

20-5296

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

ADRIAN IONESCU,

Petitioner

Supreme Court, U.S.
FILED

JUL - 7 2020

OFFICE OF THE CLERK

vs.

MARIA ALEXIANU,

Respondent

On Petition for a Writ of Certiorari to the
Supreme Court of New Jersey

PETITION FOR WRIT OF CERTIORARI

Adrian Ionescu, *pro se*
601 N Chestnut St
Westfield, NJ 07090
(908) 233-0025

QUESTIONS PRESENTED

1. Should a litigant reversing a trial still be fully responsible for all the legal and expert fees of an entirely reversed trial, when the experts were deemed unreliable and when there is no record of the litigant's bad faith before and during the reversed trial?
2. Is it constitutional to have a part of a state judicial system become a *de facto* for-profit business organization by creating its own parallel conflicting 'legal' rules specifically construed to directly benefit incestuously connected judges and lawyers?

LIST OF PARTIES

The petitioner is Adrian Ionescu, *pro se*. The respondent is Maria Alexianu.

TABLE OF CONTENTS

QUESTIONS PRESENTED.....	i
LIST OF PARTIES	i
OPINIONS BELOW	1
JURISDICTIONAL STATEMENT	1
CONSTITUTIONAL PROVISIONS INVOLVED	2
STATEMENT OF THE CASE.....	2
REASONS FOR GRANTING THE WRIT	5
A. The Bifurcated Piecemeal 2014, 2017, and 2019 New Jersey Appellate Division Opinions Have Fundamentally and Repeatedly Denied the Petitioner's Due Process Rights.....	6
B. Conflict of Interest and Systemic Bias Marred this Case.....	9
C. Due Process Requires a Review of This Case.....	10
CONCLUSION	12

INDEX TO APPENDICES

APPENDIX A, Order New Jersey Supreme Court, February 11, 2020.....	1a
APPENDIX B, Opinion New Jersey Appellate Division, October 31, 2019.....	2a
APPENDIX C, Opinion/Transcript New Jersey Superior Court, June 1, 2018...	11a
APPENDIX D, Order New Jersey Superior Court, June 1, 2018.....	16a
APPENDIX E, Order New Jersey Superior Court, April 20, 2018.....	17a
APPENDIX F, Order Supreme Court of the United States, February 20, 2018.	18a
APPENDIX G, Order New Jersey Supreme Court, July 20, 2017.....	19a
APPENDIX H, Opinion New Jersey Appellate Division, April 4, 2017.....	20a
APPENDIX I, Order New Jersey Supreme Court, April 24, 2015.....	31a
APPENDIX J, Opinion New Jersey Appellate Division, December 15, 2014.....	32a

TABLE OF AUTHORITIES

Cases

<i>A.I. v. M.A.</i> , U.S. 138 S. Ct. 980 (2018)	4
<i>Frye v. United States</i> 293 F. 1013 (D.C. Cir. 1923)	2
<i>M.A. v. A.I.</i> , No. A-2800-13 (App. Div. Apr. 4, 2017)	1
<i>M.A. v. A.I.</i> , No. A-4021-11 (App. Div. Dec. 15, 2014)	1, 2
<i>M.A. v. A.I.</i> , No. A-4755-17 (App. Div. Oct. 31, 2019)	1
<i>United Air Lines, Inc. v. Wiener</i> , 286 F.2d 302, 305 (9th Cir. 1961).....	3

Rules

28 U.S.C. §1257(a)	2
N.J.S.A. 4.42-9(d)	3, 4, 6, 7, 8
N.J.S.A. 4:50	4
N.J.S.A. 4:50(e)	4

PETITION FOR WRIT OF CERTIORARI

Adrian Ionescu respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The New Jersey Appellate Division opinion, *M.A. v. A.I.*, No. A-4755-17 (App. Div. Oct. 31, 2019), is reproduced at Pet. App. 2a, and it is unpublished. The New Jersey Appellate Division opinion, *M.A. v. A.I.*, No. A-2800-13 (App. Div. Apr. 4, 2017), is reproduced at Pet. App. 20a, and it is unpublished. The New Jersey Appellate Division opinion, *M.A. v. A.I.*, No. A-4021-11 (App. Div. Dec. 15, 2014), is reproduced at Pet App. 32a, and it is unpublished.

JURISDICTIONAL STATEMENT

On February 14, 2020, the Supreme Court of New Jersey denied the petition for certification in *M.A. v. A.I.*, No. A-4755-17 (App. Div. Oct. 31, 2019); order is reproduced at Pet. App. 1a. Therefore, the New Jersey Appellate Division opinion, entered on October 31, 2019, qualifies as a final judgment. Pet. App. 2a-10a. On February 20, 2018, the Supreme Court of the United States denied the petitioner's writ of certiorari in *M.A. v. A.I.*, No. A-2800-13 (App. Div. Apr. 4, 2017) and *M.A. v. A.I.*, No. A-4021-11 (App. Div. Dec. 15, 2014); order is reproduced at Pet. App. 1a. Pet. App. 18a. On July 20, 2017, the Supreme Court of New Jersey denied the petitioner's petition for certification in *M.A. v. A.I.*, No. A-2800-13 (App. Div. Apr. 4, 2017); order is reproduced at Pet. App. 1a. Pet. App. 19a. Therefore, the New Jersey Appellate Division opinion, entered on April 4, 2017, qualifies as a final

judgment. Pet. App. 20a-30a. The Supreme Court of New Jersey denied the respondent's petition for certification in *M.A. v. A.I.*, No. A-4021-11 (App. Div. Dec. 15, 2014); order is reproduced at Pet. App. 31a. Therefore, the New Jersey Appellate Division opinion, entered on December 15, 2014, qualifies as a final judgment. Pet. App. 32a-42a. The three matters referenced above are part of the same bifurcated case in the New Jersey Superior Court FM-20-0973-09.

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

CONSTITUTIONAL PROVISIONS INVOLVED

Section one of the Fourteenth Amendment to the United States Constitution provides in relevant part: "No State shall... deprive any person of life, liberty, or property, without due process of law."

STATEMENT OF THE CASE

It should be noted that the petitioner was erroneously not allowed to have any contact with his children for three years (2011-2014). This decision was ultimately fully reversed due to "unreliable science in the expert's testimony," Pet. App. 7a, based on *Frye v. United States* 293 F. 1013 (D.C. Cir. 1923). Pet. App. 32a-42a. As it stands now, the petitioner appears to be the only litigant in the United States, in almost 250 years of legal history, who has fully reversed a trial but remains responsible for all the legal and expert fees (\$675,000) for the same trial.

The matter started with two bifurcated dependent trials in the docket FM 20-0973-09B (referred in what follows as Trials I and II), with two separate

Appellate opinions in *M.A. v. A.I.*, No. A-4021-11 (App. Div. Dec. 15, 2014) and in *M.A. v. A.I.*, No. A-2800-13 (App. Div. Apr. 4, 2017) (referred in what follows as Appellate I and Appellate II, respectively). Pet. App. 32a-42a, 20a-30a. The New Jersey Supreme Court denied the petition for certification filed by respondent and petitioner, respectively, in both appeals, Pet. App. 31a, 19a. The Supreme Court of the United States was also petitioned in 17-6521. Pet. App. 18a.

The Appellate I and II decisions were also dependent on each other as the legal fees for Trial I had been assessed in Trial II and upheld in Appellate II, rather than being addressed in Trial I and Appellate I, as the New Jersey laws require under N.J.S.A. 4.42-9(d). Notably, Trial II preceded Appellate I. Trial I was reversed in Appellate I, but the full reversal of Trial I in Appellate I was intentionally omitted in Appellate II when addressing the legal and expert fees for the reversed Trial I, Pet. App. 21a. “Where the practice permits a partial new trial, it may not properly be resorted to unless it clearly appears that the issues to be retried is so distinct and separable from the others that a trial of it alone may be had without injustice.” *United Air Lines, Inc. v. Wiener*, 286 F.2d 302, 305 (9th Cir. 1961). Specifically, the legal and expert fees cannot be separated from the order determining the matter. The trial court did not assess any legal fees at the time of Trial I, as required by N.J.S.A. 4.42-9(d): “Pursuant to R. 4:42-9 (d), counsel fees may only be granted in the same Order stating the determination of the matter.” For details on the improper chronological bifurcation (Trial I, Trial II, Appellate I,

Appellate II), please note the petitioner's January 24, 2018 writ in the Supreme Court of the United States, *A.I. v. M.A.*, U.S. 138 S. Ct. 980 (2018).

Consequently, the petitioner embarked on an N.J.S.A. 4:50-motion in the Union County Superior Court seeking the proper reversal of Trial I's legal and expert fees. N.J.S.A. 4:50(e) applies in cases in which "... a prior judgment or order [Trial I] upon which it is based has been reversed [Appellate I]." The motion to reverse the legal and expert fees that unjustifiably burdens the petitioner was denied by Judge James Hely. J.S.C., who made no mention of the reversal of Trial I in Appellate I, following the omission pattern of Appellate II. The matter was appealed by petitioner in *M.A. v. A.I.*, No. A-4755-17 (App. Div. Oct. 31, 2019) (referred in what follows as Appellate III). Pet. App. 2a-10a.

Appellate III was decided on October 31, 2019, by a two-judge panel. In the Appellate III opinion, the new panel admitted that the petitioner had argued the reversal of Trial I and the improper application of N.J.S.A. 4.42-9(d) in his Appellate II brief. The Appellate III panel finally presented the reasoning for the opinion in Appellate II. Pet. App. 20a-30a. To summarize, an Appellate Division panel decided the matter in one opinion (Appellate II) and provided the accompanying facts and reasoning in a separate opinion (Appellate III) two years later and after a writ in the Supreme Court of the United States was prayed.

The New Jersey Supreme Court denied the undersigned petition for certification on February 14, 2020. Pet. App. 1a.

REASONS FOR GRANTING THE WRIT

To the knowledge of the petitioner, this case presents a unique legal situation in which not only two dependent trials were bifurcated but also three dependent Appellate decisions were piecemeal bifurcated. It is equally unheard of to have an Appellate Division panel decide a matter in one opinion (Appellate II) and provide the accompanying reasoning in a separate opinion (Appellate III).

This case is a judicial failure of great proportions because it further demonstrates the dangers of turning a blind eye to bifurcated dependent cases. The constitutional issues related to dependent bifurcated trials were raised by the petitioner in his previous brief in the United States Supreme Court. *A.I. v. M.A.*, U.S. 138 S. Ct. 980 (2018). Now, two years later, the petitioner faces conflicting dependent bifurcated Appellate decisions as the State courts continue to overlook this lawlessness. The petitioner has patiently exhausted all his legal avenues and now hopes that the Supreme Court of the United States will address this grave injustice before it spirals out of judicial control. If no action is taken, not only will the petitioner suffer an unwarranted financial burden, but it will also stain the judicial integrity of the United States. As the petitioner prays for his second writ to the Supreme Court of the United States, the \$675,000 legal and expert fees are depriving the undersigned of his Constitutional rights to life, liberty, and property, without due process.

A. The Bifurcated Piecemeal 2014, 2017, and 2019 New Jersey Appellate Division Opinions Have Fundamentally and Repeatedly Denied the Petitioner's Due Process Rights.

Appellate III was decided on October 31, 2019, by a two-judge panel, including Judge Whipple, who was also a member of the panels in Appellate I and II. Judge Whipple acknowledged during the oral argument that she had extensive knowledge of the case. During the oral argument, the petitioner pressed the panel to include in their written opinion the evidence of the Appellate I reversal of Trial I and the N.J.S.A. 4.42-9(d) argument. Both arguments were foundational to the petitioner's second appeal, yet they were completely ignored by the Appellate II panel. The Appellate III opinion acknowledges that the "Defendant [petitioner] had the chance to fully litigate all of the issues now before the court during his custody and financial trial appeals. His chance to litigate and appeal any issues from the trial judges' decisions was during those trials and subsequent appeals of the case in 2014 and 2017." Pet. App. 7a. The petitioner argued and litigated all these issues, but he never received a response in the 2017 Appellate II opinion.

The panel then admits that the arguments were in fact made in the Appellate II brief: "Defendant [petitioner] is now contesting these same findings by merely repackaging his arguments. His argument rests on the logic that because our 2014 custody decision was reversed and remanded, the portion of the fees awarded in the financial trial relating to the 2014 decision should also be reversed. However, defendant's [petitioner's] argument does not recognize that

fees were awarded due to his bad faith actions throughout the entire matrimonial litigation and nothing in our custody decision undermined such a finding". Pet. App. 7a. Again, the petitioner was forced to "repackag[e]" his arguments in Appellate III because the Appellate II panel refused to respond to his arguments as they were initially packaged. Nonetheless, Appellate III failed to explain why an answer was not provided when the arguments were initially packaged. Moreover, the "bad faith" rationale is inaccurate because there were no enforcing orders and no punitive legal or expert fees on or prior to the reversed Trial 1.

The Appellate III panel finally provides some clarification regarding the reversal in Appellate I: "Our 2014 decision [Appellate I] reversed the custody determination on the very specific issue of the trial judge's error in basing custody and parenting time determinations on unreliable science in the expert's testimony." Pet. App. 7a. Consequently, since the experts were so "unreliable" (and they were all requested by the respondent), it begs the question as to why the petitioner should pay for any of the expert fees, especially after reversing the trial.

Furthermore, the procedural errors continue with the Appellate III panel's strategic mischaracterization of the relevance and application of N.J.S.A. 4.42-9(d): "However, the rule's annotations provide little to no assistance for defendant's [petitioner's] claim that this portion of the rule precludes the award of attorney's fees in this matter. Here, defendant [petitioner] is not contesting the timing of the application made for an award of counsel fees, but rather is contesting the judgment awarding the fees itself." Pet. App. 9a. First, N.J.S.A. 4.42-9(d) expressly

precludes the award of attorney's fees as it was done in this matter because the rule itself "Prohibit[s] Separate Orders for Allowance of Fees." Secondly, the petitioner has repeatedly and extensively argued the incorrect timing of the application made for an award of counsel fees, as mandated by N.J.S.A. 4.42-9(d). However, no court has addressed these arguments, including the Supreme Court of the United States. *A.I. v. M.A.*, U.S. 138 S. Ct. 980 (2018). This procedural error is precisely the beginning of the repeated violations of the petitioners' due process rights. Instead, the Appellate III panel follows in Appellate II's footsteps and continue to disregard the petitioner's arguments to address this procedural error leading to a clear denial of due process.

The petitioner merely requests a fair decision on the various arguments he has brought before the New Jersey Appellate courts, who have all failed to address his claims. To decide the matter in one appellate opinion and provide the accompanying reasoning in a separate appellate opinion after one writ of certiorari (17-6521) defies basic legal procedure. It forced the petitioner into a judicial corner where he had to pray for a writ (17-6521) with an incomplete case as a result of the intentional omissions of the Appellate II panel. Now, Appellate III's decision provides the reasoning completing the petitioner's case and ultimately demonstrating the denial of due process through repeated procedural errors.

B. Conflict of Interest and Systemic Bias Marred this Case.

Until 2018, Judge James Hely has worked in the Union County Civil Division (NJ), led by Judge Kenneth Grispin, P.J.Cv., who was the division president since 2009. Pet. App. 14a. (This was also true to a lesser extent for Judge Thomas Walsh, the Trial II judge.) Judge Grispin is the husband of the respondent's lead lawyer in Trial I and Appellate I (Lizanne Ceconi, Esq.), Pet. App. 32a, and is presumably listed on her joint family taxes. The undersigned currently owes hundreds of thousands of dollars in legal fees for the respondent's lawyer for the now fully reversed trial. The petitioner has repeatedly requested that Judge Hely recuse himself on appearances of conflict of interest, but he refused to do so, Pet. App. 6a, 14a, 16a.

On June 1, 2018, Judge Hely admitted that he had not read the Appellate II decision (included by both litigants) in the key motion he decided on April 20, 2018, Pet. App. 17a: "Although defendant [petitioner] Ionescu did not provide me with the Appellate Division decision... I have now reviewed the Appellate Division's opinion of April 4th, 2017." Pet. App. 13a. Furthermore, he denied the oral argument to the undersigned, despite writing in his decision "Under Rule 5:5-4, the Court should ordinarily grant requests for oral argument in Family Division matters. I have served on the Family Division for approximately five years. I have never denied oral argument in any case where it was requested." Pet. App. 12a.

In addition, it is difficult to deny that the close relationships between Ms. Ceconi and members of the Appellate panels, who were her Seton Hall Law School classmates, played an essential role in these repeated biased decisions and deliberate omissions benefiting the respondent's attorney. The lawyers and judges in state courts should not be able to make their own laws and rules to benefit themselves, as it is occurring in the petitioner's case in the New Jersey Court System. Not only does this create a chaotic legal system, which disenfranchises the litigants and exclusively benefits particular judges and lawyers, but it also legalizes what would normally be considered racketeering and extortion. This legal issue needs the guidance of the Supreme Court of the United States in order to avoid abuse of discretion in state courts.

C. Due Process Requires a Review of This Case.

The inherent fallacies of an improperly bifurcated case with parallel decisions and dependent piecemeal bifurcated appeals ultimately lead to circular arguments, omitted reasoning, and conflicting illogical orders and opinions. In terms of civil law, this case would be the equivalent of a party being found liable for a civil action, winning the appeal to reverse a summary judgment decision, but still having to pay all the damages initially assessed. In terms of criminal law, this case would be the equivalent of a defendant being found guilty, fully reversing the guilty verdict, but still having to serve the full sentence.

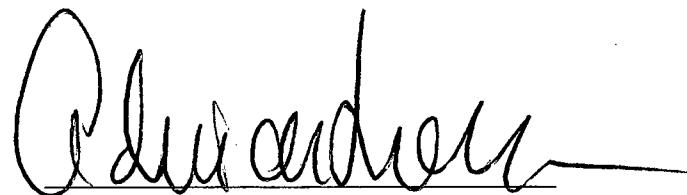
The petitioner, a college professor with a Ph. D. in mathematics, would like to apologize to the Supreme Court of the United States for lacking the formal legal education and the financial resources to ask for the proper legal support for a writ of certiorari, as only the most qualified lawyers in this country are admitted to this Court. However, it is important for all of us, who faced clear adversities and injustice in our state legal system, to be offered a chance to defend our rights under the Constitution in the highest Court of our nation.

The petitioner truly believes that the New Jersey State Courts need to have another fair and proper look at this egregious case. No one can give the petitioner the three years he lost in his relationship with his children because of an erroneous State Court decision (the reversed Trial I in Appellate I) but, at minimum, he should not be additionally punished with the full financial burden (\$675,000) of that same reversed trial.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Andrew J. D'Amato", is written over a horizontal line. The signature is fluid and cursive.

Date: July 7, 2020