

OCT 02 2020

OFFICE OF THE CLERK

20-1157

IN THE
Supreme Court of the United States

MICHELLE STOPYRA YANEY,

Petitioner,

v.

SUPERIOR COURT COUNTY OF RIVERSIDE,

The Honorable Judge Kira Klatchko,

Respondents.

On Certiorari to the California Supreme Court

PETITION FOR WRIT OF CERTIORARI

There are Related Cases in This Court

Michelle Stopyra Yaney
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Santa Barbara, Ca. 93105
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Propria Persona

ORIGINAL

THERE ARE RELATED CASES:

Yaney v. the State Bar of California
currently pending certiorari in this court
S263130 AND S263808.

PARTIES TO THE PROCEEDING

The California Supreme Court.

R and J Professional Movers aka Raymond Turner
15350 Little Morongo Rd. Unit #154
Desert Hot Springs, Ca. 92240
(760) 848-9194

The State Bar of California
Office of General Counsel
180 Howard Street
San Francisco, Ca. 94105
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CORPORATE DISCLOSURE STATEMENT

Petitioner, Michelle Stopyra Yaney, does not have
any interest or ownership in any company or subsidiary.

THE QUESTION PRESENTED

Petitioner asked an important question to the California Supreme Court in the case brought. It was about the COVID-19 pandemic, which is still happening, the question is much more relevant now.

The question to the California Supreme Court was:

“Did the lower court of appeal have broad discretion to not address the alleged bias and summarily deny the writ of mandate during the current pandemic of COVID - 19, moreover does a court have to consider a petitioner’s health status or if they would have a higher rate of mortality if infected with COVID-19, prior to denying relief that could significantly lessen their chances of being exposed to the virus?”

The question presented is:

Whether a court has to consider a petitioner’s health status or if they would have a higher rate of mortality if infected with COVID-19, prior to denying relief that could significantly lessen their chances of being exposed to the virus?

Furthermore, is new law under uniformity needed for a court to rule on a pre-existing medical condition that increases a litigant’s chances of dying from COVID-19 as reason for the relief they are seeking?

Writ of Certiorari

Petitioner, Michelle Stopyra Yaney, respectfully petitions for a writ of certiorari to review the final judgment of the California Supreme Court on case S263360.

Petitioner is “disabled” as defined in Section 1614(a)(3)(A) of Title XVI of the Social Security Act within the meaning of 42 U.S.C. §3602(h) and Cal. Gov’t Code §12955.3.

DECISIONS BELOW

APPENDIX A

A summary denial of a petition for review on September 9, 2020 by the highest state court the, California Supreme Court case, S263360.

APPENDIX A PART 2

Docket of case, S263360.

APPENDIX A PART 3

Temporary filing only in truefiling no file stamped copy available.

APPENDIX B

The decision of the lower court; the Court of Appeal Fourth District Division Two. A summary denial of an original action a writ of mandate entitled Yaney v. Superior Court of Riverside County, Case E075215.

The writ was submitted by petitioner Yaney during appeal case E073428. Yaney v. Turner PSC1901542.

APPENDIX B PART 2

The court of appeal history of rejected submissions for case E075215.

APPENDIX C

Petition for Review with received stamp of original copy only available to petitioner on Tru-filing.

APPENDIX D

Motion for Exceptional Evidence and Volume 1 of Exhibits in Support of Motion for Exceptional Evidence.

JURISDICTION (Rule 14.1 (e))

◆

The Supreme Court of California entered a final judgment, case S263360 on dated September 9, 2020. The California Supreme Court does not allow for a rehearing or a reconsideration of the final judgment brought to this petition.

There are two other orders of the same court that were sent with this order for consideration of a writ of certiorari. This Court returned petitioner's certiorari for correction requesting she remove this order and she has done so submitting this separate petition on case S263360, E075215.

This is timely due to the March 19, 2020 order of, this Court that extended the deadline to file a petition for a writ of certiorari in all cases due on or after the date of that order to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing.

Petitioner explained to this court she hoped the appeal that is pending would be decided before the 150-day deadline. It is under this order and on this day, it has not been decided, Yaney v. Turner E073428.

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

This Court's jurisdiction for Certiorari is under 28 U.S.C. § 1257. (a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari.

Rules 10 and 11 (hereinafter, “Rule 10” and Rule 11”). **Rule 10.** Considerations Governing Review on Certiorari Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

United States Court of Appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

- a) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals.
- b) a state court or a United States court of appeals has decided an important question of federal law that has not been but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court. A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

Rule 11 because this case “is meant to prevent further harm as to justify deviation from normal appellate practice and to require immediate determination of this Court.”

CONSTITUTIONAL PROVISIONS

Amendment XIV Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF PROCEDURE

Petitioner brought to the California Supreme Court their own case, *Melde v. Reynolds* (1900) 129 Cal. 308,

“The discretion of the court ought always to be exercised in conformity with the spirit of the law, and in such a manner as will subserve rather than impede or defeat the ends of justice, regarding mere technicalities as obstacles to be avoided rather than as principles which effect is to be given in derogation of substantial right.”

Petitioner stated the following exactly to the California Supreme Court:

There are new cases of COVID19 this was predicted when the Center for Disease Control (CDC) announced that the gathering of people in protest of George Floyd's death. It is also very hot outside temperatures are rising. Appellant was granted a writ of possession for her truck and it is the only vehicle with air conditioning that she has access to. Petitioner she does not have secure shelter in the State of California, and it is dangerous because it exposes her to COVID-19 much more than normal; it is hard to obey a stay-at-home order when there is no home.

This court by granting relief will be allow petitioner shelter in the State of California immediately. Additionally, there is a medical reason why a regular appeal will not suffice. Petitioner takes antibiotics for her disability every day and has done so for the last 30 years, it is the alternative to the harsh steroid, Prednisone. Antibiotics are the best anti-inflammatory, except for what they do to one's immune system, causing them not to work when they are needed for a bacterial or viral infection; this puts petitioner in the "high-risk" category for survival if she were to contract COVID-19.

At the time petitioner submitted the petition for review she was homeless and needed to sleep in her vehicle the lower court of appeal to send her case back down to the trial court so the ex parte writ of possession granted to her could be reconsidered in a hearing on the removal of it.

The appeal pending in the, case E073428 entitled: Yaney v. Turner has pended for almost two years and it is about personal property being withheld.

Petitioner a disabled woman dismissed the case in a hearing unexpectedly while suffering panic/anxiety from what she believed was extreme bias by the trial court judge. The trial court judge allowed it even though it was after the appeal was filed.

The writ of mandate case E075215 was filed by petitioner because numerous opening briefs had been rejected by the court of appeal for procedure that was not important.

On the exact day being July 7, 2020 of the summary denial, petitioner called and spoke to the court of appeal's supervising clerk stating she was going to augment the pending case in the California Supreme Court for consideration of the extraordinary relief. The case is currently pending review in this court it is case S263130, Yaney v. the State Bar of California.

The case is about petitioner's own attorneys being misled and not speaking to her causing the loss of the home she owned as a disabled woman. It is the case that began all the cases.

Petitioner lost the home she owned under a summary proceeding the swift California unlawful detainer statute; it was not statutory. This left petitioner a liability to her state something she has tried to clear up.

The summary denial of case E075215 was on the same day; in the afternoon that petitioner noticed the augment.

The court of appeal requested so many corrections to the writ of mandate it was obvious that it was a waste of time. The record of all the corrections is attached in Appendix B Part 2.

Petitioner brought to all the cases having jurisdiction presently in this court why she believed her possessions are withheld when she seeks a simple service in her community since she appealed the first case and the loss of her home. There have been four cases all together. Petitioner discovered a similarity within all the cases regarding erroneous liens which petitioner believes is the goal for her personal property, and then she loses what she has.

It is retaliation for petitioner believing as a proper a court will consider her it is tangible in the record and it is the opposite of what the equal protection clause stands for.

Petitioner brought all the documents showing a false ledger to case S263130 they were done by the attorney who opposed her in the first case. Petitioner asserted she understands it was what he needed to uphold the judgment for her home. Petitioner marked disability discrimination on her answer for the first case. Sky Valley v. Yaney PSC1303128.

Petitioner prayed to the California Supreme Court in the petition for review that the lower court of appeal direct the Superior Court of Riverside County Palm Springs Division, Judge Kira Klatchko to reinstate petitioner's case allowing it to proceed to jury trial.

Petitioner prayed that a rewind of time be designated allowing jurisdiction for the correction and execution of the ex parte writ of possession granted to her on April 17, 2019.

Petitioner brought to the California Supreme Court the following:

It may be appropriate to request that the Court grant review to transfer the case back to the court of appeal with directions. For example, if the court of appeal summarily denied a petition for writ of mandate, the petitioner may ask the Supreme Court to grant review and transfer the matter back to the court of appeal for further proceedings. (Cal. Rules of Court, rule 8.500(b)(4), 8.528(d).)

Petitioner brought the following jurisdiction to the California Supreme Court; This court has the express authority to review the entire cause upon the filing of a petition for review. (Cal. Rules of Ct., rule 8.516(a)(2). Also, if review is "necessary to secure uniformity of decision or to settle an important question of law"? (Cal. Rules of Court, rule 8.500(b)(1). Under this rule, the Supreme Court sits as a "court of precedent," granting review to issue rulings that the Supreme Court perceives are needed by parties, lawyers, and judges in areas the Supreme Court deems important.

Petitioner brought the following regarding an extraordinary writ to the Supreme Court of California.

As this court has cautioned on many occasions, the term "jurisdiction" carries a variety of meanings, "In certiorari and prohibition proceedings the term jurisdiction has a very broad meaning, and a writ may be granted where the court has no jurisdiction to act except in a particular manner, even though it has jurisdiction, in the fundamental sense, over the subject matter and the parties." (*Rescue Army v. Municipal Court* (1946) 28 Cal. 2d 460, 463-464 [171 P.2d 8].)

It may be appropriate to request that the Court grant review to transfer the case back to the court of appeal with directions. For example, if the court of appeal summarily denied a petition for writ of mandate, the petitioner may ask the Supreme Court to grant review and transfer the matter back to the court of appeal for further proceedings. (Cal. Rules of Court, rule 8.500(b)(4), 8.528(d).)

Petitioner also brought the following.

That 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.")

REASONS FOR GRANTING THE WRIT

What is the equal protection clause in simple terms?

The Fourteenth Amendment's Equal Protection Clause requires states to practice equal protection. Equal protection forces a state to govern impartially—not draw distinctions between individuals solely on differences that are irrelevant to a legitimate governmental objective.

Most recently this court's justice, Justice Gorsuch stated something simple that will resonate for years and applies here; it was in the 2020 case, the *Bostock v. Clayton County* a decision, which banned employment discrimination against LGBTQ workers, used a similar analysis. Even though it was based on Title VII of the 1964 Civil Rights Act.

Justice Gorsuch wrote:

“Those who adopted the Civil Rights Act might not have anticipated their work would lead to this particular result. ... But the limits of the drafters' imagination supply no reason to ignore the law's demands ... Only the written word is the law, and all persons are entitled to its benefit.”

A writ of mandate during COVID-19 can issue immediately for the fact one is more susceptible to the illness and the court is aware they have lost their home. Hopefully, this court will emphasize this and in doing so it will bring the importance of all of us being better to one another at this time. All our lives are at risk.

The court of appeal is not able to rule for petitioner since the first judgment for her home. The head clerk explained this and petitioner now understands.

What has been discovered and has been brought to the court of appeal makes this case cert-worthy.

The motion filed by petitioner on December 18, 2020 is a motion for Exceptional Evidence, and it is about what was perceived to be happening in petitioner's life that she was unaware of during all the cases. It is about the actions of those who stood to gain financially in her family if a court could not rule for her.

The motion has pended since December and the court of appeal has not ruled on it knowing petitioner would suffer retaliation. They choose to defer it as they have everything petitioner has submitted.

The motion contains documents that did not allow petitioner access to her elderly mother easily and they show her mother unknowingly was convinced to sign a living will that did not allow her doctors to help sooner.

The documents were done by petitioner's first cousin who is an attorney and stands to gain financially due to valuable property left to petitioner's mother. Petitioner is the only obstacle, and it is her belief for years as she pursued relief in the courts, he and others began erroneous investigations preventing her from having a court rule in an impartial way.

The motion caused petitioner to be investigated and it concluded that her mother was allowed to stay with her and that she could protect her best.

Petitioner's mother is now suffering from a terminal illness that is treatable of found on time she will die and petitioner tired to access her over a year ago when it started.

This court can only ask itself was it misled as the reason for past denials, if so, please help now. Petitioner and her mother need this court to remand this case along with the other ones pending so liability of those who were misled does not affect petitioner's mother's ability to obtain medical care.

The motion currently pending in the court of appeal for exceptional evidence is attached in EXHIBIT C.

This court has the power to emphasize the importance of communication during the COVID-19 pandemic and the fact all of us should be better to one another at this time.

THIS COURTS GVR PRACTICE

Petitioner respectfully requests GVR by this court. The history of GVR practice does allow litigants to seek the benefit of changes in the law that occur even after final action by the courts of appeals (or state high courts). And, perhaps more importantly, the GVR practice reflects an institutional choice: namely, that it is this Supreme Court rather than some other court that will take cognizance of these changes.

In *Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (explaining that the Court issues a GVR when there is "a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity", see *Tyler v. Cain*, 533 U.S. 656, 666 (2001)). Typical language is; "The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to [the relevant lower court] for further consideration in light of [the relevant recent event]." In issuing a GVR, the Court does not determine the intervening event. Thus, the purpose of the GVR device is to give the lower court the initial opportunity to consider the possible impact of intervening developments. In the case *Cayuga Indian Nation of N.Y. v. Pataki*, 413 F.3d 266, 273, 280 (2d Cir. 2005)(relying on a new Supreme Court case to reverse a district court decision that was the culmination of over two decades of litigation). Rather than applying new law itself, a court of appeals can return the case to the district court so that the district court can apply the new law in the first instance—a procedure analogous to the Supreme Court's GVR. See, e.g., *Vicknair v. Formosa Plastics Corp.*, 98 F.3d 837, 839 (5th Cir. 1996). The point is simply that the court of appeals generally is not free to ignore the intervening developments and decide the case based on the law prevailing at the time of the district court's judgment. In the case *Youngblood v. West Virginia*, which raised the profile of the GVR practice even though *Youngblood* was, if truly a GVR at all, a very unconventional one. As already stated, the usual reason for issuing a GVR is to allow the lower court the initial opportunity to consider

an intervening development. In *Youngblood*, the Court provided a short per curiam opinion (itself unusual for a GVR) explaining that the reason for the remand was to allow the court below to address the defendant's facially plausible claim, adequately presented to the lower court yet not discussed in its opinion, that prosecutor shad withheld evidence in violation of *Brady v. Maryland*, a case decided over forty years ago. Thus, if the lower court's decision in *Youngblood* was doubtful, it was not because of any intervening event as in the typical GVR. Yet while the Supreme Court was moved enough to take some action (rather than simply denying certiorari, as it does for countless incorrect decisions), it was not moved enough to grant plenary review or even to issue a summary reversal. Instead, it GVR'd because "[i]f this Court is to reach the merits of this case, it would be better to have the benefit of the views of the full Supreme Court of Appeals of West Virginia on the Brady issue. When certiorari was initially denied in several cases challenging criminal sentences, petitions for rehearing were filed while this Court considered the certiorari petition in *United States v. Booker*, 543 U.S. 220 (2005) (certiorari granted Aug. 2, 2004). After this Court granted certiorari in *Booker* and resolved the case on the merits, this Court then granted hundreds of rehearing petitions and GVR'd in light of *Booker*. See, e.g., *Hawkins v. United States*, 543 U.S. 1097 (2005) ("Petition for rehearing granted. Order denying the petition for writ of certiorari vacated. Petition for writ of certiorari granted. Judgment vacated, and case remanded in light of *United States v. Booker*.").

The GVR practice reminds us that, notwithstanding, its unique role as the final expositor of the national law, this Supreme Court remains a court that operates within the judicial system and derives its authority to announce legal rules from a grant of jurisdiction over individual cases and controversies.

Please act upon this petition.

Respectfully submitted, February 5, 2020.

A handwritten signature in black ink, reading "Michelle Stopyra Yaney". The signature is written in a cursive style with a horizontal line underneath the name.

Michelle Stopyra Yaney

CERTIFICATE OF WORD COUNT

I certify that the text of this PETITION FOR REVIEW as counted by the Microsoft Word processing software, consists of 8214 words (including footnotes but excluding the tables of contents and authorities, this certificate, and the attached proof of service).

Signed under the penalty of perjury on February 5, 2021.,

Michelle Stopyra Yaney

Michelle Stopyra Yaney

VERIFICATION

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 5, 2021.

A handwritten signature in black ink that reads "Michelle Stopyra Yaney". The signature is written in a cursive style with a large, looping "Y" at the end.

Michelle Stopyra Yaney