No. 20-1527

IN THE

SUPREME COURT OF THE UNITED STATES

MICHELLE STOPYRA YANEY,
Petitioner,

v.

THE STATE BAR OF CALIFORNIA,
Respondent.

On Certiorari to the California Supreme Court

PETITION FOR WRIT OF CERTIORARI

There is a Related Case in this Court, Case 20-1157

Michelle Stopyra Yaney
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Santa Barbara Ca. 93105
Ph.: 805-453-1376,
Propria Persona

ORIGINAL

THE FIRST QUESTION PRESENTED

The question is:

Is communication to facilitate understanding regarding procedure by one who suffers from a mental disability, such as anxiety disorder, a statutory request for access to a government agency under the Americans with Disabilities Act?

The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law .

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments. It clarifies the requirements of section 504 of the Rehabilitation Act of 1973, as amended, for public transportation systems that receive federal financial assistance, and extends coverage to all public entities that provide public transportation, whether or not they receive federal financial assistance. This title outlines the administrative processes to be followed, including requirements for self-evaluation and planning; requirements for making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination; architectural barriers to be identified; and the need for effective communication with people with hearing, vision and speech disabilities. This title is regulated and enforced by the U.S. Department of Justice.

THE SECOND QUESTION PRESENTED

U.S. CONST. AMEND. I

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. "Scholars and jurists agree that the First Amendment right "to petition the Government for a redress of grievances" includes a right of court access.

THE CALIFORNIA CONSTITUTION
ARTICLE I
DECLARATION OF RIGHTS
[SECTION 1 – 32] Article 1 adopted 1879.)
SEC. 2.

Every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge the liberty of speech or press.

The State Bar of California is governed by the California Supreme Court.

The State Bar has a new rule of law, Rule 8.4.1 on Prohibited Discrimination, Harassment and Retaliation (Rule Approved by The California Supreme Court, Effective November 1, 2018).

The new rule allows all citizens to allege they have suffered discrimination and retaliation due to the actions of an attorney. The rule states in number four of its comment section,

"This rule does not apply to conduct protected by the First Amendment to the United States Constitution or by Article I, section 2 of the California Constitution."

The question is:

Whether the State Bar of California's new rule violates an individual's First Amendment right to allege discrimination by excluding the behavior of an attorney protected under the First Amendment?

THE THIRD QUESTION PRESENTED

All citizens have the right to petition for an extraordinary writ. It is established under uniformity that all courts have broad discretion to grant or deny a writ of mandate.

The rule of law in the State of California by 1879, when California's current constitution was ratified, unequivocally vested the Supreme Court with "power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction." (Cal. Const. of 1879, art. VI, § 4.) California's newly enacted Code of Civil Procedure, which to date provides: "Writ" means an order or precept in writing, issued in the name of the people, or of a court or judicial officer. (Id. at§ 17, subd. (b)(14), emphasis added.

The question is:

Whether the California Supreme Court had the same broad discretion to issue a summary denial on case S263130 a writ of mandate when the court itself participated in relief granted to petitioner by its own lower agency, that was still pending at the time of the summary denial?

PARTIES TO THE PROCEEDING
Rule 14.1(B)(I)

Michelle Stopyra Yaney is the petitioner m California Supreme Court case 8263130 a writ of mandate.

Michelle Stopyra Yaney is the petitioner in California Supreme Court case 8263808 a summary denial of an Application for Relief from Default. The order requesting review is of an Appeal decided by the State Bar of General Counsel, case 16-23428.

Chief Justice Tani Cantil-Sakauye,
Supreme Court of California
350 McAllister Street
San Francisco, Ca. 94102-4797
415-865-7000

Office of General Counsel,
State Bar of California
180 Howard St.
San Francisco, Ca. 94105
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CORPORATE DISCLOSURE STATEMENT
Rule 14.1(b)(ii)

Petitioner, Michelle Stopyra Yaney, is not investedin any corporation and is a citizen of the State of California.

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"As a man is said to have a right to his property, he may be equally said to have a property in his rights."

James Madison

Writ of Certiorari

Michelle Stopyra Yaney hereby petitions for a writ of certiorari to review the final judgment of the California Supreme Court on case S263130. Petitioner additionally requests this court invoke its jurisdiction over an order decided by the State Bar of California within case S263130.

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 final order on case S263130 a writ of mandate dated September 23, 2020, the order is a summary denial by the highest State Court, the California Supreme Court.

APPENDIX A PART 2

The July 13, 2020 order granting the submission of additional evidence by the respondent the State Bar of California in case S263130. A copy of the notice was addressed to the California Supreme Court Clerk of the Court, Jorge Navarrete, is included.

APPENDIX A PART 3

The California Supreme Court docket on case S263130. The docket stated the following regarding the relief granted to petitioner, *"It indicates that the State Bar has granted your request for further review of your complaint against attorneys in State Bar case numbers 19000041 and 19015840."*

APPENDIX B

The denial of an ADA accommodation for communication to facilitate understanding regarding the procedure on case S263130 by the Office of General Counsel State Bar of California dated November 17, 2020. The order stated the following,

> *"In your letter, you volunteered that you suffer from a "mental anxiety disorder" and requested that a CRU attorney speak to you verbally over the phone about your complaints. Specifically, you state that you want to have a better understanding of why your complaints were closed by OCTC as "understanding is*

something that helps minimize anxiety and without it I cannot cope." Title II of the Americans with Disabilities Act (ADA) requires that public agencies, such as the State Bar, provide accommodations to members of the public who are disabled, so that they may have equal or equivalent access to the public services andprograms that are offered to the general public. TheADA requires, however, that qualified individuals with disabilities articulate how their impairments limit their ability to access the public services they seek.

In your letter, you do not state that your impairment limits your ability to effectively communicate in writing, or to physically send documents or other supporting evidence via US Post or electronic mail. Rather, you state that youwish to speak with a CRU attorney over the phone because doing so will Jessen your anxiety and henceallow you to cope better.

As previously noted, Title II of the ADA only requires the State Bar to accommodate your anxiety disorder if that condition keeps you from accessing the CRU process. As you have described it, the impact of your impairment, while regrettable, simply does not limit or restrict your access to CRU or the above-described process it uses to review closed attorney complaints. Consequently, the State Bar denies your requested accommodation. Please feel free to contact me at the address, email or telephone number above if you wish to discuss my decision.

This Appendix also contains the recent email communication of the State Bar of California as the California Supreme Court already decided the case.

DOCUMENTS IN SUPPORT ONLY

APPENDIX C PART 1

The order on case S263808 rendered on August 14, 2020 is here in support only. The order is regarding an application for default submitted to the California Supreme Court during case S263130. The order requested review was on the appeal decision of the first complaints filed by petitioner for the same firm of attorneys as case S263130.

APPENDIX C PART 2

The documents verify that petitioner did not receive the August 14, 2020 decision until August 20, 2020. This Appendix also contains evidence of communication regarding petitioner's mail service that verifies the August 13, 2020 was all that was sent by the California Supreme Court.

APPENDIX C PART 3

The Supreme Court of California letter of August 13, 2020 on petitioner's communication to the court stated, *"Dear Ms. Yaney: No action may be taken on your letter received electronically on August 13, 2020. The application for relief from default, filed August 10, 2020, is still pending under the case number S263808."*

Petitioner has included the letter she wrote to the California Supreme Court dated August 7, 2020, within this Appendix.

APPENDIX D

The Supreme Court of California Decision dated June 30, 2020, stated, *'Your documents received electronically on May 26, 2020, and June 23, 2020, regarding the above · referenced matter, cannot be filed for the reason that this court has considered all the materials previously submitted. You were advised that your petition was not in compliance. Please rest assured, however, that this Court considered the documents, and the contentions made therein expressed the Court's decision in the matter."*

APPENDIX E

This letter is important because the senior deputy clerk of the California Supreme Court chose to communicate with petitioner via her personal email only. This is similar to how the State Bar requested petitioner submit the granted relief in case S263130.

The letter is dated May 29, 2020, from the Senior Deputy Clerk of the Supreme Court of California, Mr. Robert Toy. The letter states he is unaware of what petitioner is trying to file. The stamped cover of the filing is included in this Appendix and it states, *"Application for the Relief from Default to File an Untimely Petition for Review for New Law."*

APPENDIX F

The order of State Bar General Counsel on case 16-23428 and a fax sent by the attorney for the State Bar with a Case Re: Walker. The case is in regard to the efforts of a pro per litigant and how they are denied due to procedure.

STATEMENT OF CASE
Rule 14.1 (g)

The State Bar gave explicit instructions for petitioner to send additional evidence to General Counsel's secretary by email. Petitioner did this and the return emails of General Counsel kept reassuring her that everything was going into her file, she then asked, "what is my case number" and what does it mean, "into my file?"

After the summary denial by the California Supreme Court of case S263130 the State Bar issued a letter in the form of an email to petitioner stating they do not file stamp copy anything sent via email and the California Supreme Court has already decided the case.

For one who is pursuing their rights in a court to know why the rule of law is not being applied is everything. All the participants know why they denied petitioner normal procedure. It was what was told to them or an investigation of petitioner she was unaware of. It is simple now that petitioner understands; one cannot be allowed the protection of a court if they are perceived as breaking the law at the time they are asking for the protection of a court. What is not clear is what do any of us do to find out and address it, so we don't lose jurisdiction?

It is a helpless feeling to have one's own attorney turn away and be denied procedure a law states one should be given not knowing why so it may be mended.

All the investigations were dismissed in petitioner's favor however petitioner has a criminal record she cannot clear up due to the underlying first judgment in this case. When petitioner's name is googled on the internet it is bad she is labeled as "disable" not disabled. Petitioner does not drink alcohol and she is labeled as a "wino" a mugshot appears everywhere just by googling her name.

There is the tangible harm to others that must not continue. Petitioner has her elderly mother with her and she is fighting for her life having been diagnosed with cancer that went unchecked a long time. Petitioner was unable to access her mother in time to prevent a feeding tube from being necessary. This is because each time petitioner tried to visit her mother her cousin who is an attorney, and stood to gain financially would mislead law enforcement. It was easy with petitioner's record.

Petitioner's uncle who owned valuable property died not understanding as petitioner's mother did not that he signed a living will drawn up by petitioner's cousin that did not allow him medical care. Petitioner would have prevented this.

The reason petitioner is in this court and the heart of the statement of this case is simple: and it is that, even though this court has ruled several times against discrimination of one's class of person, we as a country have not come that far yet.

Petitioner asks this court to consider recent events in the death of George Floyd. What if police officer Derek Chauvin was taught procedure because of a law to speak in a manner that gave time for understanding as communication. And what if George Floyd knew he would be allowed this under the law for just a few minutes?

The respondent the State Bar of California granted petitioner relief in this case, how could it not give hope to many others who are acting as a pro per? The relief was in the high state court and because of this, it was extraordinary.

The California Supreme Court could have cited the relief granted to petitioner by the respondent and dismissed the case, there was no need to summarily deny it, after all, it was the truth.

It is written that Chief John Roberts wants us to explain what we want from this court. Petitioner respectfully requests that if a question is not worthy of review this court grant GVR.

Petitioner needs to go back to the California Supreme Court so she may understand how the State Bar has not investigated when it granted a motion for judicial notice under exceptional evidence that showed petitioner's own attorney altered documents to include removing her anxiety disorder which resulted in her losing the right of a new trial. The new trial was for petitioner's first home that she owned.

Petitioner needs communication to understand all these years later why the procedure of this case, meaning the confusing mailings, orders and letters and why it allowed its lower agency to generate relief in a format that it did not need to uphold addressing it to the court. Lastly, if there is anything that needs to be cleared up so the court may consider petitioner, she needs to know.

JURISDICTION

The Supreme Court of California entered a final judgment on case S263130 dated September 23, 2020.

The California Supreme Court does not allow for a rehearing or a reconsideration of a final judgment such as what is brought to this petition.

The order on case S263808 is here in support only. Petitioner wishes to respect this court removing it as requested review due to being untimely. The order was on an application for default submitted to the California Supreme Court. It was rendered during the pendency of case S263130 and it was dated August 14, 2020. The order was on the appeal decision of the first complaints filed by petitioner for the same firm of attorneys as case S263130. Petitioner did not believe the State Bar could effectively review anything without looking at their first decision.

Petitioner brings a second order of the State Bar of California. Petitioner does so because she does not believe the California Supreme court has jurisdiction due to the procedure within this case, case S263130. The State Bar issued the order on Nov. 17, 2020 on an ADA accommodation request submitted by petitioner. The accommodation was for communication to facilitate understanding. The request was for the attorney reviewing petitioner's submission of relief granted by the State Bar to communicate facilitating understanding as to what happened to the relief.

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 SupremeCourt by writ of certiorari.

Rules 10 and 11 (hereinafter, "Rule 10" and Rule11). 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:

a) 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;

b) 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.

c) 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 statedrule 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."

THE ALL-WRITS ACT

The All-Writs Act, 28 U.S.C.§ 1651(a), which authorizes federal courts to issue "all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law," This Court has authority to provide injunctive relief and declaratory relief under the following statutes and laws: 28 U.S.C. § 1331, 42 U.S.C. § 1983. § 262 of the Judicial Code, U.S.C. Title 28, § 377), provides that this Court and other federal courts: "Shall have the power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law."

STATUES AND CONSTITUTIONAL PROVISIONS

U.S. CONST. AMEND. I "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; orthe right of the people peaceably to assemble, and to petition the Government for a redress of grievances. "Scholars and jurists agree that the First Amendment right "to petition the Government for a redress of grievances" includes aright of court access."

CALIFORNIA CONSTITUTION EQUAL PROTECTION ARTICLE 1 [Section 1 · Sec. 32]

(Article 1 Adopted 1879.)

Section I. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

ARTICLE I DECLARATION OF RIGHTS [SECTION 1 · SEC. 32]

Article 1 adopted 1879.)

SECTION II. (a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or a bridge liberty of speech or press.

The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else.

The ADA gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. The ADA is divided into five titles (or sections) that relate to different areas of public life.

In 2008, the Americans with Disabilities Act Amendments Act was signed into law and became effective on January 1, 2009. The ADA made a number of significant changes to the definition of "disability." The changes in the definition of disability in the ADA apply to all titles of the ADA, including Title I (employment practices of private employers with 15 or more employees, state and local governments, employment agencies, labor unions, agents of the employer and joint management labor committees); Title II (programs and activities of state and local government entities); and Title III (private entities that are considered places of public accommodation).

Title II (State and Local Government)

Nondiscrimination on the Basis of Disability in State and Local Government Services

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. It applies to all state and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of state or local governments. It clarifies the requirements of section 504 of the Rehabilitation Act of 1973, as amended, for public transportation systems that receive federal financial assistance, and extends coverage to all public entities that provide public transportation, whether or not they receive federal financial assistance. It establishes detailed standards for the operation of public transit systems, including commuter and intercity rail (e.g., AMTRAK).

This title outlines the administrative processes to be followed, including requirements for self-evaluation and planning; requirements for making reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination; architectural barriers to be identified; and the need for effective communication with people with hearing, vision and speech disabilities. This title is regulated and enforced by the U.S. Department of Justice.

THE STATE BAR OF CALIFORNIA NEW RULE OF LAW 8.4.1 PROHIBITED DISCRIMINATION, HARASSMENT AND RETALIATION
(Rule Approved by The California Supreme Court, Effective November 1, 2018)

Rule 8.4.1 Prohibited Discrimination, Harassment and Retaliation

In representing a client, or in terminatingor refusing to accept the representation of any client, a lawyer shall not:

(1) unlawfully harass or unlawfully discriminate against persons* on the basis of any protected characteristic; or

(2) unlawfully retaliate against persons.

(a) In relation to a law firm's operations, a lawyer shall not:

(1) on the basis of any protected characteristic,

(i) unlawfully discriminate or knowingly* permit unlawful discrimination;

(ii) unlawfully harass or knowingly* permit theunlawful harassment of an employee, an applicant, an unpaid intern or volunteer, or a person* providing services pursuant to a contract; or

(iii) unlawfully refuse to hire or employ a person*, or refuse to select a person* for a training program leading to employment, or bar or discharge a person* from employment or from a training program leading to employment, or discriminate against a person* in compensation or in terms, conditions, or privileges of employment; or

(2) unlawfully retaliate against persons.

(b) For purposes of this rule:

(1) "protected characteristic" means race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, military and veteran status, or other category of discrimination prohibited by applicable law, whether the category is actual or perceived.

(2) "knowingly permit" means to fail to advocate corrective action where the lawyer knows* of a discriminatory policy or practice that results in the unlawful discrimination or harassment prohibited by paragraph (b);

(3) "unlawfully" and "unlawful" shall be determined by reference to applicable state and federal statutes and decisions making unlawful discrimination or harassment in employment and in offering goods and services to the public; and

(4) "retaliate" means to take adverse action against a person* because that person* has (i) opposed,or (ii) pursued, participated in, or assisted any action alleging, any conduct prohibited by paragraphs (a)(I) or(b)(I) of this rule.

Comment

[1] Conduct that violates this rule undermines confidence in the legal profession and our legal system and is contrary to the fundamental principle that all people are created equal. A lawyer may not engage in such conduct through the acts of another. (See rule 8.4(a).) In relation to a law firm's operations, this rule imposes on all law firm* lawyers the responsibility to advocate corrective action to address known* harassing or discriminatory conduct by the firm* or any of its other

lawyers or nonlawyer personnel. Law firm* management and supervisorial lawyers retain their separate responsibility under rules 5.1 and 5.3. Neither this rule nor rule 5.1 or 5.3 imposes on the alleged victim of any conduct prohibited by this rule any responsibility to advocate corrective action.

[2] The conduct prohibited by paragraph (a) includes the conduct of a lawyer in a proceeding beforea judicial officer. (See Cal. Code Jud. Ethics, canon 3B(6) ["A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation against parties, witnesses, counsel, or others."].) A lawyer does not violate paragraph (a) by referring to any particular status or group when the reference is relevant to factual or legal issues or arguments in the representation. While both the parties and the court retain discretion to refer such conduct to the State Bar, a court's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violationof paragraph (a).

[3] A lawyer does not violate this rule by limiting the scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of underserved populations. A lawyer also does not violate this rule by otherwise restricting who will be accepted as clients for advocacy-based reasons, as required or permitted by these rules or other law.

[4] This rule does not apply to conduct protected by the First Amendment to the United States Constitution or by Article I, section 2 of the California Constitution.

STATEMENT OF PROCEDURE

The respondent in this certiorari, the State Bar of California, granted relief to petitioner under a writ of mandate which is case S263130. They gave explicit instructions for petitioner to send additional evidence to General Counsel's secretary by email. Petitioner did this and the return emails of General Counsel kept reassuring her that everything was going into her file, she then asked, *"what is my case number"* and what does it mean, *"into my file?"*

After the summary denial of case S263130 the State Bar issued a letter in the form of an email to petitioner. The email stated that they do not file stamp anything sent via email and the California Supreme Court has already decided the case.

After attempting to contact the State Bar petitioner requested they grant her an ADA accommodation. The request was for communication by the attorney deciding on the relief she was granted under case S263130. It had seemingly been taken away before being decided.[1]

[1] The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else. The ADA gives civil rights protections to individuals with disabilities similarto those provided to

Petitioner wrote in the accommodation request that she is mentally disabled and suffers from anxiety disorder that runs in her family. Petitioner explained that she is able to relax when she is given an explanation to help her understand why something is happening. Petitioner further explained that worry is the pain of her anxiety.

The answer to petitioner's accommodation arrived on November 17, 2020. The State Bar's denial concluded that since petitioner did submit documents her anxiety did not stand in the way.

Petitioner has never had communication with a State Bar attorney who made a decision in any of the complaints she filed. Petitioner did speak to General Counsel's attorney briefly during the appeal of the first complaints pertaining to the loss of her home. The result was a denial of the appeal the same day as the conversation and before petitioner was able to submit what had been talked about. This was documented in case S263130.

There was another case, S263808 that was decided during the pendency of case S263130. Petitioner had pleaded to the California Supreme Court in an Application for Relief from Default, stating that she now

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individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications. The ADA is divided into five titles (or sections) that relate to different areas of public life.

has jurisdiction for the petition for review of the first complaints denied by the State Bar of California. Petitioner asserted that the past effort for review case S240820 was mistakenly decided by the court as "An Accusation." Petitioner brought the State Bar law on an accusation which states it is only for a State Bar member and only after there is a trial in the State Bar court.

The California Supreme court ruled on the application for default, by stating petitioner can file an accusation against an attorney if the State Bar does not act upon the relief it granted.

The application for relief from default submitted on August 10, 2020, was denied in four days on August 14, 2020. The decision is in support only and may be found in App. C.

Petitioner never received a timely mailing of the decision, instead she was confused by the procedure. This happened after the California Supreme Court issued a letter on August 13, 2020. In the letter the court states that case 8263808 is still pending.

The letter occurred after petitioner was told by the court the cover of her petition for review made it "An Accusation" again because she had put the attorney's names in between hers and the State Bar. Petitioner requested permission to change it and to file a statement of jurisdiction. Then the order of August 14, 2020 happened before petitioner could file anything. The letter may be found in App. C.

Petitioner received the August 14, 2020 decision on August 20, 2020, when the clerk of the Supreme Court of California emailed it to her at petitioner's request. This email may be found in App. C Part 2.

There were two other letters of communication on the Application that did not include case numbers. They were on June 30, 2020 and May 29, 2020. Both letters denied the application. They were signed by Mr. Robert Toy, a Senior Deputy Clerk who communicated with petitioner via her personal email only. This was similar to the State Bar's request for petitioner to send additional evidence to them. The orders may be found in App.D Part 1 and 2.

REASONS FOR GRANTING CERTIORARI

It is documented that US Supreme Court Chief Justice Chief John Marshall who was also the first cousin of Thomas Jefferson stated that the smartest person he knew was President James Madison.

President Madison suffered from anxiety yet he wrote most of our US Constitution. He also spoke of the worry of the detriment of the law being so complicated that the common man would not understand. This most certainly includes the application not being confusing to the common man. President Madison stated,

"It will be of little avail to the people that the laws are made by men of their own choice if the Jaws be so voluminous that they cannot he read, or so incoherent that they cannot be understood."

The ADA does include the accommodation of communication that facilitates understanding.[2]

Petitioner could bring the many cases of this Court regarding the freedom it has established under the First Amendment, which clearly includes the freedom to allege any behavior has caused discrimination.

Petitioner believes there is a better way to explain why she deserves review or GVR of this case. It is by bringing a justice of this Court and how he chose to use the privilege of being an attorney and how he interpreted the American Bar's duty to protect the people.

The esteemed US Supreme Court Justice, Justice Louis D. Brandeis, began the practice of law in Boston in the year 1878 at the age of twenty-two. Eight years later his practice was large, lucrative, and variegated. He was no respecter of clients; he had his share of corporation work along with other phases of legal practice. He frankly confessed that he "even worked for a trust or two." But his special interests lay in other fields-in matters of large

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[2] Tennessee v. Lane, 541 U.S. 509, Olmstead v. L.C. by Zimring, 527 U.S. 581. Pennsylvania Department of Corrections v. Yeskey, 524 U.S. 206. San Francisco v. Sheehan, 135 S. Ct. 1765, all acknowledged that Title II of the ADA applies to everything that a public entity does.

public interest in manifold and complicated social and economic problems. His decision to curtail private practice and give more and more time to public work was made with full knowledge that it would involve financial sacrifice and tremendous strain upon his vitality. It was the result of a deliberate purpose to give the people expert legal assistance in the support of general welfare measures.

Referring in 1905 to the declining influence of the lawyer in affairs of state, he insisted that the reason for it was not lack of opportunity:

> *"Instead of holding a position of independence, between the wealthy and the people, prepared to curb the excesses of either, able lawyers have, to a large extent, allowed themselves to become adjuncts of great corporations and have neglected the obligation to use their powers for the protection of the people. We hear much of the 'corporation lawyer' and far too little of the 'people's lawyer. The great opportunity of the American Bar is and will be to stand again as it did in the past, ready to protect also the interests of the people."*

These words were spoken in an address delivered before the Harvard Ethical Society at Harvard University.

Petitioner respectfully requests that if review is not considered GVR be granted.

The history of GVR practice does allow litigants to seekthe 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).

In issuing a GVR, this 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 NY. 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 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 this 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 if 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.

Petitioner respectfully requests this Court invoke its jurisdiction and act upon this petition.

Signed under the penalty of perjury on April 23, 2021.

Michelle Stopyra Yaney

Michelle Stopyra Yaney

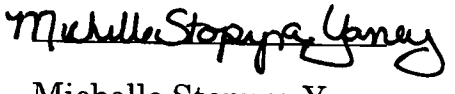
VERIFICATION

I, Michelle Stopyra Yaney declare as follows:

I am the petitioner and I have read the attached *Petition for Writ of Certiorari to the California Supreme Court.*

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, April 23, 2021.



Michelle Stopyra Yaney

THE WORD COUNT

Petitioner hereby certifies that the attached petition for writ of certiorari was produced using 13-point Century font for the general body. The count excludes the parts of the petition that are exempt. The total word count is 9,217.

The word count was calculated by Microsoft Office. Petitioner relies on the computer program which was also used to prepare this petition that it is true and accurate.

Signed under the penalty of perjury, April 23, 2021.

Michelle Stopyra Yaney

Michelle Stopyra Yaney

FOUR PAGES RESERVED DUE TO CORRECTION