

ORIGINAL

Supreme Court, U.S.
FILED

AUG 12 2019

OFFICE OF THE CLERK

10-17037
No. _____

In The
Supreme Court of the United States

Peter DeBellis, Michelle Stoprya Yaney, et al.,
Plaintiffs and Appellants,

v.

Rebecca Mason, Jayleen Biery, et al.,
Defendants and Respondents,

On Writ of Certiorari to the California Supreme Court

There is a Related Case in This Court, 16-8650

PETITION FOR WRIT OF CERTIORARI

Mailing Address for Petitioners:
Peter DeBellis,
Michelle Stoprya Yaney
78365 Hwy 111 Suite #302
La Quinta, Ca. 92253
Ph.: 315-283-8770,
Ph.: 772-214-8213,
Propria Persona

February 29, 2020

RECEIVED

MAR 10 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED RULE 14.1 (a)

This case is about an association between a Catholic priest, Peter DeBellis, and a single woman, Michelle Stoprya Yaney. This petition spans several years and details their difficulty in seeking the protection of the courts in the State of California.

When petitioners attempted to seek relief from the dismissal of their case as a “Failure to Prosecute with Prejudice,” they brought, Masterpiece Cake Shop v. Craig Mullins, quoting Justice Kennedy regarding the freedom of expression while stating the following,

“Plaintiffs believe the right to raise and try discrimination of any kind is the most important form of expression and the most important First Amendment right this court has taken that from us. It repeatedly misplaced and rejected our second amended complaint and did not allow us an answer to our many requests for interrogatories stating it was too late for discovery.”

The First Question Presented:

Did the California Supreme Court have a duty to protect petitioners’ individual constitutional rights for a claim of discrimination on how the association, by definition, affected the actions of others given that the court knew the association affected petitioners as individuals differently by definition?

The U.S. Constitution states only one command twice and it may be found in the Fifth Amendment which states to the federal government that no one shall be "deprived of life, liberty or property without due process of law." It may also be found in the Fourteenth Amendment which was ratified in 1868 to contain the same eleven words, called the Due Process Clause, to describe a legal obligation of all states.

The prejudice in this petition, is not the application of the law according to the "rule of law" and it is contrary to a state court's obligation under the Constitution to uphold religious neutrality when adjudicating a case re-emphasized in *Masterpiece Cake Shop v. Craig, Mullins* 16-111, 2017, Justice Kennedy opined:

"The delicate question of when the free exercise of religion must yield to an otherwise valid exercise of state power needed to be determined in an adjudication in which religious hostility on the part of the state itself would not be a factor in the balance the state sought to reach," Kennedy says. "That requirement, however, was not met here. When the Colorado Civil Rights Commission considered this case, it did not do so with the religious neutrality that the Constitution requires."

The Second Question Presented:

Petitioners, both of whom are insular and discrete minorities, ask under this court's proclaimed duty to oversee its lower courts under uniformity, did the California Supreme Court violate petitioners' Fourteenth Amendment Right of Equal Protection and Due Process when they summarily denied and rejected review of the dismissal of petitioners' appeal and discoveries that they had rejected petitioners' association while knowing their claim of discrimination had merit and had been denied filing and adjudication in the trial court?

LIST OF PARTIES RULE 14.1(b)(i)

Superior Court of San Bernardino
Honorable Judge Bryan F. Foster
247 W. Third St.
Riverside, Ca. 92415
909-708-8678

Superior Court of Riverside Hall of
Justice
4100 Main St.
Riverside, Ca 92450
909-708-8678

Xavier Becerra, Attorney General State
of California,
300 South Spring Street,
Los Angeles, CA. 90013
213-897-2000.

Office of General Counsel of the
State Bar of California
Unit 180 Howard St.
San Francisco, Ca. 94105
213-765-1000

Omero Banuelos, Counsel for Rebecca Mason
2029 Century Park East, Suite 400
Los Angeles, Ca. 90067
213-375-3811

Jayleen Biery
1022 Balsa Ave.
Yucca Valley, Ca. 92284
909-253-4060

Ninth Circuit Court of Appeal
The James R. Browning Courthouse
95 7th Street,
San Francisco, Ca 94103
Phone: (415) 355-8000

LIST OF RELATED CASES

- A. Alexander v. Choate 469 U.S. 287, 293 (1985).
- B. Allgeyer v. Louisiana, 165 U. S. 578 (1897).
- C. Bartemeyer v. Iowa, 18 Wall. 129, 133–135 (1874).
- D. Griswold v. Connecticut, 381 U.S. 479 (1965).
- E. Masterpiece Cake Shop v. Craig, Mullins 16-111 2017.
- F. Mugler v. Kansas, 123 U. S. 623, 659–670 (1887).
- G. Munn v. Illinois, 94 U. S. 113, 123–135 (1877).
- H. Planned Parenthood of South-eastern Pa. v. Casey, 605 U.S., at 847-849.
- I. Railroad Comm'n Cases, 116 U. S. 307, 331 (1886).
- J. Schenck v. United States 249, U.S. 47 (1919).
- K. Slaughter-House Cases, 16 Wall. 36 (1873).
- L. Trinity Lutheran Church of Columbia, Inc. v. Comer, 582 U.S. ____ (2017).
- M. Washington, et al., v. Harold Glucksberg, et al.

STATE COURT RELATED CASES

- N. Higgins v. Del Faro (1981) 123 Cal.App.3d 558, 5563-65.
- O. Jameson v. Desta (2018) 5 Cal.5th 594.
- P. Jones v. Superior Court (1962) 58 Cal.2d 56, 60.
- Q. Kittredge Sports Co. V. Superior Ct. (1989) 213. Cal.App.3d 1045, 1048.
- R. Radecki v. Joura, 114F.3d 115 (1997).
- S. Walker v. Superior court 53 Cal.3d 257 (Cal. 1991).
- T. Ytuarte, v. The Superior Court of Los Angeles County, Court of Appeal, Second District, Division 7, California. No. B180471. (Cal. 2005).

CORPORATE DISCLOSURE STATEMENT
Rule 14.1(b)(ii)

Petitioners, Michelle Stopyra Yaney and Rev. Peter DeBellis, are not invested in any corporation and are citizens of the State of California.

TABLE OF CONTENTS

QUESTIONS PRESENTED.....	i
FIRST QUESTION	i
SECOND QUESTION.....	iii
LIST OF PARTIES	iv
RELATED CASES.....	v
CORPORATE DISCLOSURE STATEMENT.....	vii
TABLE OF CONTENTS.....	viii
TABLE OF AUTHORITIES.....	x
LIST OF APPENDICES.....	xii
WRIT OF CERTIORARI.....	1
INTRODUCTION.....	1
DECISIONS BELOW.....	4
A. The Trial Court's Decision.....	6
STATEMENT OF JURISDICTION.....	6
CONSTITUTIONAL PROVISIONS	8
STATEMENT OF CASE AND PROCEDURAL BACKGROUND... .	8
a. A Discovery Brought to the California Supreme Court.....	9
b. Statement of Procedure Case S240820.....	14
c. Procedure in the Ninth Circuit Court Case S241342.....	16
d. Procedure of Trial Court	21
e. Second Amended Complaint.....	22

f. Procedure of State Court of Appeal Procedure.....	29
REASONS ALLOWANCE OF WRIT CERTIORARI.....	33
a. Individuals Within an Association	35
CERTIFICATION OF WORD COUNT	41
VERIFICATION.....	42
TABLE OF CONTENTS OF APPENDICES.....	43-48
APPENDICES A THROUGH V	49-184

TABLE OF AUTHORITIES

CASES

<i>Allgeyer v. Louisiana</i> , 165 U. S. 578 (1897).....	38
<i>Barry v. Edmunds</i> (1886)] 116 U.S. [550,] 565 [29 L.Ed. 729, 734, 6 S.Ct. 501].)".....	10
<i>Griswold v. Connecticut</i> , 381 U. S. 478 (1965).....	39
<i>Higgins v. Del Faro</i> (1981) 123 Cal.App.3d 558, 5563-65.....	11
<i>Jameson v. Desta</i> , 5 Cal. 5th 594 – 2018.....	7, 25, 34
<i>Jones v. Superior Court</i> (1962) 58 Cal.2d 56, 60.....	4
<i>Kittredge Sports Co. V. Superior Ct.</i> (1989) 213 Cal.App.3d 1045, 1048.....	11
<i>Korematsu v. U.S.</i> 323 U.S. 214 (1944).....	37
<i>Lane v. Hughes Aircraft</i> (2000) 22 Cal.4th 405, cert. den., 121 S.Ct. 307 (2000).....	26
<i>Masterpiece Cake Shop v. Craig, Mullins</i> 16-111, 2017.....	i, 29, 34
<i>McDaniel v. Paty</i> , 435 U. S. 618 Id., at 627	36
<i>Neal v. Farmers Insurance Exchange</i> (1978) 21 Cal.3d 910, 932-933.....	26
<i>O'Shea v. Littleton</i> 414 U.S. 488, 502-503, (1974).....	10
<i>People v. Ribero</i> (1971) 4 Cal.3d 55, 65.....	24
<i>Planned Parenthood of Southeastern Pa. v. Casey</i> , 505 U. S. 833 (1992) et seq.....	35
<i>Radecki v. Joura</i> , 114F.3d 115 (1997).	19
<i>Reno v. Flores</i> ,	

<i>Radecki v. Joura</i> ,	
114F.3d 115 (1997)	19
<i>Reno v. Flores</i> ,	
507 U.S. 292, 301-302(1993).....	40
<i>Schenck v. United States</i> ,	
249 U.S. 47 (1919) et seq.....	3, 8, 32, 33, 37
<i>Skinner v. Oklahoma ex rel. Williamson</i> ,	
316 U. S. 535 (1942).....	40
<i>Slaughter-House Cases</i> ,	
16 Wall. 36 (1873) et seq	38
<i>Trinity Lutheran Church of Columbia, Inc. v. Pauley</i> ,	
788 F. 3d 779, 784 (2015).....	36
<i>Trinity Lutheran Church of Columbia, Inc. v. Comer</i> ,	
582 U.S. ____ (2017).....	36
<i>Walker quote Davis</i> ,	
supra, 25 Cal. App. 3d.....	11
<i>Washington v. Glucksberg</i> ,	
521 U.S. 702 (1997).....	37

STATUTES

28 U.S.C. § 1257 Writ of Certiorari Jurisdiction Rule 10,11...	4,9
28 U.S.C. § 1292 (b).....	16
28 U.S.C. § 1651, (a), (b),.....	8, 18
28 U.S.C. § 1331.....	8, 9, 16
28 U.S. Code §2254 (a), (b)(1)(A),(B)(i),(ii)	17
28 U.S. Code §2254 (d)(1), (2).....	17
28 U.S. Code §2254 (e)(2)(B).....	17
42 U.S.C. § 1983.	8
42 U.S.C. §3601.....	20
42 U.S.C §3602 (h).....	1
42 U.S.C. §3604	20
42 U.S.C. §3602(h).....	1
Cal. Bus. & Prof. Code §§6075-6087.....	15
Cal Const. Art. I and Art. 7.....	8, 13, 24,
Cal Const. Art. 7, Sec 1, Sec. 12(a).....	24
Cal. Gov't Code §12955.3.....	1

CCP 1008(a), CCP 472, CCP 437(a).....	10
CCP 1161.....	19
CRC Rule 1.100.....	37
CRC Rule 9.13.....	15
Supreme Court Rule 10 and 11.....	8, 38-39
Title XVI of the Social Security Act, Sec. 1614(a)(3)(A)...	1
The Americans with Disabilities Act.....	5

CONSTITUTIONAL PROVISIONS

U.S. Constitution Article III, Sec. 1.....	9
U.S. Constitution Amendment I.....	5, 31, 32
U.S. Constitution Amendment V.....	ii, v,
U.S. Constitution Amendment VII, Right to Jury Trial....	5, 32
U.S. Constitution Amendment V and XIV	5, 33, 35, 36
U.S. Constitution Amendment XIV	ii

LIST OF APPENDICES

Please refer to the Appendices Table of Contents	43-49
--	-------

Writ of Certiorari

Petitioners, Peter DeBellis and Michelle Stopyra Yaney, respectfully request the United States Supreme Court Chief Justice, John G. Roberts, Jr., grant review of the California Supreme Court final order of May 15, 2019, case S254815. Petitioners request review of two additional orders rejected by the California Supreme Court on March 20, 2019, case E071535.

Petitioners are co-plaintiffs in the trial court case, *DeBellis, Yaney v. Mason, Biery CIVDS1518281*, San Bernardino Superior Court. Petitioners are appellants in the State Court of Appeal Fourth District Division Two, case E071535, *Yaney et al., v. Mason, Biery*.

Petitioner, Michelle Stopyra Yaney is a Social Security Disability (SSI) recipient and is "disabled" as defined under 42 U.S.C. §3602(h) and Cal. Gov't Code §12955.3.

INTRODUCTION

Petitioners received a letter from this court instructing them to correct their writ of certiorari and remove pastings within the petition of lower court orders. Petitioners could not describe why they have come to this court without the images to refer to therefore, they respectfully request this introduction be allowed.

This case is about an association between a Catholic priest, Peter DeBellis, and a single woman, Michelle Stoprya Yaney.

It is difficult to write how one feels when they discover why they have suffered discrimination and that it could have been avoided with just one person caring enough to speak to them. It is more difficult when one realizes the courts of their state all of them knew how it had begun years before they did. In petitioners' case the lower courts chose to look away procuring a docket of denials and erroneous procedure while knowing the record would cause discrimination to become worse. Where is the human dignity the Fourteenth Amendment states is so important?

This U.S. Supreme Court Associate justice, Justice Ginsburg spoke at the Annenberg Institute describing equal protection as, "The essence of equal protection is human dignity we have the XIV Amendment to tell the states they must allow equal protection... "[A]ll humans are entitled to respect and no person because of who he or she is, because of his or her birth status is any less human and entitled to rights than any other person."

There is a fundamental error which can be found in the procedure of the lower courts, it is that they brought the association from the beginning, not petitioners. They did so without explaining it, that was the problem.

Petitioners did not understand at the time of their case and they were not asked by the court how they believed they can bring a claim of discrimination when the Catholic faith did not allow the association. Petitioners would have explained their concern was as individuals who do not want to lose more of their personal property or have services for living be made more difficult to obtain, reasons they were in a court together. By the time petitioners understood the circumstances it was too late the lower courts had already substantially prejudiced them it is in the record.

Petitioners read that Chief John Roberts needs to know what a petitioner wants from this court. Petitioners request this court consider that neither the California Supreme Court nor the Court of Appeal Fourth District Division Two had subject matter jurisdiction over them or their association.

The reason is the California Supreme Court knew by their lower court's record that petitioners' claim of discrimination based on religious identity had merit even before petitioners did. They knew that petitioner Yaney, an established disabled woman, had unknowingly bought her home in a community of morally strict Dominion Reconstructionists, an actual ministry. They also knew the community's faith doctrine based on the Mosaic Law of the Old Testament could not allow petitioners' association without taking action as punishment.

The State Court of Appeal Fourth District Division Two had previously granted a judgement in a published case for religious discrimination with retaliation awarding emotional damages to the plaintiff Judy Clark, a Mormon, against defendant Sky Valley, the plaintiff in the related case for Yaney's home. Judy Clark v. Sky Valley East INC044133. Sky Valley v. Yaney, PSC 1303128 (2010).

This court's review is needed because what the lower courts have done, being very critical with procedure that is difficult for pro pers, has deprived not only petitioners but all those who have reacted to their association or may want to in a harmful manner, from understanding that discussion when one is offended by another's perceived way of life is best.

This court's review is also needed because the constitution clearly sees us all as individuals before it sees any association we may have or may easily define us and the lower court's rulings and erroneous actions in this case are contrary to this.

DECISIONS BELOW, Rule 14.1

On May 15, 2019 the highest state court, the California Supreme Court, summarily denied review in a final order on case S254815. The order may be found App. A. pg. 56-57.

The Court of Appeal Fourth District Division Two order dated March 7, 2019, on petitioner's appeal case denied reinstatement of petitioners'

appeal case, E071535. The order was stamped with the signature of Acting PJ, Justice McKinster. The order may be found in App. B pgs. 59-60.

On this day a partial remittitur stands for DeBellis and a full one for Yaney under the same case number, E071535. The Court of Appeal has recently explained that both remittiturs were for both appellants. The partial remittitur on DeBellis may be found in App. B1. pgs. 62-72. The docket may be found in App. B2 74-80.

The final action is a letter dated March 20, 2019 by the California Supreme Court, Clerk of the Court, Jorge Navarrete. The lower state Court of Appeal orders dated December 21, 2018 and February 19, 2019. Both orders were stamped signed Acting PJ McKinster. The letter and orders may be found in App. C pg. 82-84. The full remittitur re: Yaney App. C1 86-87.

A. The Trial Court's Decision

Petitioners' case in the trial court, the Superior Court of San Bernardino was dismissed on June 28, 2019 for "Failure to Prosecute with Prejudice Too Many ADA Accommodations for Continuances." Petitioners' case was not an ADA case. The dismissal was done on the court's own motion in a hearing docketed as: "Order to Show Cause RE: (PLTFS / FTA / FTP) Dismissal / Readiness.)"

The order of dismissal is posted on the public docket and repeats itself numerous times. The entry has stood for over a year violating the ADA Civil Rights Bill and the Superior Court's own law on confidentiality, CRC Rule 1.100(c)(4). The order may be found in App. D pgs. 94-96, order denying the accommodation in App. D1 pgs. 98, order on reconsideration, App. D2 pgs. 100-102, Docket Page, "Exhibits Filed for Jury", App. D3 pg. 104.

**STATEMENT OF JURISDICTION,
(Rule 14.1 (e))**

On May 15, 2019 in a final order on case S254815 and March 20, 2019 in a final action the California Supreme Court summarily denied review of its lower court the Court of Appeal Fourth District Division Two dismissal of petitioners' appeal for a fee waiver and as "no jurisdiction", case E071535. The California Supreme Court also summarily denied discoveries brought as errors within their own record which occurred during extraordinary writ review and review of the State Bar General Counsel decision.

The discoveries verified the California Supreme Court removed petitioners' jurisdiction for a claim of discrimination prior to their jury trial; the trial court cannot supersede them. The orders and actions brought to this petition violated petitioners' constitutional rights under the First Amendment Right to Petition and Assembly and Right of Free Speech and the Fourteenth Amendment Right of Equal Protection and Due Process to include Procedural Due Process.

This leaves in place the fact petitioners will never have jurisdiction for an appeal in the State of California. Also left in place is the canceling of petitioners' scheduled jury trial after the jury exhibits had been filed. Petitioners had paid for the jury without a fee waiver even though one was granted previously to both of them in the case. The result is petitioners have been deprived of the Seventh Amendment Right of a Jury Trial.

The California Supreme Court has deprived petitioners of the principal of their "rule of law" which allows indigents who have been granted a fee waiver in a prior in a case, a waiver of court reporter fees to ensure an accurate record of what actually happened for an appeal. *Jameson v. Desta*, S230899, 5 Cal. 5th 594, 2018.

The U.S. Supreme Court has jurisdiction under the following: United States Constitution, Article III, Sec. 1, and 28 U.S.C. § 1257: Certiorari Jurisdiction is pursuant to Supreme Court Rules 10 and 11. Supreme Court Rule 10, entitled Considerations Governing Review on Writ of Certiorari. This standard includes intervention to prevent a gross miscarriage of justice. The Judicial Administration Standards criteria for discretionary review. These are "that the matter involves a question that is novel or difficult in the administration of justice." Supreme Court Rule 11 Because a case "is meant to justify deviation from normal appellate practice and to require immediate determination of this Court."

28 U.S.C. § 1651, (a), (b), The All Writs Act," this court has jurisdiction and authority to provide injunctive relief and declaratory relief under the following statutes and laws: 28 U.S.C. § 1331, 42 U.S.C. § 1983.

28 U.S.C. § 1331 Federal Question Jurisdiction,

The laws of the United States must be an element as well as a genuine and present controversy. This Court is empowered to review the judgments of "the highest court of a State in which a decision could be had." The court is faced with two interrelated decisions: whether the state court judgment is based upon a nonfederal ground and whether the nonfederal ground is adequate to support the state court judgment.

CONSTITUTIONAL PROVISIONS

The text may be found in Attachment 1 to this petition pgs. 50-52 regarding; the U.S. Constitution and its First, Fifth, Seventh, and Fourteenth Amendments, and the ADA Civil Rights Bill. The text for the California Constitution can be found in Attachment 1A pgs. 52-55, regarding Article I and Article VII Declaration of Rights [Section 1 - Sec. 32] (Article I adopted 1879). Section 1. and Art. VI Sec. 12. (a).

STATEMENT OF CASE AND PROCEDURAL BACKGROUND, Rule 14.1 (g)

In a time when immigration is a debate in terms of which individuals will be allowed entry to our country this case regarding individuals within an association which can cause others to act against them because of religious identity, is relevant.

Petitioners believe the way this case may benefit others is for this court to further define a court's obligation under the constitution to an individual within an association when the association is brought as reason for a claim of discrimination.

Most importantly, by granting review this Court can send the message of the value of a good discussion among those who may differ in belief or may be offended by another's perceived way of life for a beneficial result.

A. A Discovery Brought to Case S254815

Petitioners brought to the California Supreme Court in case S254815, it had errored, and this had removed petitioners' right of review to this U.S. Supreme Court. Petitioners requested they simply look at their own record to see there are cases open in different counties under different trial courts erroneously deposited into each other. Petitioners stated, this left an original action, a writ of mandate / prohibition case S241696 and case S240820 a review of the California State Bar, regarding Yaney's home without a ruling.

The writ of mandate/prohibition case S241696, was an amendment to a first writ, case S241342. The amendment was filed as an "original action" in the California Supreme Court. Both writs were brought under, CCP 1085-1086 and the Cal. Const. Art. VI Sec. 10 and Article I Article VII and Article I Sec. 16. Petitioners requested a directive for the case to be remanded back to the superior court appellate division CIVDS 1706095. The prayer contained a request for the trial court to dismiss the case without prejudice this had been denied petitioners even though they were plaintiffs. Vol III. S241696, pg. 19. ¶ 2

Petitioners filed a writ of mandate in the first instance in the California Supreme Court. The California Rules of Court only allow for review in the high court on a writ of mandate, a summary denial by the Superior Court Appellate Division of a writ of mandate when the respondent is a judicial officer and review of an abuse of discretion is requested. Petitioners had sought relief in the Appellate Division for an abuse of discretion, the writ was summarily denied case CIVDS 1706095. The order may be found in App. H pgs. 125-127.

The order brought to the California Supreme court had occurred in the trial court on a motion for reconsideration of reclassification. The motion was brought under CCP 1008(a), CCP 472, CCP 437(a). The reconsideration was granted yet the second amended complaint was dismissed, and it had been attached to the motion.

The opposition attorney had not opposed the reclassification therefore, petitioners argued the policy favoring leave to amend is so strong that is an abuse of discretion to deny an amendment unless the adverse party can show meaningful prejudice.¹ Petitioners brought to the California Supreme Court declaring that the trial court judge had removed their right of a jury's determination when he dismissed the second amended complaint. Petitioners brought in *Walker* quote *Davis, supra*, 25 Cal. App. 3d. under Article I, section 16 of the California Constitution. From ruling in 596, 600:

"To permit the setting judge to determine sua sponte that an alleged claim is unfounded or fraudulent is to deny the plaintiff his right to a jury trial on the claims. 'In no case is it permissible for the court to substitute itself for the jury, and compel a compliance on the part of the latter with its own view of the facts in evidence, as the standard and measure of that justice, which the jury it- self is the appointed constitutional tribunal to award.'

The amended writ was done at the suggestion of the California Supreme Court clerk after petitioners had inquired how to include the transcripts of the trial court as record. Petitioners now understand the transcripts verify that each time they attempted to present their association or discrimination they were hushed by the judge.

¹ See *Kittredge Sports Co. V. Superior Ct.* (1989) 213 Cal.App.3d 1045, 1048; *Higgins v. Del Faro* (1981) 123 Cal.App.3d 558, 5563-65.

The exact day petitioners called to state the amended writ was being delivered to the California Supreme Court via courier case S241342 was transferred by them to the lower court and renumbered as case E067189. The amended writ which asked for review for an abuse of discretion allowed for it to be an original action. The amended writ arrived and was not filed until 10 days later; it was given a new case number by the California Supreme Court as case S241696. The docket and stamped petition cover for case S241696 may be found in App. E pgs. 106-108.

The transfer did not have jurisdiction. The reason was the lower Court of Appeal had denied the issue of the second amended complaint rejection one day prior to the trial court order brought to the writ. In effect, the lower Court of Appeal had allowed the trial court to dismiss the second amended complaint.

Petitioners believe the California Supreme Court's difficulty with their association may be found in the ruling on the transfer of the first writ, case S241342. They erroneously generated two exact orders, one dated the correct date of April 21, 2017, the other one with the incorrect date of 60 days prior February 21, 2017. The two orders, docket, and relevant documents on case S241342 may be found in App. F pgs. 110-116. The order summarily denying case E067189 by the Court of Appeal App. G. pgs. 118-123.

It is necessary to document the actions of the trial court at the time of case S241342. The events were brought to the California Supreme Court: the trial court judge had requested petitioners bring the second amended complaint to his chambers and not file it with the clerks which would be the normal procedure. Then the judge's assistant convinced petitioners the second amended complaint did not go as an attachment to a motion for leave to file it. At one point the judge had petitioners escorted to another courtroom to be alone with him and when Yaney tried to discuss DeBellis as a Catholic priest when she referred to him as "Father DeBellis" the judge silenced her in a loud manner stating "no' not explaining why.

The same judge in an actual order when ruling on the first motion for leave to file the second amended complaint stated that petitioners were not allowed the mailing of their documents to the court via the U.S. Postal Service; this is allowed to everyone in every court in our country. After numerous rejections of mailings, petitioners filed an ADA accommodation to be allowed postal mailings of documents, submitted for Yaney because it is difficult for her to go out in the sun with her disability and the court was almost 2 hours away. Petitioners filed for relief and a *prima facia* issued from the Superior Court Appellate Division, directing the trial court to allow postal mailings, this may be found in APP. I pgs. 129-131.

Petitioners requested the California Supreme Court consider that the dismissal of their case as failure to prosecute with prejudice is void and the court's own record verified this. Petitioners additionally requested a ruling on the extraordinary writ, asserting that both cases S240820 and S241696 are technically still open. The docket of case S241696 states the following:

“No action taken; case closed, upon review of the Court, this matter will be closed, resubmitted, and further reviewed under case number S240820.”

B. Statement of Procedure Case S240820

This entire case had “no jurisdiction” besides it being where case S241696 was deposited. Basically, the Supreme Court of California and State Bar of California advised and continued the procedure of this case when neither Yaney nor the court had jurisdiction, “an accusation against an attorney” is only for a State Bar member.

Case S240820 was a review of the State Bar’s denial of Yaney’s appeal case 16-23428. Prior to this case the California Supreme Court granted a motion for judicial notice to Yaney under the extrinsic fraud doctrine, case S235392. The motion contained altered court documents which verified Yaney’s, own attorney and the oppositions’ attorney collaborated so her intent to file a new trial would be untimely. The granting of the judicial notice occurred when Yaney was in a different state than DeBellis.

The procedure in case S240820 began with State Bar General Counsel sending two letters advising Yaney her only choice for an appeal was to go directly to the Supreme Court of California in “an accusation against an attorney” under CRC 9.13. Yaney filed a petition for review instead and the California Supreme Court on its own volition renamed it as “an accusation.” In other words, the court decided to uphold the State Bar’s advice when Yaney did not. The petition was filed as “RECEIVED ONLY,” “LODGED EXHIBITS.” with an illegible file stamp. The place where the clerks name goes is obviously missing as in whited out. The actual cover is attached to this petition.

Yaney only spoke to State Bar General Counsel once and the conversation began with the statement “what do you want” then the attorney abruptly hung up the phone. Moments later a posting on the California Supreme Court docket requested a letter be written by Yaney dismissing the accusation. Yaney messaged the attorney asking why she had intentionally led her in the wrong direction. The attorney’s response was to fax a California Supreme Court Case referring to procedure, “re: Walker stating”: “... but we are of the view that as a matter of policy this court should not exercise those powers unless and until the accuser has followed the normal procedure by their invoking the disciplinary power of the state bar. (bus. & prof. code, §§6075-6087).”

Petitioners now understand the State Court of Appeal Fourth District Division Two was the correct court for an appeal of the State Bar decision. They would have had to consider review because the higher court, the California Supreme Court, had granted the aforementioned motion under the extrinsic fraud doctrine for the attorney's conduct.

There were four letters generated from the new Clerk of the Court, Jorge Navarrete, during this case S240820, yet the docket of the case shows documents were only received never filed. The California Supreme Court issued an order summarily denying case S240820 mentioning nothing about case S241696.

The order on S240820 may be found in App. J pg. 133, the petition cover with illegible file stamp and docket may be found in App. J1 pgs. 134-138, the four letters dated 5/24/17, 4/27/17, 4/26/17, 4/12/17 and cover of rejected supersedes may be found in App. J2 pgs. 140-145, General Counsel's letter advising "an accusation" and fax may be found in App. J3 pgs. 147-155, the order on case S235392 may be found in App. J4 pg. 157.

C. Procedure in the Ninth Circuit

Petitioners filed an interlocutory appeal with the Ninth Circuit of the California Supreme Court transfer, case S241342. The appeal was brought under the collateral order doctrine and the jurisdiction was requested under 28 U.S.C. § 1292(b), 28 U.S.C. § 1331.

What has been discovered is how the appeal was rejected through timing with the State Court of Appeal case E067189. The procedure involved a clerk from the Ninth Circuit, Craig Westerbrooke, who wrote petitioner Yaney a personal email on 5/26/17 which stated he could not see the case number on the notice of appeal, S241342.

The original notice of appeal was good enough for the California Supreme Court who stamped it received. As in this case, petitioners were told to file a separate appeal. DeBellis' was received and stamped on 5/24/17 prior to the summary denial of case E067189 which would occur on 5/30/17. Yaney's notice of appeal was held for 14 days and received stamped on 6/6/17.

'There was a pending case in the Ninth Circuit submitted by Yaney, case 17-70842; a Writ of Habeas Corpus ad Subjiciendum, brought under 28 U.S. Code §2254 (a), (b)(1)(A),(B)(i),(ii) and 28 U.S. Code §2254 (d)(1), (2), and 28 U.S. Code §2254 (e)(2)(B). All Writs Act, 28 U.S.C. § 1651 (a).

Yaney chose habeas after she was given articles written by Justice Stephen Reinhardt, on the difficulty minorities have obtaining process. She had been forcibly removed from her home in an *ex parte* hearing without notice on Christmas Eve, a significant religious holiday. Afterwards, Yaney learned the clerks had mistakenly released to the opposition her escrow deposit of future land rent of \$2,364.97.

Yaney named as the respondent in the habeas whom she had been advised could help her, Attorney General, Xavier Becerra. Yaney explaining the difficulty it was for her to have secure shelter as an SSI recipient with a non-monetary judgement. Yaney spoke to the Attorney General's office one time and they said, "it was complicated".

The trial court judge, when granting the non-monetary judgment against Yaney stated, her disability did not fall under the ADA and there was a connected washer and dryer in the back of her covered car port. Yaney appealed and the judge's statement was found to be "a harmless error".

Yaney was granted social security disability benefits, SSI, before the age of 40 for an inflammatory skin condition which is caused by vascular anomaly diagnosed by the head of the dermatology department at UCLA Medical Center, Dr. Victor Newcomer. Yaney suffers with severe flushing and sun sensitivity. Yaney did not have to wait for a decision granting benefits they were granted in the first hearing upon the Federal Judge seeing how her skin rashes. Yaney also suffers anxiety disorder which runs in her family.

The non-monetary complaint served to Yaney was filed under the California swift procedure of unlawful detainer, CCP 1161. The violation alleged Yaney did not construct a roof façade consisting of two boards in a "V" shape on the front of her mobile home. The 10-day notice was served to Yaney on the second day of the "Silver

Wildfire" State of Emergency issued by Governor Brown of California. The Governor advised all should stay inside, opening hospitals for those needing relief from smoke inhalation. Both of Yaney's county doctors wrote an ADA accommodation letter asking for more time for the fire and summer heat to subside. Yaney attempted to do what was requested with the help of DeBellis who built the façade several times.

Yaney filed a timely answer bringing a Federal statute sent by Fair Housing, 42 USC 3601 et seq. and 42 USC 3604, and a federal case, which had been remanded regarding disability diagnosis, Radecki v. Joura, 114F.3d 115 (1997).

Yaney attempted to get a lawyer and she did and then he backed out of the trial at the last minute. The morning of the trial, Yaney's jury trial was revoked as untimely. This happened after she was asked to file several fee waivers up until the actual day of trial. The non-monetary judgment for Yaney's home was rendered in the Palm Springs Superior Court for the County of Riverside. Sky Valley v. Yaney PSC1303128.

Yaney pursued an appeal in the Riverside Superior Court Appellate Division case, Sky Valley v. Yaney APP-1400065. Yaney brought a discovery which she had been advised rendered the appeal moot. The discovery was that the attorney who had promised to represent Yaney the day of her trial who was also a superior court judge *pro tem* explained to her he was approached by the plaintiff and what was said caused him to determine he could not help; he did not explain.

Yaney brought the discovery in a motion to vacate for exceptional evidence requesting a ruling. Time was short, Yaney had been denied the right to participate in the auction of her home. There was never an order, the docket stated, "it would be decided at the end of the appeal." It was delayed by, the attorney's own court, for a year and a half, the only erroneously appeared as a footnote in the final decision.

The State Court of Appeal brought to this certiorari had prior to the final decision for Yaney's home rejected her submission of a writ of mandate which asked for a directive to the lower appellate court for a ruling on the discovery regarding her attorney who was their lower court's officer, being a superior court judge *pro tem*. The writ petition was returned for procedure, a post-it note was accidentally left on one of the pages. After the decision affirming the judgment and during this case, they summarily denied a writ of mandate / prohibition or the alternative coram vobis, Case E065703. The writ contained the documents of ineffective counsel that would be granted judicial in the California Supreme Court the next year, case S235392.

The timing of the request by the Ninth Circuit clerk, Westerbrooke on May 26, 2017 became clear. It was a 4-day weekend which gave the state Court of Appeal the time to summarily deny the transferred writ on May 30, 2017 case E067189. The denial rendered the appeal of the transfer case S241342 moot.

The habeas case 17-70842 was denied by the Ninth Circuit as "no jurisdiction" on 5/17/17. Yaney requested transfer to the lower district court and the docket of the Ninth Circuit appeared as if she had already been in Los Angeles Federal District Court. Yaney's case was in Riverside County. The order on the habeas 5/17/17 may be found in App. K pg. 159, the order denying extraordinary writ "no jurisdiction" 8/29/17 may be found in App. K1 pgs. 161-162, the email may be found in App. K2 pg. 164, the docket of the Ninth Circuit may be found in App. K3 pgs. 166-168, original notice of appeal case S241342, stamped received by the California Supreme Court may be found in App. K4 pgs. 170-171.

D. Procedure of the Trial Court

Petitioners are co-plaintiffs in the trial court case which is a contract dispute in the Superior Court of San Bernardino County, California. The causes in the original complaint were "Misrepresentation and Defamation of Character" as motive for the conversion of personal property. Petitioners had lost a vehicle valued at \$17,000 and a gentle paint horse.

The conversion occurred during the appeal for Yaney's home and the events for petitioners coincided with the scheduling of briefing and in response to what Yaney filed. Some of the events were, Mason convinced DeBellis she needed a truck to help their horse whom she had leased. DeBellis had a nice Chevy Silverado Crew Cab, limited edition, 4-wheel drive; it was only 7 years old. Mason explained that there was a wild-fire

and she needed to move petitioners' horse to safety and her truck was having transmission problems. Petitioners discovered that Mason's area was where the animals where brought for safety. DeBellis went to Mason's home to pick up his truck and he found 2 tires were flat, and several nails in one tire and in the spare.

DeBellis tried to get AAA but Mason insisted that he could leave the truck there until he could fix the tires. The next day Mason had DeBellis' truck towed away and put a lien on it and sold it without any notice. Mason then disconnected her phone and kept petitioners' gentle paint horse sending them an ultimatum letter which was very disrespectful to DeBellis' priesthood referring to Yaney. Mason demanded a large amount of cash for the release of the horse. This was submitted on the motion for reclassification.

E. The Second Amended Complaint

Petitioners discovered Yaney bought her home, in an actual ministry Christian Science Ministries (CSM) their published Statement of Faith is,

"We are opposed to all forms of theological compromise, apostasy, liberalism, modernism, and religious tolerance. We believe that all are out of harmony with the Word of God."

"The Reconstruction movement believes that the Bible contains not only a message of personal salvation through the blood of Christ shed on the cross, but also

a comprehensive law structure which is alone able to provide a just basis for society. It is committed to the view that sovereignty and thus government belong to God, and that all delegated government, whether to family, church or state (civil government), is to be exercised in obedience to the law of God's covenant. To neglect this is to deprecate the extent of Christ's victory at Calvary."

According to public record CSM ministry was co-founded by the owner of Yaney's community, under Institute of Creation Research (ICR). ICR was co-founded in 1970 by Dr. Henry Morris and it prescribes to COR, a manifesto of Forty-two Articles of the Essentials of a Christian World View. Article 37 (42E) on disobeying civil government reads,

"We deny that any citizen is obliged to obey any government when it transgresses its God given mandate or requires him to disobey God's Laws." [If a government requires us to disobey God's laws, we must disobey that government. But because a government transgresses its "God given mandate" does not arbitrarily mean we can disobey it. The problem lies within the definition of "God given mandate." What exactly is God's mandate to government? According to COR, it is to administer God's Law (Theonomy or theocracy). In this case, no government on earth is fulfilling its "God given mandate." It logically follows,

therefore, that all governments, as they are presently constituted, may be disobeyed if they do not find favor with the Dominionists' agenda."

The discovery of the ministry and its mission regarding civil government did not help petitioners to understand the courts were having difficulty with their association. Petitioner's believed the trial court had been wrongly influenced. Petitioners stated in the conclusion of the second amended complaint, "*we plead to the court to understand how important it is to discourage individuals who take it upon themselves to affect adjudication in our court.*"

Petitioners found additional information in the public records of Riverside County. The land where Yaney's community sits is deeded to the Wycliffe Bible translators. For petitioners this was significant because there is 800 years of anti-Catholic sentiment which began with John Wycliffe (1320-1384). Wycliffe was a theologian and early proponent of reform in the Roman Catholic Church during the 14th century. History documents the Pope was so infuriated by Wycliffe's teachings and his translation of the Bible into English, that 44 years after Wycliffe had died, he ordered the bones to be dug-up, crushed, and scattered in the river.

Also brought to the second amended complaint were discoveries regarding the defendants. Petitioner's found that defendant Robert Mason had a record in Butte, California, of past vehicle conversions which no longer existed once they brought it to the court. Additionally, DeBellis' diocese had informed him that Mason had called the chancellor and soon after he lost his vocation. Petitioners discovered that defendant Biery had lived at Yaney's community during her eviction. Biery had answered the First Amended Complaint by stating DeBellis was "impersonating a father" (as in priest).

San Bernardino and Riverside California is made up of mainly working-class Hispanic who are devout Catholics. There are so many instances of prejudice by the trial court and its employees during petitioners' case they now understand were based on their association. These includes the opposition attorney from Los Angeles who would never list petitioners together as co-plaintiffs on any of his pleadings. A substitute judge at one point tried to cancel the first amended complaint stating there was no discrimination. This was after the sheriffs had served it and it been adjudicated for six months.

Petitioner Yaney asked the court in a hearing on August 22, 2017 if she and DeBellis had jurisdiction together in the courtroom as a Catholic priest and a single woman. They were not given an answer. The judge then abruptly scheduled their jury trial in one week. Petitioners tried again on Aug. 24, 2017 for the fourth time to file a second amended complaint.

What occurred was the judge talked over Yaney changing the subject, he then abruptly announced there is no discrimination stating the case has never been about that and the second amended complaint is illegible. The judge then stated the trial he is working on has ended and the jury trial will be in in two days and doing it on the phone is good enough. All transcripts may be found in Vol. III, APP N, Motion to Reinstate Appeal, (Exhibit. 2).

Petitioners asked the trial court to reconsider its decision on the question of jurisdiction of the association in a court. The judge convinced Yaney that she would lose jurisdiction as he had before, case S241342, S241696 stating he was trying to help her. This was on September 12, 2017.

Petitioner's case was dismissed *sua sponte* by the same judge for failure to prosecute with prejudice, too many ADA accommodations for continuances less than a year later. The dismissal was done in a hearing erroneously re-docketed prior to the hearing as, "Order to Show Cause RE: **(PLTFS / FTA / FTP) Dismissal / Readiness.** The courtroom would not file a motion for continuance, so both petitioners wrote to the Judge asking for an ADA accommodation.

The asking under the ADA was the only time petitioners were spoken to or could obtain any response from the court employees regarding process. DeBellis suffers a mental disability he has had since childhood, ADHD and early dementia. At the time he was suffering from a chest infection thought to be TB. Petitioner Yaney

had a skin infection that necessitated strong antibiotics four times a day. Petitioners requested 30 days for a continuance. The court granted the accommodation giving only 8 days. Yaney's infection increased causing a hospital to write an excuse. The judge's courtroom assistant would not give the judge the hospital's documentation. Petitioners filed another accommodation request on June 27, 2018. The court did not file the request until the next month on July 10, 2018. The accommodation was denied.

Petitioners filed a motion entitled, Motion to Set Aside Dismissal of Case and asked for alternative relief for the Case to be dismissed without prejudice. Petitioners also requested a decision on DeBellis' accommodation request which was not ruled on prior to the dismissal. The motion was brought under the ADA, the Unruh Act (Civ. Code§ 51) and CCP 473.1, 473(a)1, (b), (c), (d). Petitioners brought the case, Masterpiece Cake Shop v. Craig Mullins, quoting Justice Kennedy regarding freedom of expression while stating the following,

"Plaintiffs believe the right to raise and try discrimination of any kind is the most important form of expression and the most important First Amendment right this court has taken that from us. It repeatedly misplaced and rejected our second amended complaint and did not allow us an answer to our many requests for interrogatories stating it was too late for discovery."

There were cases of this court brought to the motion, footnoted below.² The motion also contained an ADA case of this Court specifically on “the right to a meaningful hearing,” “The Court found that Title II’s duty to accommodate was “perfectly consistent with the well-established due process principle that, “within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard” in its courts.”(42 U.S.C. § 12131(2)). A “public entity” includes state courts. (42 U.S.C. § 12131(1)(B); Tennessee v. Lane, 541 U.S. at 532.).³

² Equal participation in the justice system, whether as a party, witness, juror or advocate, is integral to the American way of life. “Central both to the idea of the rule of law and to our own Constitution’s guarantee of equal protection is the principle that government and each of its parts remain open on impartial terms to all who seek its assistance.” (Romer v. Evans (1996) 517 U.S. 620, 633 [116 S.Ct. 1620, 134 L.Ed.2d 855] (Kennedy, J.).) Consistently, the constitutional right of due process entitles a litigant an opportunity to be heard in a meaningful manner. (Boddie v. Connecticut (1971) 401 U.S. 371, 377 [91 S.Ct. 780, 28 L.Ed.2d 113]; Goldberg v. Kelly (1970) 397 U.S. 254, 267 [90 S.Ct. 1011, 25 L.Ed.2d 287]; California Teachers Ass’n. v. State of California (1999) 20 Cal.4th 327, 335 [84 Cal.Rptr.2d 425, 975 P.2d 622].) That opportunity “must be tailored to the capacities and circumstances of those who are to be heard.” (Goldberg v. Kelly, 397 U.S. at pp. 268-269 (fn.omitted).)

³ Thus, the ADA is unquestionably “valid legislation as it applies to the class of cases implicating the accessibility of judicial services.” (Tennessee v. Lane, 541 U.S. at 530; see also Board of Trustees v. Garrett (2001) 531 U.S. 356, 377-382 [121 S.Ct. 955; 148 L.Ed. 866] (Breyer, J., dissenting) (citing legislative record regarding, *inter alia*, state court system failures to provide access to judicial services).) A qualified individual is a person with a disability who, “with or without reasonable modifications to rules, policies, or practices ... meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” (42 U.S.C. § 12131(2)). A “public entity” includes state courts. (42 U.S.C. § 12131(1)(B); Tennessee v. Lane, 541 U.S. at 532.

Petitioners tried to seek relief in the trial court and their scheduled motion was deleted from the docket with no explanation. Yaney filed a peremptory writ of mandate under CCP 1085 bringing the trial court judge as the respondent, in the State Court of Appeal; the writ asked for a scheduled hearing on the entitled motion, "Renewed Motion to Reinstate Case". The was before the record on petitioners' appeal was filed. The docket and order on the writ were stamped signed by acting PJ Justice McKinnister and may be found in App. C1 pg. 89. The entire writ, case E071680 may be found in VOL. II, App. L Appellant's Corrected Memorandum, Exhibit 1, Bookmark 2, pages 14 – 42.

F. Procedure of State Court of Appeal and California Supreme Court

The orders dated, 12/21/18 and 2/19/19 are collateral to this certiorari. The order of 12/21/18 denied the memorandum which the Court of Appeal had asked Yaney to write explaining the jurisdiction of the appeal. Petitioners' motion to set aside dismissal described above, was attached to the memorandum.

The 12/21/18 order stated "no jurisdiction" for the appeal because there is no signed judgement and Yaney's designation was missing. The order did not include any comment on all the law and case of this Court within the memorandum. The memorandum may be found in Vol. II Exhibit L.

The 2/19/19 order contained a motion, relief from default reinstating appeal, done by Yaney who explained her designation had been docketed and amended per court order. Yaney attached the docket and proof that it was sent by a FedEx employee to the Superior Court Appellate Division, the court that procured the record. Yaney also attached the designation to her motion after the transcripts; it did not get fully transmitted due to size and that is what the Court of Appeal ruled on.

Yaney submitted a reconsideration attaching the entire designation on 2/19/19 the exact day of the ruling and it was rejected. The entire motion decided 2/19/19 is in Vol. II App. M. The reconsideration brought under Rule 29 (b)(2) is attached in Vol. III, App. N.

Petitioners made a more than diligent effort to reinstate their appeal stating the dismissal for failure to prosecute did no fall under the final judgment rule. They brought a case to the Court of Appeal of their own court, quoting in, re: Grunau (2008)169 Cal. App. 4th 997 it is a daunting task for laypersons to “penetrated the esoteric world of appellate procedure.” People v. Davis (1965) 62 Cal.2d. 806.)

The Notice of Appeal had case citations which contained the only exception of an abuse of discretion as to why an appellate court would overturn the ruling. The Notice of Appeal now appears on the docket of case E071535 as “RECEIVED LODGED.” The writ case S241696 also requested review for an abuse of discretion.

The Court of Appeal ordered petitioners to ask the judge, for several months, to sign a judgment. The trial court encouraged petitioners to file with them to the Executive Office, yet, everything was rejected, having them appear excessive something that would justify an abuse of discretion by a judge.

Petitioners requested review in case S254815 under the California Constitution, Article I Declaration Of Rights [Section 1 And Section 7] and the California Constitution Sec. Vi, ARTICLE 12, several cases footnoted below and requested the California Supreme Court remand the case with a directive to allow an appeal or transfer the case to themselves.⁴

Petitioners entered the docket of case E071535 within the petition because there are many entries which focus on procedure which is insignificant and has been remedied in part by the newly implemented Truefiling system, such as a fee waiver which is necessary before uploading. The docket may be found in App. B2, pgs. 74-80.

⁴ Similarly, in *California Assn. of Psychology Providers v. Rank* (1990) 51 Cal.3d 1, the Court of Appeal twice dismissed the appeal by order. Both times, the Supreme Court granted review and retransferred with instructions telling the court of appeal it was wrong. (See *id.* at p. 8.) When the Court of Appeal ultimately filed an opinion on the merits, the Supreme Court granted review and reversed. In rare cases, where the court of appeal has committed obvious error the Supreme Court may “grant and transfer” with instructions to the court of appeal to apply established law. But such instructions are not always followed. (E.g., *Lane v. Hughes Aircraft*, No. S059064 (Mar. 19, 1997 docket entry: “Petition for review granted; transferred to CA 2/7 with directions to vacate its decision & reconsider in light of *Neal v. Farmers Insurance Exchange* (1978) 21 Cal.3d 910, 932-933 and *Jones v. Citrus Motors Ontario, Inc.* (1973) 8 Cal.3d 706, 710-711.”)

The Court of Appeal order of March 7, 2019 is on DeBellis' motion to recall partial remittitur requesting relief from default. DeBellis' motion contained the order of Feb 19, 2019 re: Yaney's designation. The motion contained a declaration which the Court of Appeal refers to deciding that he admitted he did not pursue the appeal. De Bellis wrote about the sudden death of his mother describing his mental state. He explained he was his mother's only caregiver and she died two days after he left to visit his brother causing him to suffer terrible guilt for leaving her. The court was aware DeBellis suffers from a learning disorder ADHD that would cause him to not see the consequences. The motion may be found in App. B1

DeBellis' appeal had been dismissed for a fee waiver. Petitioners explained to the California Supreme Court that they offered evidence to the lower court they were given directions by the clerk procuring the record that Yaney, an SSI recipient, had already been granted a fee waiver and one was enough, and one set of documents was also enough. It made sense; the case was under one number for both entitled under Yaney's name.

It is relevant that DeBellis submitted a fee waiver and it was granted for the motion ruled on, March 7, 2019, the motion was denied. DeBellis immediately, on the same day of the ruling, sent another one to the court; it was rejected. Petitioners asked the California Supreme Court, how can a fee waiver matter when its own new “rule of law” on a fee waiver states the importance of preserving the right of an appeal? Jameson v. Desta, 230899, 5 Cal. 5th 594, 2018.⁵

REASONS RELIED ON FOR THE ALLOWANCE OF WRIT OF CERTIORARI

Petitioners believe they were deprived of a neutral court and the statement of cases within this petition verify this. In Justice Kennedy’s opinion also quoted in the questions presented, he addresses religious hostility and the neutrality that the Constitution requires of a state agency which a state court is, decided in, Masterpiece Cake Shop v. Craig, Mullins 16-111 2017.⁶

⁵ The California Supreme Court in Jameson v. Desta (2018) 5 Cal.5th 594 (Jameson) concluded that not providing official court reporters to litigants who had been granted fee waivers, while permitting private court reporters for those litigants who can afford them, “is inconsistent with the general teaching of prior *in forma pauperis* judicial decisions and the public policy of facilitating equal access to the courts as embodied in [Government Code] section 68630, subdivision (a).” The court noted that “[w]ithout an exception for fee waiver recipients, the policy at issue here places indigent civil litigants at a significant disadvantage with respect to the right of appeal compared to those litigants who can afford to pay for a private shorthand reporter.” Jameson, *supra*, 5 Cal.5th at p. 623.

⁶ Factors relevant to the assessment of governmental neutrality include “the historical background of the decision under challenge, the specific series of events leading to the enactment or official policy in question, and the legislative or administrative history, including contemporaneous statements made by

Justice Kennedy also wrote in the aforementioned case, “government has no role in expressing or even suggesting whether the religious ground for Phillips’ conscience-based objection is legitimate or illegitimate.”

This Court has stated its primary function is to ensure the “rule of law” according to the application of the law under uniformity. Therefore, if the only avenue of appeal is an abuse of discretion, all litigants should be able to bring it without procedural maneuvers removing their ability to do so. In this case, the record verifies the way petitioners’ appeal was dismissed was the plan, plain and simple. As petitioners’ efforts verify, when one needs the help of the court, the suggestion of procedure does not deter them because they need the help of the court.

members of the decision making body.” *Id.*, at 540. The Commission gave “every appearance,” *id.*, at 545, of adjudicating his religious objection based on a negative normative “evaluation of the particular justification” for his objection and the religious grounds for it, *id.*, at 537, but government has no role in expressing or even suggesting whether the religious ground for Phillips’ conscience-based objection is legitimate or illegitimate. The inference here is thus that Phillips’ religious objection was not considered with the neutrality required by the Free Exercise Clause. The State’s interest could have been weighed against Phillips’ sincere religious objections in a way consistent with the requisite religious neutrality that must be strictly observed.

There are not any cases comparable to petitioners' however, there are cases in this court which state that laws must not single out or encourage disfavored based on a religious identity, such as a minister.⁷ And Justice Roberts, in Trinity Lutheran stated, "denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can be justified only by a state interest of the highest order.⁸

A. Individuals Within an Association

The way this case affected petitioners is relevant to a court's duty to protect them as individuals within an association. Petitioner Yaney is perceived to be the most offensive and it is easy to understand because she is seen as taking DeBellis from his vocation due to the religious identity associated with a Catholic priest as in celibacy. The ability to adjudicate the case would have established DeBellis and Yaney are good friends and the fact that DeBellis was on leave from his job had nothing to do with Yaney.

⁷ Thus, in *McDaniel v. Paty*, 435 U. S. 618 Id., at 627. the Court struck down a Tennessee statute disqualifying ministers from serving as delegates to the State's constitutional convention. A plurality recognized that such a law discriminated against McDaniel by denying him a benefit solely because of his "status as a 'minister.' In recent years, when rejecting free exercise challenges to neutral laws of general applicability, the Court has been careful to distinguish such laws from those that single out the religious for disfavored treatment. It has remained a fundamental principle of this Court's free exercise jurisprudence that laws imposing "special disabilities on the basis of . . . religious status" trigger the strictest scrutiny.

⁸ *Trinity Lutheran Church v. Pauley*, and in *Trinity Lutheran Church of Columbus v. Comey*.

It is Yaney that has suffered the most loss of personal possessions including shelter. The procedure of the lower courts represents this in their inability to rule for her even though she is disabled and an SSI recipient, considered to be one of the most protected classes. The record also verifies the California Supreme Court did not consider SSI recipients are among the most discriminated class in our country and this would be made worse with the perception of the association.

Petitioners live different lives; clergy are often put in a position that things are made easy for them due to others catering to them and their position in society. In petitioners' case, DeBellis, as a Catholic priest, is shown sympathy for the association. Yaney, unlike DeBellis, needs the harsh dismissal of the case reversed to have the help of a court in the future. It is relevant that all the cases are erroneously docketed under Yaney's name when DeBellis was the original plaintiff.

Petitioners believe discussion of jurisdiction was what was necessary, and the California Supreme Court had an obligation to do so. Petitioners now understand the lower courts perceived the association as cancelling out the religious aspect of the association therefore, the discrimination. For petitioners their association did not cancel them out as individuals who had the fundamental right to adjudicate their case on the loss of personal property.

Petitioners were not allowed to be heard on their claim therefore, they bring the value of discussion an opinion by Justice Oliver Wendall Holmes Jr. who helped to set the standard for speech protected with his decision in *Schenck v. United States* 249, U.S. 47 (1919). Justice Holmes writing in the court's majority opinion stated,

“To allow opposition by speech seems to indicate that you think the speech impotent, as when a man says that he has squared the circle, or that you do not care whole-heartedly for the result, or that you doubt either your power or your premises. But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas -- that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution. It is an experiment, as all life is an experiment.”

This Court intensely examined the constitutional rights of an individual in *Washington, et al., v. Harold Glucksberg, et al.* Technically, this case is contrary to the Catholic faith because it is about an individual's right to end their life if they are terminally ill. It would be hard to find a case that emphasizes the history of this court and the consistency necessary to protect the liberty of an individual which is what petitioners need this court to decide on.

Petitioners quote Justice Souter's opinion,

After the ratification of the Fourteenth Amendment, with its guarantee of due process protection against the States, interpretation of the words "liberty" and "property" as used in due process clauses became a sustained enterprise, with the Court generally describing the due process criterion in converse terms of reasonableness or arbitrariness. That standard is fairly traceable to Justice Bradley's dissent in the Slaughter-House Cases, 16 Wall. 36 (1873), in which he said that a person's right to choose a calling was an element of liberty (as the calling, once chosen, was an aspect of property) and declared that the liberty and property protected by due process are not truly recognized if such rights may be "arbitrarily assailed". After that, opinions comparable to those that preceded Dred Scott expressed willingness to review legislative action for consistency with the Due Process Clause even as they upheld the laws in question. In recent years, when rejecting free exercise challenges to neutral laws of general applicability, the Court has been careful to See generally Corwin, *Liberty Against Government*, at 121–136 (surveying the Court's early Fourteenth Amendment cases and finding little dissent from the general principle that the Due Process Clause authorized judicial review of substantive statutes). The theory became serious, however, beginning with *Allgeyer v. Louisiana*, 165 U. S. 578 (1897), where the Court invalidated a Louisiana statute for excessive interference with Fourteenth Amendment liberty to contract. The Court said that Fourteenth Amendment liberty includes "the

right of the citizen to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation; and for that purpose, to enter into all contracts which may be proper, necessary and essential to his carrying out to a successful conclusion the purposes above mentioned."

Justice Souter within the opinion states, "My understanding of unenumerated rights in the wake of the Poe dissent and subsequent cases avoids the absolutist failing of many older cases without embracing the opposite pole of equating reasonableness with past practice described at a very specific level. See Planned Parenthood of South-eastern Pa. v. Casey, 605 U.S., at 847-849. That understanding begins with a concept of "ordered liberty," Poe, 367 U. S., at 549 (Harlan, J.); see also Griswold, 381 U. S., at 500, comprising a continuum of rights to be free from "arbitrary impositions and purposeless restraints," Poe, 367 U. S., at 543 (Harlan, J., dissenting).."

"Due Process has not been reduced to any formula; its content cannot be determined by reference to any code. The best that can be said is that through the course of this Court's decisions it has represented the balance which our Nation, built upon postulates of respect for the liberty of the individual, has struck between that liberty and the demands of organized society. If the supplying of content to this Constitutional concept has

of necessity been a rational process, it certainly has not been one where judges have felt free to roam where un-guided speculation might take them. The balance of which I speak is the balance struck by this country, having regard to what history teaches are the traditions from which it developed as well as the traditions from which it broke. That tradition is a living thing. A de-cision of this Court which radically departs from it could not long survive, while a decision which builds on what has survived is likely to be sound. No formula could serve as a substitute, in this area, for judgment and re-straint."

Because of the past decisions above, the [Fourteenth] Amendment nullifies and makes void all state legislation, and state action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty or property without due process of law, or which denies to any of them the equal protection of the laws.

Petitioners pray this court grant review.

Signed under the penalty of perjury, February 29, 2020.

Michelle Stoprya Yaney
Michelle Stoprya Yaney

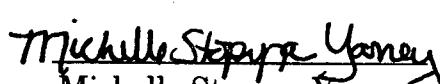
Peter DeBellis
Peter DeBellis

VERIFICATION

We, Michelle Stopryra Yaney and Peter DeBellis declare as follows:

I am the petitioner in the above-entitled action having read the foregoing enclosed WRIT OF CERTIORARI. I verify that all the facts alleged therein or otherwise and supported by citations to the record are true.

Signed under the penalty of perjury on February 29, 2020.

Michelle Stopryra Yaney Peter DeBellis