

No. 20-1527

In The

Supreme Court of the United States

Michelle Stopyra Yaney,

Petitioner,

v.

The State Bar of California,

Respondents.

On Rehearing to the California Supreme Court.

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

PETITION FOR REHEARING

Michelle Stopyra Yaney

3905 State St. Ste. 7-365

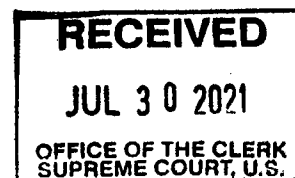
Santa Barbara, Ca. 93105

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In Propria Persona

July 15, 2021

ORIGINAL



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CERTIFICATION OF GOOD FAITH

Pursuant to Rule 44 of this U.S. Supreme Court, I declare this rehearing petition is made in good faith not to delay in any way.

Signed under the penalty of perjury on this day, July 15, 2021.



Michelle Stopyra Yaney

PARTIES TO THE PROCEEDING

Rule 14.1(B)(I)

Michelle Stopyra Yaney is the petitioner in
California Supreme Court case S263130.

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

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State Bar of California Unit
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LIST OF APPENDICES

APPENDIX 1

Order Denying Case 20-1527

APPENDIX 2

Order denying Certiorari May 3, 2021, Case 20-1157

APPENDIX 3

Order of Santa Barbara California APS (Adult Protective Services) dated June 15, 2021

APPENDIX 4

Order of Chandler Arizona APS (Adult Protective Services) dated April 15, 2021 and May 27, 2021.

APPENDIX 5

Petitioner's Mother's Declaration

APPENDIX 6

All Recent Orders to include the order dated 4/27/21 on mootness of appeal and the recent denial of stay of appellate procedure in the Court of Appeal Fourth District Division Two.

IV

A NEW QUESTION AND A PREVIOUS QUESTION

It is established that GVR may be granted if there is a new discovery that would have resulted in a different outcome in this court or the lower court. Petitioner has a case submitted to this court in 2017. This was decided right before the dismissal of petitioner's first State Bar complaints and before the Cal. Sup. Ct. granted to petitioner the aforementioned motion for judicial notice. The case has remained as pending for years on this courts clerk's website entitled the "Cert Pool", The question asked was;

Whether a litigant who is established to be suffering a mental disability can request an accommodation under the ADA from an appellate court in a writ of mandate for relief from what they believe is discriminatory procedure of a lower state court or state agency?

Petitioner wrote in her certitorai on this case a question as whether or not communication may be asked for as an accommodation under the ADA when a mentally disabled litigant does not understand why a court or government agency is being prejudice. Petitioner stated it can not be the norm that the starting of an investigation with law enforcement by an attorney exactly when a court can rule for a prose litigant.

Petitioner asks a new question under uniformity for other citizens of our country due to what has happened to her and is brought to this petition. The question is:

v

Petitioner asks this court point blank what are we as citizens of the United States allowed to know about how a court perceives the record of our name so we may defend our right to the neutrality of a court?

And whether it is a violation of the First Amendment for a court to not disclose to a litigant who is a pro per that it has been informed by an attorney of a criminal investigation or any other activity that affects the courts ability to rule in a neutral manner?

The First Amendment of the U.S. Constitution protects the Freedom of Expression which consists of the right to freedom of speech, press, assembly and the right to petition the government for a redress of grievances.

28 U.S.C. § 1651(a), The All-Writs Act - 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 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.

ARTICLE III STANDING

United States Constitution, Article III, Section 1: The judicial power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

In 1803, in the case of *Marbury v. Madison*, the Supreme Court, in an opinion written by Chief Justice John Marshall, interpreted Article III and Article VI to give the federal courts final say over the meaning of the federal Constitution and federal laws and the power to order state and federal officials to comply with its rulings. The federal courts can make decisions only on cases that are brought to them by a person who is actually affected by the law.

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“Liberty lies in the hearts of men & women; when it dies there, no constitution, no law, no court can even do much to help it.”

Judge Learned Hand

PETITION FOR REHEARING

Petitioner Michelle Stopyra Yaney, understands that this Court grants rehearing petitions exceedingly rarely and defers a decision in the same manner. Respectfully, this petition presents one of those exceedingly rare situations.

Petitioners’ certiorari case 20-1527 was denied by this court on June 21, 2021. Pursuant to Supreme Court Rule 44.1, this petition for rehearing is filed within 25 days of this Court’s decision.

There was another case which was denied on May 3, 2021 it is case 20-1157 *Yaney v. Superior Court of Riverside*. The deadline for rehearing has passed on the case and it is collateral. Petitioner could not submit a petition due to suffering anxiety over the events here which had begun.

Both cases recently denied in this court pertain to the same trial court case currently on appeal in the lower State Court of Appeal Fourth District Division Two, *Yaney v. Turner*, case E073428.

REQUEST TO DEFER

Petitioner respectfully requests that this court, as it has done for others, defer consideration of this rehearing petition. This court must preserve jurisdiction for petitioner's appeal that is still pending. Petitioner has been denied a stay and the order is in Appendix 6.

Please consider the order brought to this rehearing is on a writ of mandate; an original action decided in the California Supreme Court. The alleged actions of respondent, the State Bar of California occurred within the procedure of the trial court case currently pending appeal.

This request is also due to the new events that verify petitioner's name does now allow the respondent the State Bar to consider their new rule of law brought by petitioner in her complaints, Rule 8.4.1.

One of the reasons for deferring decision and the granting of GVR is jurisdiction of this court and the harm it can cause. The fact is petitioner erred and took the jurisdiction of new evidence away from herself. Petitioner believes she did this by submitting it to this court prematurely. Petitioner attached as an Exhibit her motion for additional evidence currently pending in her appeal having been deferred submitting it to this court in the other case that is collateral, case 20-1157. Please see the end of this petition for additional reasons for deferral.

WHAT HAPPENED DURING REHEARING JURISDICTION IN THIS COURT

What has happened occurred during the decision in this court on this case and while petitioner was trying to have the court of appeal rule on her motion for additional evidence currently deferred in her appeal.

Petitioner was contacted by text from an APS officer(Adult Protective Services) that was three thousand miles away on the evening of June 13, 2021. The message stated the officer had called law enforcement on petitioner in CA and NY.

Petitioner was driving with her mother who is battling cancer and they could have been hurt in an accident. There had never been an investigation or interview or mailing of any order of APS. They had spoken to her mother as they had requested. Then they asked for video and petitioner signed up for zoom and they never responded.

The next day petitioner immediately called the local APS office in Santa Barbara California who explained the police are not after her and an APS officer needs to see her mother. Petitioner and her mother gave complete access for as long as the officer needed. He asked to speak with petitioner's mother alone. He found nothing wrong apologizing to petitioner for disturbing them.

Petitioner requested a notice of decision from the APS officer who had visited. The officer lied to petitioner stating that her mother had asked and he sent the letter addressed to her mother and without a case number. The case number and the letter addressed to petitioner the accused was appropriate. The APS office 3000 miles away also stated in an email to petitioner they would send a letter to her mother only and there is no case number.

Petitioner is submitting all APS Ccommunication in support of this rehearing request because of the procedure in the court of appeal where her appeal is pending. APPENDIX 3 AND 4 APS NOTICES

The allegation against petitioner was that she poisoned her mother with her own medication. The APS officer was more interested in the home petitioner's mother has. The officer asked petitioner's mother whether or not she wanted petitioner to have the home and her mother answered that she wanted petitioner to have it and she has left it to her. The officer also wanted to know whether or not petitioner had a Power of Attorney that her mother had approved of and her mother answered yes she wanted petitioner to be her Power of Attorney. Petitioner's mother has written in her own words a declaration for this petition. SEE APP. 5 DEC.

THE PENDING APPEAL AND THE STATE BAR WAIVER

On May 27, 2021 the State Bar attorney waived in this case. Petitioner asked him to not do this noticing further procedure she wanted to submit due to the new events.

On May 26, 2021 right before the latest investigation in California petitioner called the court where her appeal to tell them that Adult Protective Services issued "A Closure Letter" in the state of Arizona. APS had promised the letter since February 1st 2021.

The day the letter was sent was the last day for rehearing in the other case decided at the same time as this one in this court. It was also the last day for the submission of evidence in support of petitioner's supplemental brief on the mootness of her appeal. Petitioner explained she is busy with her mother who has cancer and the court suggested she send it as email communication.

At 8:35 am in the early morning of May 27, 2021, petitioner received an email from the Court of Appeal's head clerk confirming she had received the letter.

Petitioner then called back the court on June 4, 2021 speaking to the same supervising clerk. She did this after she began to notice that there were police officers everywhere observing her with her mother. Petitioner asked for communication on whether or not the court was obligated to start its own investigation or needed to do so. The court stated no.

The court of appeal was the only place petitioner had sent the letter because she was waiting for APS to correct her address. Petitioner had asked many times for a correction and had been promised it. She believed the way it was issued erroneously stating her name and the word HOMELESS was disrespectful.

The corrected letter arrived and it is dated May 27, 2021 the same day the State Bar waived in this case. The date is also the same date which the last day for rehearing on the other case of this court 20-1157.

The letter stated petitioner's address as Santa Barbara with AZ after it and it was dated May 27, 2021. This allowed an investigation in California and it appears that was the goal. APS. APP. 3 AND 4 ALL APS NOTICES

Background of the court of appeal is necessary to jurisdiction because the appeal is still pending giving this court the authority to act. It is also important because the first investigation started shortly after petitioner filed her motion for additional evidence in the appeal case that is still pending. Petitioner's motion has been deferred and it was filed on December 18, 2020 pursuant to; California Rules of Court, Rule 8.252(c), California Rules of Court, Rule 23 and California Civil Procedure Code § 43 and California Code of Civil Procedure section 909(b) and (c) Exceptional Evidence on Appeal.

The discovery was of documents prepared by petitioner's cousin an attorney had it appear that petitioner would soon be arrested and her own mother had retained him and choose to not send in a drop charges form that she did sign two years prior.. This was before petitioner ever met the defendant Turner in the underlying trial court case both cases of this court are under.

On January 14, 2021, after petitioner's motion for exceptional evidence was filed within her appeal case, petitioner's mother's oncologists in Arizona erroneously received information from a "friend of the family" as they wrote. An investigation was started with APS, and it resulted in petitioner being found innocent of harming her mother and it was determined that her mother was safest with her.

Petitioner answered the Court of Appeal's 4/27/21 request, for her to write a supplemental brief on the court's determination of mootness of her appeal by asking the court to take the evidence as it has for others prior to rendering it moot. Petitioner carefully cited cases which allowed the court of appeal to take evidence without determining anything. The order of April 27, 2021 is attached. SEE APPENDIX 6 RECENT ORDERS

Petitioner called the court of appeal on June 4, 2021 which was the same day that Santa Barbara APS states in their notice as when the investigation began. The call was a request for decision on petitioner's supplemental on mootness that the court had filed on May 17, 2021. Petitioner was told oral argument

would be scheduled. She stated that she agreed with the court asking them to take the evidence in the motion they had deferred. Petitioner further responded by stating the respondent has not responded.

The appeal has pended since August of 2019 even though it is about the return of petitioner's personal property. Petitioner's opening brief was filed, and it states on the docket that it is was sent to a panel of justices. Also the court issued a three page correction list for the brief why would they do this if the appeal was moot from the beginning? SEE APP. 6

The appeal requests the case be reinstated and the judge errored allowing for petitioner to voluntarily dismiss the case after an appeal of an order denying the correction of a granted writ of possession was filed. This dismissal happened when petitioner panicked due to her belief she was suffering severe prejudice that she now understands is based on the belief she would soon be arrested. The Court of Appeal recently denied a stay of appeal so petitioner could bring the new events to the trial court. APP. 6 ORDERS ON STAY

REASONS FOR THE GRANTING OF RELIEF

Petitioner has had to pursue three cases of lost property to no avail and each time she has pleaded to all the court's including this one to remand the case for reconsideration.

Petitioner's plea has always included a declaration stating that her name was being ruined with events beyond her control happening right before a decision or when she files a document in the court that has merit. Now years later there is solid proof of this that occurred during the decision on this case. The proof verifies how bad it has become. Petitioner is not writing about the function of APS (Adult Protective Services) because it is important. She is writing about how they treated her and how dangerous it was because she did not understand.

Petitioner must state that she did not feel like a citizen of this country under our constitution during the rehearing time on this case. This is justifiable because there is no case number for the closure of the APS investigation. The head of APS in Santa Barbara stated to petitioner the following; "if you have any trouble have them give me a call because no one can get the records they are sealed." Petitioner asserts we are not in the days of Al Capone where a government agency may bury the good of a person who is seeking relief in an appellate court.

There is a pettern here because the State Bar would not acknowledge the relief it granted to petitioner in this case. This was written in petitioner's certiorari on this case.

The State Bar and the California Supreme Court have watched for years as petitioner suffered retaliation by attorneys. They have seen how it is done and it affects her ability to have what she cares about her home, her vehicle, her mother and her pet.

The events here verify that this is the second time an investigation was started with APS exactly when petitioner filed a document with merit in her appeal. This is not a coincidence.

Petitioner wrote in her certitorai on this case a question which asked whether or not communication may be asked for as an accommodation under the ADA when a mentally disabled litigant does not understand why a court or government agency is being prejudice in their procedure.

Petitioner is asserting this court must act on this case even though it did not consider her question because she is an established disabled litigant under social security and she was denied meaningful accesss to the lower courts and the State Bar of California. The proof is here and in this courts record of other cases of petitioners'. And the State Bar did the opposite of what they should have waivering in this case at the time they did.

Please consider the following;

Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. 12131 et seq., as applied in the context. Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, prohibits public entities from discriminating against the

disabled. The regulations for the ADA are 28 C.F.R. Part 35. Title II's definition section states that "public entity" includes "any State or local government" and "any department, agency or special purpose district." See *Olmstead v. L.C. by Zimring*, 527 U.S. 581, 590, 119 S.Ct. 2176, 2182, 144 L.Ed.2d 540 (1999). In a decision under Title II of the ADA, the U.S. Court of Appeals for the Ninth Circuit explained "meaningful access" as it was used in *Alexander v. Choate*, 469 U.S. 287, 293 (1985). The Crowder Court explained: The Supreme Court interpreted the Rehabilitation Act in *Alexander v. Choate*, *ibid*. In *Choate*, the Court concluded that Congress intended to protect disabled persons from discrimination arising out of both discriminatory animus and "thoughtlessness," "indifference," or "benign neglect." The Court held, however, that judicial review over each and every instance of disparate impact discrimination would be overly burdensome. Rather than attempt to classify a type of discrimination as "deliberate" or "disparate impact," the Court determined it would be more useful to assess whether disabled persons were denied "meaningful access" to state-provided services. (citations omitted). See *Crowder v. Kitagawa*, 81 F.3d 1480, 1484 (9th Cir. 1996).

Petitioner needs the Court of Appeal to be neutral when deciding her pending appeal so she may help her mother and they both may have a place to live.

Petitioner's mother has not received treatment for her cancer since she was in Arizona in February and it was not considered by anyone how the APS investigations would harm her or a doctor's ability to help her. By all the writing available regarding esophageal cancer including Johns Hopkins, it is a fatal cancer at petitioner's mother's stage and at her age of 80. She has had one procedure which took place on May 4, 2021 the

day after this court denied petitioner's certiorari on the other case decided at the same time as this one, case 20-1157.

Petitioner has been traveling with her mother showing her special places in California. The truth is they would have liked to go home so petitioner's mother could pass away in her parents home; the home of petitioner's grandparents. Both petitioner and her mother believe that they cannot because of her cousin the attorney. He has caused much of what has happened by misleading those who could have considered petitioner and he is also known in the record for using law enforcement and local services such as APS to intimidate.

THIS COURT'S JURISDICTION

It is established that this court's denial of certiorari does not affect any other relief in the lower courts, however petitioner's record does not show this and what if a court wants it that way? Please consider the record of all the cases in this US Supreme Court because they were denied immediately after petitioner lost this court's jurisdiction. This has happened for the last six years in the same court where petitioner's appeal is now pending, the State Court of Appeal Fourth District Division Two. The fact that it is pending gives this court jurisdiction to act under appellate jurisdiction.

Petitioner is requesting GVR as the granting of a reconsideration of both cases to the California Supreme Court. They also believed petitioner was being pursued by an attorney and she would shortly be arrested and they knew she did not know, it is in the record. There following case brought the First Amendment cases of this court on the freedom of communication and discussion regarding government decisions. The case was decided in favor of attorneys.

[L.A. No. 30601. Supreme Court of California. May 3, 1977.] LEONARD D. JACOBY et al., Petitioners, v. THE STATE BAR OF CALIFORNIA, Respondent. . [4] As the United States Supreme Court has consistently held, "the protection afforded [by the First Amendment] is to the communication, to its source and to its recipients both." (Va. Pharmacy Bd. v. Va. Consumer Council (1976) 425 U.S. 748, 756 [48 L. Ed. 2d 346, 355, 96 S. Ct. 1817] [hereinafter Board of Pharmacy]; see also Kleindienst v. Mandel (1972) 408 U.S. 753, 762-764 [33 L. Ed. 2d 683, 691-693, 92 S. Ct. 2576]; Stanley v. Georgia (1969) 394 U.S. 557, 564 [22 L. Ed. 2d 542, 549, 89 S. Ct. 1243]; Lamont v. Postmaster General (1965) 381 U.S. 301, 308 [14 L. Ed. 2d 398, 403, 85 S. Ct. 1493] (Brennan, J., concurring).) This societal interest runs to the heart of the First Amendment, a major purpose of which is to promote free discussion of governmental affairs. (Buckley v. Valeo (1976) 424 U.S. 1, 14 [46 L. Ed. 2d 659, 684-685, 96 S. Ct. 612].)

This court has granted rehearing and GVR when there are multiple orders that are related with an issue that if it had been known would have caused a different outcome in the lower court or this court. This court has also granted GVR for intervening circumstances of a substantial effect when it is most probable the lower court will not act on its own.

\\ See *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 also *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, 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.

To conclude, petitioner brought Justice Brandeis of this court and his life of service to her certiorari instead of case citations. For this rehearing she brings a passage written by him on the personal liberty of an individual in support of the granting of relief.

Warren and Brandeis, *Harvard Law Review* Vol. IV December 15, 1890 No. 5, "That the individual shall have full protection in person and in property is a principle as old as the common law; but it has been found necessary from time to time to define anew the exact nature and extent of such protection. Political, social, and economic changes entail the recognition of new rights, and the common law, in its eternal youth, grows to meet the new demands of society. Thus, in very early times, the law gave a remedy only for physical interference with life and property, for trespasses vi et armis. Then the "right to life" served only to protect the subject from battery in its various

forms; liberty meant freedom from actual restraint; and the right to property secured to the individual his lands and his cattle. Later, there came a recognition of man's spiritual nature, of his feelings and his intellect. Gradually the scope of these legal rights broadened; and now the right to life has come to mean the right to enjoy life, -- the right to be let alone; the right to liberty secures the exercise of extensive civil privileges; and the term "property" has grown to comprise every form of possession -- intangible, as well as tangible.

Petitioner requests the court defer consideration of this rehearing petition until final decision on her appeal in the lower court.

Signed under the penalty of perjury on July 15, 2021.

Michelle Stopyra Yaney

Michelle Stopyra Yaney

VERIFICATION

I, Michelle Stopyra Yaney, being over the age of eighteen and fully competent to make this statement does have personal knowledge of the matters contained herein the "PETITION FOR REHEARING."

I hereby affirm that the above petition and contents, exhibits and inserts are true and accurate.

I declare under penalty of perjury under the laws of the United States that the above is true.

Executed on July 15, 2021

A handwritten signature in black ink that reads "Michelle Stopyra Yaney". The signature is written in a cursive style and is positioned above a horizontal line.

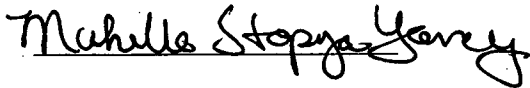
Michelle Stopyra Yaney

CERTIFICATE OF COMPLIANCE

Petitioner Michelle Stopyra Yaney, as required by Supreme Court Rule 33.1(h), certify that the attached petition for rehearing contains words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d) totaling 3996.

Petitioners declares under penalty of perjury that the foregoing is true and correct to the best of her ability.

Executed on July 15, 2021.

A handwritten signature in black ink, reading "Michelle Stopyra Yaney". The signature is written in a cursive, flowing style with some capitalization.

Michelle Stopyra Yaney

IN THE

Supreme Court of the United States

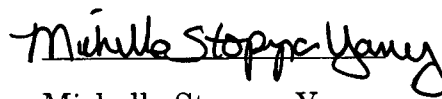
AFFIDAVIT OF SERVICE

I, Michelle Stopyra Yaney, do swear and declare that on this date, July 15, 2021, as required by Supreme Court Rule 29, I declare that I sent to a third-party mailing service the enclosed; PETITION FOR REHEARING to each party or that party's counsel, and on every other person required to be served. I declare that I additionally deposited an envelope containing the aforementioned petition in the United States mail properly addressed with first-class postage prepaid. The names and addresses of those served are

Superior Court County of. Riverside, 4100 Main St.
Riverside, Ca. 92501, 951-777-4100.

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

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 15, 2021.


Michelle Stopyra Yaney

**Additional material
from this filing is
available in the
Clerk's Office.**