

No. 20-1491

IN THE

ORIGINAL

SUPREME COURT OF THE UNITED STATES

WAEL LASHEEN PETITIONER

FILED  
APR 15 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

VS

OHIO SUPREME COURT RESPONDENT

ON PETITION FOR AWRIT OF CERTIORARI TO

OHIO SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

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## **QUESTIONS PRESENTED**

- A- Is being a stakeholder, not just a member, in an organization which solicits donations and memberships from Judges and Attorneys a violation of the Fourteenth Amendment and is ground for recusal of a Visiting Judge.**
- B- Is Ohio Revised Code 2701.03 Unconstitutional?**
- C- In our case, is the Fourteenth Amendment violated when a State Supreme Court Justice declines to recuse them self from a case in which they have a pending Writ of Certiorari before SCOTUS regarding a prior decision?**
- D- Did the Ohio Supreme Court abuse their discretion in denying a motion to recuse, and were they prejudiced against the Plaintiff?**

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**LIST OF PARTIES**

**RELATED CASES**

“In re Disqualification of Stucki. Case number: 21-AP-048”

Citation unavailable

**JURISDICTION**

The date on which the highest state court decided my case was **04/12/2021**. A copy of that decision appears at **Appendix A**

No rehearing is permitted

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**OPINIONS BELOW**

The opinion of the highest state court to review the merits appears at **Appendix A** to the petition and not published;

## **INDEX OF APPENDIXES**

**APPENDIX A** Decision, Subject of this Writ

**APPENDIX B** Affidavit of Disqualification whose Decision is Subject of this Writ

**APPENDIX C** Previously Submitted Writ (Under Consideration)

**APPENDIX D** Justice Refusal to recuse herself

**APPENDIX E** Ohio Revised Code 2701.3

**APPENDIX F** 28 U.S. Code § 455

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **Ohio Revised Code (O.R.C). 2701.03 (Appendix E)**

“(A) If a judge of a municipal or county court allegedly is interested in a proceeding pending before the judge, allegedly is related to or has a bias or prejudice for or against a party to a proceeding pending before the judge or to a party's counsel, or allegedly otherwise is disqualified to preside in a proceeding....”

### **28 U.S. Code § 455 - Disqualification of justice, judge, or magistrate**

#### **judge (Appendix F)**

“(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.....”

**The U. S. Constitution Fourteenth Amendments** provides that no person shall be deprived of life, liberty, or property, without **Due Process of Law** nor deny any person within its jurisdiction the equal protection of the laws and that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States

**TABLE OF AUTHORITIES CITED**

CASES	PAGE NUMBER
- In <b>Rippo v. Baker</b> , 137 S. Ct. 905 (2017).-----	2
- In <b>Tumey v. Ohio</b> , 273 U.S. 510 (1927)-----	3
- In <b>Ward v. Village of Monroeville</b> , 409 U.S. 57 (1972). -----	3
- In <b>Williams v. Pennsylvania</b> , 136 S. Ct. 1899 (2016) -----	4

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari is issued to review the judgment below.

**STATEMENT OF THE CASE**

The petitioner is involved in a divorce case. After repeated irregularities the petitioner submitted an affidavit of disqualification to the Ohio Supreme Court (OSC). Before the OSC issues a Judgment, the Administrative Judge reassigned the case to a New Judge. Due to the untimely New Judge reassignment, and various other issues the petitioner submitted a second affidavit of disqualification to disqualify the Administrative Judge. The next morning on the OSC rejected the petition. The petitioner filed a Writ with SCOTUS (**Appendix C**) challenging that judgment. In the interim a Visiting Judge (VJ) was assigned to the case. Due to Conflict of Interest and indiscretions by the newly appointed VJ, the Petitioner submitted an affidavit of disqualification for the VJ (**Appendix B**), and requested the recusal of the OSC Chief Justice, the only Justice who adjudicates recusals. The OSC Chief Justice refused to recuse herself (**Appendix D**) and rejected the affidavit of disqualification of the VJ; this decision is the subject of this Writ (**Appendix A**).

**A- Is being a stakeholder, not just a member, of an organization which solicits donations and memberships from Judges and Attorneys a violation of the Fourteenth Amendment and is ground for recusal of a Visiting Judge.**

**B- Is Ohio Revised Code 2701.03 Unconstitutional?**

1-We argued in our petition of disqualification (**Appendix B**) that the VJ was a past president, and currently sits on multiple committees at the helm of an organization that solicits donations and memberships from Judges and Attorneys; we argued that the opposing counsel, whom we charged with misconduct, is an influential local attorney. Among the evidence we provided a series of peculiar events where by Plaintiff motions were delayed and are yet to be heard, hearing notices doctored, and unedited hearing transcripts withheld.

**2- Ohio Revised Code (ORC) 2701.03** does not provide for disqualification for financial conflict of interest contrary to **28 U.S. Code § 455**, and is therefore unconstitutional. Assuming that the general terms “bias” and “prejudice” covers financial conflict, then why was it named in 28 U.S. Code § 455. The people of Ohio should not be left to the unequal interpretation/application of law. One is hard pressed to find a single disqualification for purely financial conflict in Ohio courts over the past century. In addition ORC 2701.03 requires evidence of “actual”, contrary to “reasonably questioned” in 28 U.S. Code § 455, and “potential” in SCOTUS precedent, bias and prejudice. **In Rippo v. Baker, 137 S. Ct. 905 (2017).**

3- 28 U.S. Code § 455 provides for disqualification of a Judge “if impartiality might reasonably be questioned”. It also provides for disqualification if the Judge “has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome”

4-The US Supreme Court takes financial conflict of interest very seriously. The Supreme Court reversed the appellant's sentence, holding that a judge, whose salary came out of fines, may not have such a substantial interest in convicting defendants. The Court explained that “[e]very procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof ... or which might lead him not to hold the balance nice, clear, and true between the state and the accused denies the latter due process of law”. **In Tumey v. Ohio, 273 U.S. 510 (1927)**. The Tumey decision was reaffirmed, and extended, by the Supreme Court that ruled judges did not need a direct financial interest in order to violate due process. Rather, a violation of due process can occur even when the judge salary does not depend on his conviction rate, if the fines assessed went towards increasing the town's budget. **In Ward v. Village of Monroeville, 409 U.S. 57 (1972)**.

**C- In our case, is the Fourteenth Amendment violated when a State Supreme Court Justice declines to recuse himself from a case in which he has a pending Writ of Certiorari before SCOTUS regarding a prior decision concerning the same case?**

**D- Did the Ohio Supreme Court abuse their discretion in denying a motion to recuse, and were they prejudiced against the Plaintiff?**

1-In **Williams v. Pennsylvania, 136 S. Ct. 1899 (2016)** SCOTUS established a rule; when the Court's due process precedents does not set forth a specific test governing recusal, in this case of when a Judge has an opinion under review by the US Supreme Court; the principles, on which these precedents rest, dictate the rule that must control this case taking all the circumstances into consideration.

2-We established a history of bias and prejudice to the Plaintiff (**Appendix C**).

3-We argue that the Justice appointed a VG who has a financial conflict. The Justice employed the VG for years knowing his affiliations, had the Justice considered these affiliation a source of conflict she would not have employed him.

4-We argue that the Honorable Justice already prejudged the issue of conflict of interest by continuously utilizing the VG over years.

5-We also argue that given the opportunity, it is unlikely that the Justice will recognize conflict of interest even if one existed, for many reasons, an independent observer will surmise.

6- The Honorable Justice claims no arguments or evidence were presented (**Appendix A**) to support our affidavit, contrary to fact (**Appendix B**) reflecting actual bias and prejudice.

7-Under the Due Process Clause there is an impermissible risk of actual bias, there is a history of prejudice, there is evidence of ongoing bias and prejudice, and there is

no guarantee that bias and prejudice will stop. We pray to god for relieve.

## **CONCLUSION**

The petition for a writ of certiorari should be granted for the reasons above.

Respectfully submitted,

(S) Wael Lasheen

Date:04/14/2021

No.\_\_\_\_\_