventh Circuit
1 First Street, NE
Washington, DC 20543

JURISDICTIONAL STATEMENT

Wendy Alison Nora ("Movant") intends to file her Petition for Writ of Certiorari to the Minnesota Supreme Court under 28 U.S.C. sec. 1257(a) and Supreme Court Rule 13.3. This Motion is brought pursuant to Rules 21, 22 and 13.5 of the Rules of the United States Supreme Court. The Opinion and Order of the Minnesota Supreme Court was entered on May 22, 2019 (the Reciprocal Discipline Order, Exhibit 1) and is based on the Opinion and Order of the Wisconsin Supreme Court entered on March 30, 2018 (the Wisconsin Suspension Order,

Exhibit 2), which was modified on June 12, 2018¹.

Movant sought rehearing before the Minnesota Supreme Court on June 3, 2019 and rehearing was denied on June 28, 2019 (Exhibit 3). The original due date of Petition for Writ of Certiorari is September 26, 2019. Movant seeks an extension of time to file the Petition for Writ of Certiorari (the “Petition”) for thirty (30) additional days from September 26, 2019 to October 26, 2019 (actually to October 28, 2019 by operation of law because October 26, 2019 is a Saturday), for good cause shown herein.

CAUSE FOR THE REQUESTED EXTENSION

A. Status of the proceedings

The status of the proceedings is set forth in the Jurisdictional Statement.

B. The Minnesota Office of Lawyers Professional Responsibility (MOLPR) and the Minnesota Supreme Court violated Movant’s Due Process Rights by ignoring uncontroverted evidence of movant’s innocence of Count Two of the Amended Complaint in the Wisconsin proceedings when the Minnesota Supreme Court imposed the May 22, 2019 Reciprocal Discipline Order.

The issues for which Movant seeks review is whether the use of forged documents, authenticated by perjured affidavits, in quasi-criminal lawyer disciplinary proceedings² violated her Due Process Rights guaranteed by the

¹ Movant previously filed her Petition for Writ of Certiorari to the Wisconsin Supreme Court in *Nora v. Wisconsin Office of Lawyer Regulation*, No. 18-538, which was denied on December 3, 2018. Movant sought rehearing on December 28, 2018, which was denied on February 12, 2019.

² *In the Matter of John Ruffalo, Jr., Petitioner*, 390 U.S. 544, 551, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968) holds, “These are adversary proceedings of a quasi-criminal nature.”

Fourteenth Amendment to the *Constitution of the United States*. As a direct result of forged documents, authenticated by perjured affidavits, upon which the Wisconsin Supreme Court relied, the Minnesota Supreme Court found:

On August 25, 2009, D.P. informed Nora, via a 4:20 p.m. email, that RFC [Residential Funding Company, LLC] had rejected her counteroffer and that “no settlement offer existed.” The next morning, Nora faxed a letter and a copy of the Agreement to Judge J.C., who was presiding over the foreclosure action. The letter said that as a result of the Agreement, the proceedings in the foreclosure action “are stayed.” Her letter implied that, even if the Agreement was not in effect, the proceedings must be stayed because an agreement was imminent. (Opinion and Order of the Minnesota Supreme Court, page 4, Exhibit 1)

Movant never took the position in the foreclosure action involving her personal residence (to which D.P.’s purported email pertained) was settled nor did she “imply” that a settlement agreement was imminent. Rather, she truthfully reported to Judge J.C. by facsimile transmitted at 9:39 a.m. on August 26, 2009 that she had executed a Loan Repayment Agreement with GMAC Mortgage, LLC (GMACM) and that GMACM³ had informed her that the Loan Repayment

³ Movant did not know the relationship between GMACM and RFC on August 26, 2009 and had no information that D.P. represented GMACM, a fact which was never established even at the evidentiary hearing in the disciplinary case in which D.P. was called as a witness by OLR. D.P. testified that his firm was asked to represent RFC by “GMAC-RESCAP” 167:10-17 (Appendix 5 in the Minnesota Disciplinary Case):

10 A GMACResCap hired my firm to represent
11 Residential Funding in the case.
12 Q Do you know if that's an LLC, a corporation?
13 A Residential Funding?
14 Q No. GMAC ResCap.
15 A I can't recall.
16 Q Is it an existing entity?
17 A I don't know at this time.

Upon information and belief, there is no known entity in existence by the name of GMAC-RESCAP.

Agreement would stay the foreclosure action for a period of four (4) months and that settlement negotiations were pending. See Exhibit 4, which is an excerpt of Appendix 11 to the Minnesota Supreme Court displaying Appendix 4, Exhibit A to the Wisconsin Supreme Court, which is in the record of both disciplinary actions.

Movant's August 26, 2009 facsimile (Exhibit 4) did not represent that there was a settlement agreement nor did the facsimile imply that a settlement agreement was imminent. The August 26, 2009 facsimile truthfully represented that Movant had executed and submitted the Loan Repayment Agreement to GMACM and that she had been informed by GMACM that the foreclosure action would be stayed for a period of four (4) months.⁴ *Id.* After OLR's Motion for Summary Judgment was granted by the referee on May 20, 2015⁵, based on an *uncharged* allegation that Movant knew before she sent the August 26, 2009 truthful facsimile to Judge J.C. that D.P.'s "client" had rejected a "settlement agreement" at by email at 4:20 p.m. on August 25, 2009, which she did not receive

⁴ Because Movant made no misrepresentation to Judge J.C., she moved for Judgment on the Pleadings and submitted a copy of the August 26, 2009 facsimile into the record as Exhibit A in her February 25, 2014 Response to OLR's Amended Complaint which was submitted to the Minnesota Office of Lawyers Professional Responsibility as Appendix 4, Exhibit A and to the Minnesota Supreme Court as Appendix 11, pages 86-100. See Exhibit 4 attached hereto.

⁵ Almost two (2) years later, on March 29, 2017, the Wisconsin Supreme Court held in *State ex rel. Universal Processing Servs. of Wis., LLC v. Circuit Court of Milwaukee Cnty.*, ¶77, 374 Wis.2d 26, 63, 892 N.W.2d 267 (Wis., 2017) that a referee cannot constitutionally enter final, dispositive judgments. A Motion to Vacate the Summary Judgment Order entered by a referee without constitutionally delegated, judicial authority is pending before the Wisconsin Supreme Court under Wis. Stat. sec. 806.07(2)(d), which is equivalent to Fed. R. Civ. P. 60(b)(4) pursuant to Wis. Stat. sec. 809.64.

until it was transmitted to her by D.P. as a “forwarded” email on August 26, 2009 at 11:21 a.m. (Exhibit 5), Movant moved for relief from Summary Judgment because she was not charged with having and did not have foreknowledge of D.P. litigation position on behalf of his client, RFC, and because the Loan Repayment Agreement was between Movant and GMACM.

The authenticity of the paper version of the August 25, 2009 email attached to the attorney-grievant’s April 24, 2014 Affidavit has been challenged as a forgery (Exhibit 6), but OLR refused to produce the electronic form of the purported August 25, 2009 email upon the Movant’s discovery request, arguing that the referee’s May 20, 2015 Summary Judgment Order was final and the challenged email was “irrelevant”. The withholding and concealing of the exculpatory evidence of the electronic copy of the challenged email from Movant and the courts is prosecutorial misconduct similar to the concealment of exculpatory evidence in criminal cases⁶.

C. The questions for review of Count Two

The questions to be proposed for review by this Court on Count Two and a brief statement of the legal authority in support of the intended Petition are set forth below:

1. Whether Movant was denied Due Process guaranteed by the Fourteenth Amendment to the *Constitution of the United States* under Rule 12(d) of the Minnesota Rules of Lawyers Professional Responsibility (MRLPR) when the

⁶ All exculpatory evidence is subject to civil discovery in Wisconsin lawyer disciplinary proceedings.

Minnesota Supreme Court concluded that the Wisconsin lawyer disciplinary proceedings were “not unfair” despite substantial evidence that the Wisconsin lawyer disciplinary proceedings were based on forged documents, authenticated by perjured affidavits⁷, produced by the Wisconsin Office of Lawyer Regulation (OLR) in the proceedings for which reciprocal discipline was imposed by the Supreme Court of Minnesota.

In *Napue v. Illinois*, 360 U.S. 264, 269-270, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959), the United States Supreme Court held that it is a Due Process violation for the prosecution to obtain a conviction on testimony it knew to be perjured. Last term, this Court reiterated that the use of fabricated evidence in a criminal case is Due Process violation in *McDonough v. Smith*, No. 18-485 .

Movant seeks relief by certiorari from the use of and reliance upon fabricated evidence in the Wisconsin proceedings upon which the Minnesota Supreme Court unjustly imposed Reciprocal Discipline.

2. Whether Movant’s Due Process Rights were violated by the Minnesota Supreme Court when it concluded that it would not be unjust to impose reciprocal

⁷ D.P. authenticated a paper copy of challenged email and one of the purported attachments in his April 24, 2014 affidavit upon which OLR relied in its Motion for Summary Judgment. Exhibit 5 attached hereto.

Please note that Movant did not sue D.P., his law firm, or the other Wisconsin lawyers and law firms for Ten Billion Dollars in the RICO actions. The Wisconsin lawyers and law firms were specifically excluded from the punitive damages claims in the RICO actions. See Exhibit 7 at paragraph 9, which is an excerpt of the operative complaint in the RICO action in the United States District Court for the Western District of Wisconsin Case No. 10-cv-748. The complete case caption is included in the excerpt, showing all of the parties defendant.

discipline on the Movant when Movant produced uncontroverted evidence that she made no misrepresentation to Judge J.C. and that her conviction on Count Two was the result of forged evidence upon which OLR relied and evidence of the forgery was concealed by prosecutorial misconduct.

Movant's right to practice her occupation cannot be taken in violation of her Due Process Rights. ("A State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment" *Schware v. Board of Bar Examiners of the State of New Mexico*, 353 U.S. 232, 238-239, 77 S.Ct. 752, 1 L.Ed.2d 796, 64 A.L.R.2d 288, (1957). At note 5, in *Schware*, this Court observed, "5. We need not enter into a discussion whether the practice of law is a 'right' or 'privilege.' Regardless of how the State's grant of permission to engage in this occupation is characterized, it is sufficient to say that a person cannot be prevented from practicing except for valid reasons. Certainly the practice of law is not a matter of the State's grace. *Ex parte Garland*, 4 Wall. 333, 379, 18 L.Ed. 366."

Movant also has a constitutionally protected interest in her reputation as a officer of the court who did not make a misrepresentation to Judge J.C. Due Process protection of a person's good name, reputation, honor, or integrity has been recognized in by this Court in *Wisconsin v. Constantineau*, 400 U.S. 433, 437, 91 S.Ct. 507, 27 L.Ed.2d 515 (1971), which held, "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." See also, *Board of*

Regents of State Colleges v. Roth, 408 U.S. 564, 573, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972).

The Wisconsin and Minnesota Supreme Courts falsely found that Movant made a misrepresentation to Judge J.C. based on fabricated evidence, which this Court reiterated last term in *McDonough v. Smith*, No. 18-485 is a Due Process violation. OLR knows and MOLPR should know that D.P. produced a forged document purporting that he sent an email to Movant on August 25, 2009 at 4:20 p.m. Moreover, uncontroverted evidence shows that Movant did not make a statement to Judge J.C. that the case was settled. See Exhibit 4. OLR's adopted Movant's litigation opponent's mischaracterization of Movant's legal position that the temporary Loan Repayment Agreement was a "settlement". There is nothing in the attached Exhibit 4 which states that there was a "settlement" or which suggests that "a settlement was imminent". Exhibit 4 truthfully represented to Judge J.C. that GMACM had agreed to stay the foreclosure action for a period of up to four (4) months pending "settlement negotiations".

The Suspension of the Wisconsin Supreme Court and Reciprocal Discipline Order of the Minnesota Supreme Court are based on fabricated evidence in violation of Movant's Due Process Rights. Movant received an email from D.P. on August 26, 2009 at 11:21 a.m. which purported to forward an email previously sent to her on August 25, 2009 at 4:20 p.m., which she did not receive until August 26, 2009 at 11:21 a.m. See Exhibits 4 and 5. There is substantial evidence that Exhibit B attached to Exhibit 5 is a forgery which has been concealed by

prosecutorial misconduct.

D. Movant's Due Process Rights were violated in the Wisconsin proceedings in her conviction of violations of SCR 20:3.1(a)(3) in Counts One, Three and Four and again, when the Minnesota Supreme Court entered its Reciprocal Discipline Order.

The Minnesota Supreme Court did not consider the voluminous documentary record presented to establish that the Wisconsin proceedings were unfair and that the imposition of reciprocal discipline would be unjust as required by Rule 12(d) of the Minnesota Rules of Lawyers Professional Responsibility, which provides:

RLPR 12(d)

Reciprocal Discipline. Upon learning from any source that a lawyer licensed to practice in Minnesota has been publicly disciplined or is subject to public disciplinary charges in another jurisdiction, the Director may commence an investigation and, without further proceedings, may file a petition for disciplinary action in this Court. A lawyer subject to such charges or discipline shall notify the Director. If the lawyer has been publicly disciplined in another jurisdiction, this Court may issue an order directing that the lawyer and the Director inform the Court within thirty (30) days whether either or both believe the imposition of the identical discipline by this Court would be unwarranted and the reasons for that claim. **Without further proceedings this Court may thereafter impose the identical discipline unless it appears that discipline procedures in the other jurisdiction were unfair, or the imposition of the same discipline would be unjust or substantially different from discipline warranted in Minnesota.** If this Court determines that imposition of the identical discipline is not appropriate, it may order such other discipline or such other proceedings as it deems appropriate. Unless the Court determines otherwise, a final adjudication in another jurisdiction that a lawyer had committed certain misconduct shall establish conclusively the misconduct for purposes of disciplinary proceedings in Minnesota. (Emphasis added.)

Movant is protected by the Due Process Clause of the Fourteenth Amendment to the *Constitution of the United States* from the imposition of reciprocal discipline by the Supreme Court of Minnesota based on Due Process

violations in the Wisconsin disciplinary proceedings, which were, in part, based on forged documents, authenticated by perjured affidavits and which were otherwise obtained in violation of Movant's Due Process Rights and as punishment for the lawful exercise of her Petition Rights for the filing of the actions which form the basis of the charges in Counts One, Three and Four.

E. The importance of the issues

Movant is actually innocent of the charges upon which the Wisconsin Suspension Order was entered and for which the Minnesota Supreme Court ordered reciprocal discipline. The Suspension Order and the Reciprocal Discipline Order are the result of violations of Movant's Fourteenth Amendment Rights to Due Process. This is a serious nation-wide issue involving frauds being committed on state and federal (mostly often bankruptcy) courts for which lawyers representing the interests of homeowners are being sanctioned for attempting to bring to the attention of the courts and the lawyers participating in and even perpetrating the challenged frauds and their clients purporting to have standing to proceed in foreclosure proceedings based on false pleadings, based on forged documents, authenticated by perjured testimony. See, e.g. *Nora v. Wisconsin Office of Lawyer Regulation*, No. 18-538, rehearing denied on February 19, 2019, and Petition for Rehearing in *Rodriguez v. Bank of America, N.A.*, No. 18-723, rehearing denied on April 15, 2019.

F. The need for the requested extension

The issues in this case for which review is sought are complex due to the

extent of violations of Due Process which deprived designed to prevent Movant from being heard in her defense. The Appendix materials which are not her original filings cannot easily be re-formatted and additional time is needed. It is not possible to provide the optimal documentary record showing “when the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed on by those courts; and pertinent quotations of specific portions of the record or summary thereof, with specific reference to the places in the record where the matter appears (e. g., court opinion, ruling on exception, portion of court’s charge and exception thereto, assignment of error), so as to show that the federal question was timely and properly raised” under Supreme Court Rule 14.1(g)(i) without the additional time requested by this Motion for Extension of Time to File Petition for Certiorari. Additionally, some of the other material to be included in the Appendix that the petitioner believes essential to understand the petition under Supreme Court Rule 14.1(i)(vi) which are not her original creation are even more difficult to format and may require outsourcing to another company with specialized technology.

REASONS FOR GRANTING THE EXTENSION

I. Movant’s Petition will raise important issues for review.

Movant seeks to have this Court consider granting the Writ of Certiorari to review the unconstitutional Reciprocal Discipline Order imposed by the Minnesota Supreme Court based on unconstitutional proceedings in Wisconsin which violated Movant’s Due Process Rights and from which relief is pending before the Wisconsin

Supreme Court by Motion to Vacate under Wis. Stat. sec. 806.07(d) for the unconstitutional delegation of judicial authority to an unelected referee pursuant to Wis. Stat. sec. 809.64. The requested extension will allow her Petition to be prepared and filed. If the Court believes that the Petition should be granted to clarify the extent of attorneys' Due Process Rights to be free from the use of forged documents and prejudiced testimony in disciplinary proceedings, it will have the opportunity to do so in this case.

II. If the extension is not granted, Movant will lose her opportunity to have her Petition considered by the Court, but the opposing party will not suffer any loss if the extension is granted.

This requested extension for a total of thirty (30) days to file the Petition unfortunately became necessary despite Movant's best efforts to prepare and file her Petition on or before September 26, 2018. If the extension is not granted, Movant will lose her right to file her Petition which is terminal. If the extension is granted, the opposing party will suffer no loss whatsoever because the Reciprocal Discipline Order has not been stayed. This Court's processes will be delayed by thirty (30) days.

CONCLUSION

The Circuit Justice is asked to exercise his discretion to allow Movant to file her Petition on or before October 26, 2019 for good cause shown.

Dated at Madison, Wisconsin this 25th day of September, 2019.

Respectfully submitted,

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME FORCE AND
EFFECT AS THE ORIGINAL



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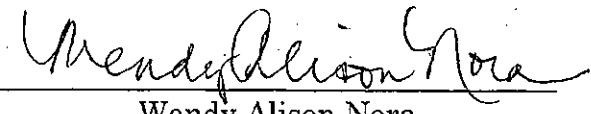
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document and filing services upon the request
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UNSWORN DECLARATION OF UNDER PENALTY OF PERJURY

Wendy Alison Nora declares, under penalty of perjury of the laws of the United States of America, pursuant to 28 U.S.C. sec. 1746, that the facts set forth above are true of her own personal knowledge, except where stated upon information or belief and where stated upon information or belief, she believes those statements to be true. She further states that Exhibits 1, 2, 3, 4, 5, and 6 attached hereto are true and correct copies of what they purport to be.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME FORCE AND
EFFECT AS THE ORIGINAL



Wendy Alison Nora