20-373
No.

In The

Supreme Court of the United States

Richard Lee Abrams

Petitioner

vs

Gavin Newsom, in his official capacity as Governor of the State of California

Respondent

On Petition for a Writ of Certiorari
To the Ninth Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Richard Lee Abrams
In Pro Per
1916 North Saint Andrews Place
Hollywood, California 90068-3602
323/957-9588
AbramsRL@MaiL.com

QUESTIONS PRESENTED

Petitioner's First Amended Complaint (FAC) challenged California's anti-Jewish policy which arose from the interpretation of California State Constitution Article VI Section that judges may use their anti-Jewish bias in controlling their courtrooms. Judges may exclude Jews from hearings such as side bars, and judges may ignore and alter evidence offered by Jews. Thereafter, other state agencies enforce the anti-Jewish policy such as the State Bar which is enforcing the policy against Petitioner. California's discriminatory policy logically allows similar treatment of any group when a judge dislikes an attorney's or a litigant's race, creed, religion, color, national origin, etc. Petitioner filed suit in District Court of Central District of California in order to challenge the constitutionality of California's policy.

The questions presented are:

1. Did the district court and the Ninth Circuit abuse their discretion by not allowing Petitioner to even argue that the behavior of the Commission on Judicial Performance and California State Bar's disciplinary proceedings against petitioner constitute sufficient state action for petitioner to defeat a Motion to Dismiss?

2. Did the district court and the Ninth Circuit abuse their discretion by not allowing Petitioner to even argue that the foreseeable behavior of state agencies posed a sufficient risk to individuals' civil rights so as to constitute sufficient state action for petitioner to defeat a Motion to Dismiss?

PARTIES TO THE PROCEEDING

Petitioner Richard Lee Abrams was the Plaintiff in the courts below and Respondent State of California was the defendant.

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TABLE OF AUTHORITIES

OPINIONS BELOW

The Court of Appeals opinion is not published included in the Appendix (App) at App-1 case number 19-55297

The district court opinion is not published included in the Appendix (App) at App-2 case number 2:18-cv-06687

JURISDICTION

The judgment was entered on April 21, 2020 and on March 29, 2020, the Court extended the time to file a Petition for Certiorari by one hundred fifty (150) from judgment date to September 19, 2020. Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

PETITION FOR WRIT OF CERTIORARI

Richard Lee Abrams respectfully petition t his Court for Writ of Certiorari to review the decisions of the Appeals Court together with the judgment and decision of the District Court of the Central District of California.

CONSTITUTIONAL PROVISIONS INVOLVED

The First Amendment of the Untied States Constitution states:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . "

The Fourteenth Amendment of the United States Constitution states:

> ". . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

There is no need for any intervening statute or case law between the Constitution and the state's anti-Jewish policy in order to establish that discriminating against a person because he is a trouble maker Jew who would refuse Jesus Christ is unconstitutional.

STATEMENT OF CASE

1. The State of Californian trail court judge based his ruling against Petitioner on Petitioner's being a troublemaker Jew who would refuse Jesus Christ

On February 10, 2015, opposing counsel, Frank Angel, in the state court case, SaveHollywood.org (SaveHywd), Hollywoodians Encouraging Logical Planning (HELP) vs City of Los Angeles, BS 138 370, told the post CEQA trial judge, John Torribio, that Petitioner [1] is a troublemaker Jew "who would refuse Jesus Christ." The Judge Torribio and Attorney Frank Angel thereupon had a side bar which excluded petitioner,[2] but petitioner overheard some comments about his being a Jew named Abrams and a trouble maker. Afterwards the trial court judge changed his tentative ruling from being favorable to Petitioner to being adverse to the Petitioner and altered evidence offered by Petitioner. (App-3, FAC RLA 019-020) When the Judge Torribio's action were challenged for bias, Judge Torribio did not deny any allegation but rather asserted California

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[1]For reasons not pertinent to this case, Petitioner had accumulated his various degrees under the name of Richard Scott MacNaughton, and hence, by his last name, he did not stand out as Jewish.

[2]Mildly reminiscent of General Grant's General Order No. 11 (1862) expelling Jews as "unprincipled traders' from certain southern states.

Constitution article VI section 10 (cal, Const. art VI sec 10) gave judges the constitutional right to take a person's religion ethnicity into consideration as part of control of his courtroom. (App-3, FAC, ¶ 26, RLA 020-021) Based on his revised ruling and after altering the facts, Judge Torribio sanctioned Petitioner $27,600.00.[3] (App-3, FAC, ¶ 25, RLA 020)

The state appellate court division five adopted the trial judge's position that Cal Const. art VI sec 10 gave trial court judges that right. App-3, FAC, ¶ 27, RLA 021)

On August 12, 2015, the State Supreme Court declined to review the appellate court's interpretation of Cal. Const. art VI sec 10. (App-4, RLA 029)

When Petitioner's client, SaveHywd, appealed the merits of the trial court's decision removing Petitioner as Plaintiff's attorney, the appellate court summarily dismissed the appeal. (APP-3, FAC ¶ 28, RLA 021)

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[3]The prior September 2014, Judge Allan Goodman, the CEQA trial court judge. had already denied opposing counsel Frank Angel's motion that he was SaveHywd's attorney but rather Judge Goodman said, Frank Angel represented a non-party, noting that Frank Angel was in the wrong forum to press his claim. Frank Angel never appealed or sought writ from Judge Goodman's determination so that it became the law of the case. (APP-3, FAC, ¶ 15, RLA 015-016)

Thereafter, the appellate court affirmed the monetary sanctions against Petitioner.

The California State Bar then initiated proceedings against Petitioner when he refused to pay monetary actions which had been based on his religion-ethnicity.

When State Bar Judge Donald Miles saw that the State Bar was applying an anti-Jewish policy against Petitioner, he voluntarily stayed the State Bar proceedings so that Petitioner could file a lawsuit challenging the discriminatory policy.

Because Judge Miles had given Petitioner a deadline to file, Petitioner, acting in pro per, filed a complaint with the Central District Court for the State of California. After satisfying Judge Miles' initial filing deadline and Judge Miles' then staying (abating) the State Bar proceedings until Petitioner's federal litigation had concluded (App-3, FAC, ¶ 32, RLA 023) , Petitioner filed a First Amended Complaint [FAC].

The first complaint which the district court considered was the FAC. Thus, for purposes of a Motion to Strike, the FAC is the original complaint.

2. District Court finds the FAC to be conclusory and insufficient as a matter of law, but denies him a single opportunity amend his complaint.

On February 20, 2019, the district court finding inter alia Petitioner's allegations "conclusory and insufficient as a matter of law" (App-2, RLA 007) granted California's Motion to Strike with prejudice not allowing Petitioner leave to amend. (App-2, RLA 010)

Furthermore, the district court did not allow Petitioner an opportunity to be heard after petitioner saw the court's reasoning, stating that it was barred by the 11th amendment as there was no state of California enforcement despite the fact that the State Bar's enforcement action was pending. (App-2, RLA 009) Federal Rule of Civil Procedure 15(a) (2), *Foman v. Davis*, 371 U.S. 178, 182 (1962)

> Other Amendments. In all other cases, a party may amend its pleading . . . with . . . the court's leave. The court should freely give leave when justice so requires." Federal Rule of Civil Procedure 15(a) (2)

> " . . outright refusal to grant the leave without any justifying reason appearing for the denial is not an exercise of discretion; it is merely abuse of that discretion and inconsistent with the spirit of the Federal Rules. *Foman* at 182

While allowing Petitioner the right to be heard is discretionary, Petitioner asserts that it was an abuse of discretion for the district court not to allow petitioner at least one opportunity to file an amended complaint addressing the court's belief that he could not allege state agency action other than the Governor. The District Court's finding that the allegations were conclusionary and hence insufficient is the type finding which screams for at least one opportunity to amend, especially when the petitioner is in pro per.

3. The Appeals Court similarly thwarts Petitioner's Civil Rights by summarily denying him an opportunity to amend despite the State Bar's pending disciplinary actions to enforce the anti-Jewish policy.

On April 21, 2020, the Appeals Court denied petitioner' appeal a without hearing, stating that it was barred by the 11th Amendment as there was no state of California enforcement despite the fact that the State Bar's enforcement action was pending.

While allowing Petitioner the right to be heard is discretionary, Petitioner asserts that it was an abuse of discretion for the appeals court not to remand the case to the district court so that Petitioner could file an amended complaint which was more factual, less conclusory and addressed the court's belief that he

could not allege some state agency action other than the Governor. *Foman v. Davis*, 371 U.S. 178, 182 (1962)

4. The State Bar Judge Yvette Roland reveals her anti-Jewish Bias by ending Judge Miles' stay so that she could rule against Petitioner before he petitioned for a Writ of Certiorari

On May 26, 2020, upon learning Petitioner would be filing a Petition for Certiorari with this court over the "state's anti-Jewish policy," State Bar Judge Yvette Roland revoked Judge Miles' stay, stating that Judge Miles had retired and "I am here now." Thereafter, Judge Roland suspended Petitioner and is in the process of disbarring him due to his opposition to the anti-Jewish policy. (Upon Petitioner's complaining that State Bar's inability to send the audio of the hearing with its ZOOM video was making it very hard for Petitioner to understand what was being said due to his significant hearing deficit, Judge Roland replied that was petitioner's problem and made no effort to provide proper audio.)

Furthermore, Judge Roland ruled that Petitioner could not raise any constitutional defense to the State Bar charges. The State Bar prosecutor and Judge Roland knew for a fact that Petitioner was completely innocent. The law

of the case from September 2014 was that Petitioner was in fact SaveHywd's attorney and Frank Angel was not, but Judge Roland excluded that evidence from the State Bar proceeding. (APP-5, RLA 030-031)

Proceeding on the basis of the underlying case, which was proven to be false, was similar to relying on ballistic tests which the prosecutor and the court knew for a fact were false and then ruling that the defendant could not challenge the ballistics tests. Both the State Bar prosecutors and Judge Roland knew that the Judge Torribio ruling on which they were relying was based on the anti-Jewish interpretation of Cal. Const. art VI sec 10 and was the opposite of the September 2014 law of the case. Thus, a logical inference for Judge Roland's terminating Judge Miles' stay order was to convict petitioner before the federal court's could rule on the constitutionality of California's policy.

Petitioner's suspension and impending disbarment for his opposition to the anti-Jewish policy show that the anti-Jewish policy is being enforced by a state agency. If the State Bar follows the same course as was applied against attorney Richard I Fine, Petitioner will face a huge fine and ersatz attorney fee bill which he cannot pay, and then he will be incarcerated under the theory of coercive confinement by the Sheriff of Los Angeles County.

Had the Appeals Court remand the case, Petitioner could have repaired the pleading defects to show state action other than the Governor

REASONS FOR GRANTING PETITION

1. Avoidance of Constitutional Issue by Denying Plaintiff Opportunity Amend a Complaint Is a Substantial Deprivation of Due Process

The reason for this Court to grant the Petition is not the procedural violation of not allowing Petitioner the opportunity to allege state enforcement, but rather the deprivation of due process and constitutional rights. Denying him leave to amend without an opportunity to reply to the appeals court's thinking due to the district court's belief that Attorney MacNaughton-Abrams's complaint and general and hence could not allege that some state agency, other than the office of the Governor, was in fact a denial of his civil rights to be free of religious - ethnic discrimination.

The State Bar's actual suspension of applicant over his objection to the anti-Jewish policy shows that he should have been allowed to amend his

complaint to factually allege state agencies were enforcing the anti-Jewish policy.

There is no logical reason that administrative law judges and other state agencies whose decisions may result in appeals to administrative law judges would not also seize upon art VI sec 10. Nor, is there any reason to believe that the policy would be limited to Jews. If Jews, why not Muslims or Gays or any other group which a judge considers to be trouble makers?

2. Conflict Between US Constitution and California Constitution

California's barring a Jewish attorney from a sidebar, altering his evidence and then ruling against the attorney and sanctioning him on the basis that California Constitution art VI sec 10 is a gross violation of a person's inalienable rights to Liberty as stated in the Declaration of Independence. The US Constitution's Preamble states its purpose is to secure the "blessings of Liberty," and the First Amendment guarantees each person religious freedom. Petitioner cannot imagine a more direct violation on his basic inalienable and constitutional right than California Const. art VI sec 10 allowing judges to base their decisions on religious-ethnic bigotry and then to alter the evidence to make

it appear as if the facts support the judge's opinion.

3. De Jure Bigotry Flames the Passions of Group Right Bigots while Denigrating Inalienable and Constitutional Rights

When the nation sees Nazi's marching and shouting "Jews Shall not Replace Us" and anti-Jewish statements Jews from members of Congress, the idea that judges may engage in de jure prejudice creates an intolerable domesticate situation. As Black Lives Matter points out, racism is systemic and California's allowing its constitution to condone religious-ethnic bigotry shows how prejudice is systemic. The predatory racist nature of the system is more deadly for Blacks, but the same judicial justification which allows a judge to alter evidence and bar an attorney from a hearing because he is a troublemaker Jew who wold refuse Jesus Christ allows judges to engage in anti-Black discrimination.

While the District Court found the FAC to be too general, Petitioner did include specific facts as to his own situation (App-3, FAC, ¶¶ 13-30, RLA 0015-022). The most important facts may be that when provided an opportunity to deny his anti-Jewish bias, Judge Torribio did not, but instead he justified his

conduct by asserting California Constitution art VI sec 10. (APP-3, FAC, ¶26, RLA 020) After learning that Attorney MacNaughton was a troublemaker Jew, Judge Torribio barred him from the sidebar where his religion-ethnicity was discussed. Judge Torribio then changed his tentative ruling to be against Petitioner, ignored the fact that Judge Goodman had previously ruled on the issue and had determinated that Attorney MacNaughton was SaveHywd's attorney and Frank Angel was not but rather represented a non-party corporation with a similar name. Judge Torribio knew that Judge Goodman's September 2014 determination had advised Frank Angel that the SaveHywd lawsuit was not the proper forum for him to press his claim. As the attorney for a non=party he had no standing to bring any motion in the SaveHywd litigation. Judge Torribio then falsely stated that it was an undisputed fact that the July 18, 2012 SaveHywd Attorney retainer agreement had hired Frank Angel when it did not mention Frank Angel but the retainer agreement clearly stated that SaveHywd hired Attorney Richard MacNaughton. Judge Torribio also made it an undisputed fact the Ziggy Kruse testified that SaveHywd retained Frank Angel and not Attorney MacNaughton, when in fact she testified that it had retained Attorney MacNaughton. Despite ample opportunity to do so, Judge Torribio never denied that he made these factual fabrications due to his anti-Jewish bias. Thus, we are not only presented with Judge Torribio's agreeing with some anti-

Jewish statement and not admonishing Frank Angel, but also Judge Torribio's adopting the anti-Jewish sentiment and running with it. Thereafter, the state appellate Justice Paul Turner did not allow SaveHywd to appeal Judge Torribio's ruling.

Upon learning of Judge Torribio's anti-Jewish bias and his adoptive admission of his anti-Jewish conduct, on August 12, 2015, the California Supreme Court gave its approval of the anti-Jewish interpretation of Cal. Const. art VI sec 10 in the case of Hollywoodians Encouraging Logical Planning vs City of Los Angeles S227630.

4. California's position essentially adopts a form of Group Rights - Liabilities where individuals are rewarded or penalized on the basis of the group to which they belong.

Both Thomas Jefferson and Martin Luther King agreed that each man had his individual inalienable rights and each should be judged on the basis of his character and not the color of his skin. Today, too many people are making terrible appeals to bigotry and intolerance. One should not be fool into thinking that it is only a few crazy right wing extremists which are promoting this Group Rights thinking with something called white entitlement (privilege) where all

white people some are responsible for slavery. In the new political landscape of Democrat Identity Politics, Jews are the worst of the Whites, while many White racists find Jews the worst of the non-whites.

5. Lack of Due Process Should Not Be Allowed to Trample on Substantive Rights

As no jurist wanted to deal with the substantial abrogations of Petitioner Abrams' inalienable and constitutional rights, they hid behind ersatz procedure. First, Judge Turner refused to allow his division to hear the appeal of Judge Torribio's decision. The State Supreme Court denied HELP's petition objecting to Cal Const. art VI sec 10 thereby authorizing intolerance. All of Division Five justices sat silent as Justice Turner threatened the other Jewish Attorney for SaveHywd, Edward Pilot, to quit as one of its attorney or face state bar action initiated by Judge Turner. It is hard to imagine that any panel of judges would sit by and allow a Black attorney to be similarly threatened. In disciplining petitioner, State Bar ordered that petitioner could not refer to Judge Torribio or any of the anti-Jewish behavior, which was his defense for not paying the $27,600.00 in monetary sanctions.

6. De Jure and De Facto Bigotry Flame the Passions of Bigots While Denigrating Inalienable and Constitutional Rights

California's position on enforcing the sanctions based on a case of religious intolerance adopts a discriminatory policy Group Rights - Liabilities where individuals are penalized on the basis of the group to which they belong. A state's **policy does not have to arise from a statute, but can be crated by case law.** Both Thomas Jefferson and Martin Luther King agreed that each man had his individual inalienable rights and each should be judged on the basis of his individual character and not the color of his skin. Today, too many people are making terrible appeals to bigotry and intolerance. It is not a few right and left wing extremists which are promoting this Group Rights thinking. Liberals promote the group iniquity of white people by something called White Entitlement (Privilege) where all white people are responsible for all problems of Blacks and hence all white people should make reparations. For many of the White Entitlement theorists, Jews are the worst of the whites. We shall just close our eyes to the mass murders in the synagogues and Jewish Community Centers. We'll follow the California court's lead while we look away from anti-Semitism and pretend not to notice the violence against Muslims or Blacks who are hunted down like prey.

Many months early in October 2016, Presidential candidate Hillary Clinton found a new group for people to dislike. During the Obama era millions of blue color whites in the Rust Belt had lost their jobs to overseas manufacturers, had lost their homes in foreclosure and lost everything else in bankruptcies after the Crash of 2008 while Wall Street received trillions of dollars of government bailouts, and then were inflicted by the Opioid Epidemic. Hillary Clinton's group label for these suffering individuals is The D-word, "Deplorables." While no court can order a political candidate not to ignore individuals and their inalienable rights to life, liberty and the pursuit of happiness, the courts surely should not follow suit by allowing cases to turn on an attorney religious, ethnic or racial background.

Only internecine violence will follow from this identity group rights politics where facts and law are fungible quantities depending on the whim of the presiding judge. It would be beyond naive to believe that the "racists," for lack of a better word, don't sense when they can invoke their own brand of group rights against innocent people.

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CONCLUSION

The petition for certiorari should be granted.

Respectfully Submitted,

Richard Lee Abrams

Richard Lee Abrams, in pro per
(electronically signed)
1916 North Saint Andrews Place
Los Angeles, CA 90068
Tuesday September 15, 2020