

No. 20-254

In The

Supreme Court of the United States

KUANG-BAO OU-YOUNG,  
Petitioner

v.

JOHN G. ROBERTS, JR.,  
Chief Justice of the United States,  
et al.,  
Respondents

On Petition for a Writ of Certiorari  
to the United States Court of Appeals  
for the Fourth Circuit

PETITION FOR REHEARING

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December 18, 2020

## PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44.2, petitioner Kuang-Bao P. Ou-Young respectfully petitions the Court for rehearing of the order denying a prior petition for certiorari. Petitioner filed the petition for certiorari on August 24, 2020. This Court denied said petition on November 23, 2020.

### ARGUMENT

#### I. Denial of Certiorari Deprives Petitioner of Substantive Civil Rights

Petitioner filed an employment discrimination complaint against United States Postal Service (“USPS”) with U.S. District Court for Northern California (Case No. 10-cv-464-RS, “*USPS I*”) on February 2, 2010. On June 10, 2011, U.S. district judge Richard Seeborg summarily dismissed the case. On March 25, 2013, this Court denied the petition for certiorari to review the Ninth Circuit’s upholding of the dismissal of *USPS I*. (Case No. 12-1018).

However, “all that a denial of a petition for a writ of certiorari means is that fewer than four members of the Court thought it should be granted, this Court has rigorously insisted that such a denial carries with it no implication whatever regarding the Court’s views on the merits of a case which it has declined to review.” *Maryland v. Baltimore Radio Show*, 338 US 912, 919 (1950). Thus, said denial of certiorari deprives petitioner of the First Amendment right to petition the Government for a redress of grievances.

“Review on a writ of certiorari is not a matter of right, but of judicial discretion.” Hence the Court routinely denies petitions for certiorari without a hearing or oral argument. Nonetheless, “[i]n almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses.” *Goldberg v. Kelly*, 397 US 254, 269 (1970). For this reason, the denial of certiorari deprives petitioner of the Fifth Amendment right to due process of law as well.

Because the 2013 denial of certiorari deprives petitioner of substantive civil rights, a complaint was filed against chief justice Roberts, former associate justice Kennedy, as well as associate justices Thomas, Breyer, Alito, Sotomayor, Kagan, and others with Superior Court of California in the County of Santa Clara on November 12, 2020 (Case No. 20cv372913). The complaint is reproduced in Appendix (“App.”) A.

It goes without saying that denial of certiorari in this case – if sustained – would lead to petitioner asserting the First Amendment right to petition the Government for a redress of grievances and the Fifth Amendment right to due process of law in said state court as well.

## II. Both Justice Kavanaugh and Justice Barrett Should Disqualify Themselves from This Case

28 U.S.C. § 455(a) provides:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any

proceeding in which his impartiality might reasonably be questioned.

Being named as respondents, chief justice Roberts, justice Breyer, and justice Alito took no part in the consideration or decision of the petition for certiorari in the present case.

Rule 35.3 states:

When a public officer who is a party to a proceeding in this Court in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate and any successor in office is automatically substituted as a party. ...

Following justice Kennedy's retirement on July 31, 2018, the Senate confirmed justice Kavanaugh's nomination to this Court on October 6, 2018. With justice Ginsburg's passing on September 18 this year, justice Barrett's nomination was confirmed on October 26. Since both justice Kennedy and justice Ginsburg were respondents in this case, justice Kavanaugh and justice Barrett should disqualify themselves as well.

### III. The Court Lacks a Quorum to Deny Certiorari

28 U.S.C. § 1 provides:

The Supreme Court of the United States shall consist of a Chief Justice of the United States and eight associate justices, any six of whom shall consist a quorum.

As chief justice Roberts, justice Breyer, and justice

Alito have recused themselves from this case, so should both justice Kavanaugh and justice Barrett. Moreover, the pending state action names justice Thomas, justice Sotomayor, and justice Kagan as codefendants. Under the circumstances only justice Gorsuch's impartiality concerning the present case could not be reasonably questioned. The Court lacks a quorum to deny certiorari in this case.

### CONCLUSION

According to the above reasons, the Court should summarily remand the present case.

Respectfully submitted this 18<sup>th</sup> day of December 2020.

*Kuang-bao Ou-young*

Kuang-Bao P. Ou-Young  
Petitioner Pro Se

### CERTIFICATE OF GOOD FAITH

The undersigned hereby certifies that this Petition for Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay.

*Kuang-bao Ou-young*

Kuang-Bao P. Ou-Young  
Petitioner Pro Se

APPENDIX A

KUANG-BAO P. OU-YOUNG  
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Plaintiff Pro Se

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

Case No. 20CV372913  
COMPLAINT  
DEMAND FOR JURY TRIAL

KUANG-BAO P. OU-YOUNG, )  
 )  
 ) Plaintiff, )  
 )  
 ) vs. )  
 )  
 ) COUNTY OF SANTA CLARA, )  
 ) JEFFREY F. ROSEN, )  
 ) JOHN CHASE, )  
 ) LAWRENCE E. STONE, )  
 ) KAMALA D. HARRIS, )  
 ) XAVIER BECERRA, )  
 ) KIMBERLY MCCRICKARD, )  
 ) PHYLLIS J. HAMILTON, )  
 ) RICHARD SEEBORG, )  
 ) LUCY H. KOH, )  
 ) EDWARD M. CHEN, )  
 ) BETH LABSON FREEMAN, )

WILLIAM H. ORRICK, )  
 SUSAN Y. SOONG, )  
 SIDNEY R. THOMAS, )  
 MARY M. SCHROEDER, )  
 BARRY G. SILVERMAN, )  
 JOGH G. ROBERTS, JR., )  
 ANTHONY M. KENNEDY, )  
 CLARENCE THOMAS, )  
 STPHEN G. BREYER, )  
 SAMEUL A. ALITO, JR., )  
 SONIA SOTOMAYOR, )  
 ELENA KAGAN, )  
 WILLIAM P. BARR, )  
 and DAVID L. ANDERSON, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

## PARTIES

1. Plaintiff Kuang-Bao P. Ou-Young is a resident of Santa Clara County.
2. Defendant County of Santa Clara is a charter county organized and existing under the laws of the State of California.
3. Defendant Jeffrey F. Rosen is district attorney (“DA”) of Santa Clara County.
4. Defendant John Chase is a deputy district attorney (“DDA”) of Santa Clara County.
5. Defendant Lawrence E. Stone is assessor of Santa Clara County.
6. Defendant Kamala D. Harris was attorney general of California from January 3, 2011 until she become a U.S. senator after the 2016 Senate election.

7. Defendant Xavier Becerra is attorney general of California (“CAG”) succeeding former California attorney general (“FCAG”) Harris.

8. Defendant Kimberly McCrickard is an assistant to attorney general of California.

9. Defendant Phyllis J. Hamilton is chief judge of U.S. District Court for northern California (“district court”).

10. Defendant Richard Seeborg is a district judge at the district court.

11. Defendant Lucy H. Koh is a district judge at the district court.

12. Defendant Edward M. Chen is a district judge at the district court.

13. Defendant Beth Labson Freeman is a district judge at the district court.

14. Defendant William H. Orrick is a district judge at the district court.

15. Defendant Susan Y. Soong is clerk of the district court.

16. Defendant Sidney R. Thomas is chief judge of U.S. Court of Appeals for the Ninth Circuit.

17. Defendant Mary M. Schroeder is a senior circuit judge at the Ninth Circuit.

18. Defendant Barry G. Silverman is a circuit judge at the Ninth Circuit.

19. Defendant John G. Roberts, Jr., is chief justice of U.S. Supreme Court.

20. Defendant Anthony M. Kennedy was an associate justice at U.S. Supreme Court until his retirement on July 31, 2018.

21. Defendant Clarence Thomas is an associate justice at U.S. Supreme Court.

22. Defendant Stephen G. Breyer is an associate



justice at U.S. Supreme Court.

23. Defendant Samuel A. Alito, Jr., is an associate justice at U.S. Supreme Court.

24. Defendant Sonia Sotomayor is an associate justice at U.S. Supreme Court.

25. Defendant Elena Kagan is an associate justice at U.S. Supreme Court.

26. Defendant William P. Barr is U.S. Attorney General (“AG”).

27. Defendant David L. Anderson is U.S. attorney for northern California.

#### FACTUAL BACKGROUND

28. On February 2, 2010, plaintiff filed an employment discrimination complaint against United States Postal Service (“USPS”) with the district court (Case No. 10-cv-464-RS, “*USPS I*”). Judge Seeborg summarily dismissed the case on June 10, 2011.

29. On July 6, 2011, plaintiff appealed from the dismissal of *USPS I* to the Ninth Circuit (Case No. 11-16653). In a unanimous decision, judge Thomas, judge Schroeder, and judge Silverman affirmed the dismissal of *USPS I* on July 20, 2012.

30. On May 31, 2012, plaintiff brought a civil case against four postal employee defendants in *USPS I* to the district court (Case No. 12-cv-2789-LHK, “*USPS II*”). Judge Koh dismissed the case on November 9, 2012.

31. On February 12, 2013, plaintiff petitioned U.S. Supreme Court for certiorari to review the Ninth Circuit’s upholding of the dismissal of *USPS*

*I* (Case No. 12-1018). The U.S. Supreme Court denied the petition on March 25, 2013.

32. On September 25, 2013, plaintiff filed a civil action with the district court based on *USPS II* (Case No. 13-cv-4442-EMC, "*USPS IV*"). Judge Chen declared plaintiff a vexatious litigant and dismissed *USPS IV* on December 20, 2013. Moreover, the order subject plaintiff's further complaints to pre-filing review by the general duty judge.

33. On June 10, 2014, plaintiff brought a complaint to the district court (Case No. 14-mc-80174-BLF, "*Pre-filing Review I*"). Judge Freeman dismissed the case on July 8, 2014.

34. On June 15, 2016, plaintiff's spouse transferred her interest in their residence to plaintiff. Two days later, DA Rosen sent a letter to plaintiff's spouse questioning if the transfer represented a real estate fraud. Santa Clara County Assessor's Office then terminated plaintiff's homeowners' exemption for the ensuing tax years.

35. On October 7, 2016, plaintiff submitted his Citizen's Second Crime Report to both California Attorney General's Office and Santa Clara County District Attorney's Office. Assistant McCrickard replied to the crime report on October 18, 2016, declining to take action. DDA Chase returned said crime report to plaintiff on August 24, 2017, taking no action either.

36. On February 3, 2017, Santa Clara County filed an action with the district court against the

Trump administration (Case No. 17-cv-514-WHO, "*Sanctuary County*"). Based on his Citizen's Second Crime Report, plaintiff moved to intervene in the case on March 29, 2017. Judge Orrick denied the motion to intervene on April 3, 2017.

37. On October 17, 2019, plaintiff filed a case with this Court against assessor Stone, Santa Clara County, and others (Case No. 19cv356670). The U.S. attorney's office for northern California ("USAO") removed the case to the district court on October 25, 2019 (Case No. 19-cv-7000-BLF, "*County P*"). Judge Freeman then dismissed the action on February 26, 2020.

38. On August 20, 2020, Santa Clara County District Attorney's Office instituted a criminal action against James Jensen, Harpaul Nahal, Michael Nichols, and Christopher Schumb at this Court (Case No. C2010724, "*Sheriff's Election*") due to their alleged criminal offenses in fundraising for the 2018 re-election of sheriff Laurie Smith.

39. On October 28, 2020, plaintiff delivered a complaint based on *County I* and his Citizen's Second Crime Report to the district court against FCAG Harris, assistant McCrickard, Santa Clara County, DA Rosen, DDA Chase, and assessor Stone. Thus far, the clerk's office of the district court has failed to file the case.

FIRST CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against judge Seeborg

c1. On June 10, 2011, judge Seeborg summarily

dismissed *USPS I*, without affording plaintiff an opportunity to confront or cross-examine adverse witnesses, ¶ 28. Consequently, judge Seeborg has denied plaintiff the First Amendment right to petition the Government for a redress of grievances, due process of law under the Fifth and Fourteenth Amendments, and the Seventh Amendment right to a jury trial.

**SECOND CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against judge Thomas, judge Schroeder,  
and judge Silverman**

c2. On July 20, 2012, judge Thomas, judge Schroeder, and judge Silverman affirmed the dismissal of *USPS I* without oral argument, ¶ 29. Thus, judge Thomas, judge Schroeder, and judge Silverman have deprived plaintiff of the First Amendment right to petition the Government for a redress of grievances, due process of law under the Fifth and Fourteenth Amendments, and the Seventh Amendment right to a jury trial.

**THIRD CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against judge Koh**

c3. On November 9, 2012, judge Koh dismissed *USPS II* without a hearing or oral argument, ¶ 30. Therefore, judge Koh has denied plaintiff the First Amendment right to petition the Government for a redress of grievances, due process of law under the Fifth and Fourteenth Amendments, and the Seventh Amendment right to a jury trial.

**FOURTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION**  
against chief justice Roberts, justice Kennedy,  
justice Thomas, justice Alito, justice Sotomayor,  
and justice Kagan

c4. On March 25, 2013, the U.S. Supreme Court denied plaintiff's petition for a writ of certiorari to review the Ninth Circuit's upholding of the dismissal of *USPS I*, ¶ 31. In doing so, chief justice Roberts, justice Kennedy, justice Thomas, justice Alito, justice Sotomayor, and justice Kagan have deprived plaintiff of the First Amendment right to petition the Government for a redress of grievances, due process of law under the Fifth and Fourteenth Amendments, and the Seventh Amendment right to a jury trial.

**FIFTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION**  
against judge Chen

c5. On December 20, 2013, judge Chen declared plaintiff a vexatious litigant and dismissed *USPS IV* without a hearing or oral argument, ¶ 32. Therefore, judge Chen has denied plaintiff the First Amendment right to petition the Government for a redress of grievances, due process of law under the Fifth and Fourteenth Amendments, and the Seventh Amendment right to a jury trial.

**SIXTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION**  
against judge Freeman

c6. On July 8, 2014, judge Freeman dismissed

*Pre-filing Review I* without a hearing or oral argument, ¶ 33. In doing so, judge Freeman has deprived plaintiff of the First Amend right to petition the Government for a redress of grievances, due process of law under the Fifth and Fourteenth Amendments, and the Seventh Amendment right to a jury trial.

SEVENTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against Santa Clara County and assessor Stone

c7. After plaintiff's spouse transferred her interest in their residence to plaintiff on June 15, 2016, Santa Clara County Assessor's Office has terminated plaintiff's homeowners' exemption for the ensuing tax years, ¶ 34. Thus, Santa Clara County and assessor Stone have denied plaintiff the Fourth Amendment right against unreasonable seizures and due process of law under the Fourteenth Amendment under color of Section 63 of Revenue and Taxation Code.

EIGHTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against FCAG Harris, assistant McCrickard,  
DA Rosen, and DDA Chase

c8. Neither California Attorney General's Office nor Santa Clara County District Attorney's Office has initiated any investigation based on the October 7, 2016 Citizen's Second Crime Report by Plaintiff, ¶ 35. Accordingly, FCAG Harris, assistant McCrickard, DA Rosen, and DDA Chase have denied plaintiff the First Amendment right to

petition the Government for a redress of grievances as well as due process of law and equal protection of the laws under the Fourteenth Amendment under color of Section 12524 of Government Code.

NINTH CAUSE OF ACTION  
CONSTITUTIONAL VIOLATIONS  
against FCAG Harris, DA Rosen,  
and assessor Stone

c9. Due to her violation of plaintiff's constitutional rights as set for the in ¶ c8, FCAG Harris lacks qualification to serve as a senator from California after the 2016 Senate election. Nor is she qualified to become Vice President of U.S. after the presidential election this year. For the same reason, both DA Rosen and assessor Stone are disqualified to assume office after their 2018 uncontested re-elections.

TENTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against judge Orrick

c10. On April 3, 2017, judge Orrick denied plaintiff's motion to intervene in *Sanctuary County* without a hearing or oral argument, ¶ 36. In doing so, judge Orrick has deprived plaintiff of the First Amendment right to petition the Government for a redress of grievances and due process of law under the Fifth and Fourteenth Amendments.

ELEVENTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against judge Freeman and U.S. attorney Anderson

c11. On October 25, 2018, USAO removed *County I* from this Court to the district court. Judge Freeman dismissed the action without a hearing or oral argument on February 26, 2020, ¶ 37. Thus, both judge Freeman and U.S. attorney Anderson have denied plaintiff the First Amendment right to petition the Government for a redress of grievances, due process of law under the Fifth and Fourteenth Amendments, and the Seventh Amendment right to a jury trial.

TWELFTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against CAG Becerra, DA Rosen, and DDA Chase

c12. CAG Becerra has supported Santa Clara County District Attorney's Office in *Sherriff's Election*, ¶ 38, so as to sustain DA Rosen and DDA Chase's violation of plaintiff's constitutional rights as set forth in ¶ c8. Therefore, CAG Becerra, DA Rosen, and DDA Chase have deprived plaintiff of the First Amendment right to petition the Government for a redress of grievances as well as due process of law and equal protection of the laws under the Fourteenth Amendment under color of Section 12524 of Government Code.

THIRTEENTH CAUSE OF ACTION  
CIVIL RIGHTS VIOLATION  
against Judge Hamilton and clerk Soong

c13. The clerk's office of the district court has yet



to file plaintiff's complaint against FCAG Harris, assistant McCrickard, Santa Clara County, DA Rosen, DDA Chase, and assessor Stone delivered on October 28, 2020, ¶ 39. Accordingly, judge Hamilton and clerk Soong have denied plaintiff the First Amendment right to petition the Government for a redress of grievances and due process of law under the Fifth and Fourteenth Amendments.

### REQUEST FOR RELIEF

WHEREFORE, plaintiff respectfully requests that the Court enter judgment against all defendants and provide plaintiff with the following relief:

1. A declaratory judgment that defendants have violated plaintiff's constitutional rights as set forth in the first through eighth causes of action as well as the tenth through thirteenth causes of action.
2. A declaratory judgment that FCAG Harris is disqualified to serve as a U.S. senator from California or as an executive officer of the United States.
3. A declaratory judgment that neither DA Rosen nor assessor Stone is qualified to assume office regardless of their 2018 uncontested re-elections.
4. Monetary damages in the amount of \$2,000,000,000 against Santa Clara County, \$100,000,000 against DA Rosen, \$50,000,000 against DDA Chase, \$100,000,000 against assessor

Stone, \$2,000,000,000 against FCAG Harris, \$2,000,000,000 against CAG Becerra, \$20,000,000 against assistant McCrickard, \$400,000,000 against judge Hamilton, \$200,000,000 each against judge Seeborg, judge Koh, judge Chen, judge Freeman, and judge Orrick, \$50,000,000 against clerk Soong, \$800,000,000 against judge Thomas, \$400,000,000 each against judge Schroeder and judge Silverman, \$4,000,000,000 against chief justice Roberts, \$2,000,000,000 each against justice Kennedy and justice Breyer, \$1,000,000,000 each against justice Thomas, justice Alito, justice Sotomayor, and justice Kagan, and \$200,000,000 against U.S. attorney Anderson.

5. Monetary punitive damages against all defendants except AG Barr.

6. An order referring all defendants except himself to AG Barr or his successor for criminal prosecution under 18 U.S.C. § 242.

7. Plaintiff's reasonable costs and expenses of this action.

8. All other further relief to which plaintiff may be entitled.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues for which a right to jury trial exists.

Respectfully submitted this 12<sup>th</sup> day of November 2020.

*Kuang-Bao Ou-Young*

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Plaintiff