

JUL 13 2020

OFFICE OF THE CLERK

No. 20- 76

In the Supreme Court of the United States

GHASSAN HAGE, PETITIONER

v.

FIDA MHANNA, ET AL., RESPONDENT

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

David Yomtov

Counsel of Respondent

255 North Market Street, suite 110

San Jose, CA, 95110

Tel: (408) 993-0808

Ghassan Hage

2680 Fayette Drive, #202

Mountain View, CA, 94040

Tel: (650) 580-6274

E-Mail: ghassan_hage@hotmail.com

ORIGINAL

RECEIVED

JUL 20 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

I. Question Presented

(1) Where Judge of the Superior Court violated a Court Order issued by a previous Judge (Appendix "D" p. 23a), (2) where Lawyer from State Bar of California violated a Court Order issued in his presence by a previous Judge (Appendix "D"), (3) where Judge of the Superior Court violated his own department long cause and trial policies(Appendix "E" p. 25a), (4) where Lawyer from State Bar of California violated Superior Court long cause and trial policies handed to him in the Superior Court Department by the same Judge who violated his own department trial policies (Appendix "E"), and (5) where the right of a fair trial under the constitution for the Petitioner to be prepared to defend himself was violated by given him 33 Exhibits on the morning of the trial instead at least 5 days before the trial as per Superior Court trial policies (Appendix "E") and at least 10 days before the trial as per a previous Judge order (Appendix "D"), under what circumstances do a Judge and a lawyer can be above the Law in the Superior Court of California while the Appeal Court of California turned its blind eye on this double violation of the Law by he Judge and the lawyer in a conspiracy way . The CA Supreme Court turned its blind eye too on this violation of the LAW by the Judge and the Lawyer.

II. List of parties

[X] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page.
A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1- Superior Court of California
Hon. Christopher Rudy
191 N. First street
San Jose, CA, 95113
- 2- Supreme Court of California
350 McAllister St,
San Francisco, CA 94102
- 3- Sixth District Court of Appeal
333 W Santa Clara St #1060,
San Jose, CA 95113

III. Related Cases

Case 16-18905 : in State Bar of California against misconduct and violation of
the LAW of Lawyer David Yomtov

Case 17-15930 : in State Bar of California against misconduct and violation of
the LAW of Lawyer David Yomtov

Case 17-04475 : in State Bar of California against misconduct and violation of
the LAW of Lawyer David Yomtov

Case 17-O-05941 : in State Bar of California against misconduct and violation
of the LAW of Lawyer David Yomtov

Case 18-12770 : in State Bar of California against misconduct and violation of
the LAW of Lawyer David Yomtov

S249928 : Verified Accusations against lawyer David Yomtov in CA Supreme
Court

S242681 : Verified Accusations against lawyer David Yomtov in CA Supreme
Court

H045364 : CA Appeal Court Case for a Writ of mandate against Judge
Christopher Rudy after he allowed Fraud upon a Court committed
by the lawyer Judge Christopher Rudy.

S249160 : Petition for Review for the Writ of mandate (Case H045364)
dismissed abruptly by the Sixth appellate Court before receiving the
Court Reporter document showing the evidence of the Fraud upon
the court.

IV. Table of Contents

I.	Question Presented.....	i
II.	List of parties.....	ii
III.	Related Cases.....	iii
IV.	Table of Contents.....	iv
V.	Index of Appendices.....	v
VI.	Table of Authorities.....	vi
VII.	Petition for Writ Of Certiorari.....	1
VIII.	Opinions Below.....	1
IX.	Jurisdiction.....	1
X.	Statement of the Case.....	2
	a. PREVIOUS JUDGE ORDER, TRIAL POLICIES AND DENYING CONTINUING OF THE TRIAL.....	2
	b. DIRECT APPEAL.....	2
XI.	REASONS FOR GRANTING THE WRIT.....	3
	a. TO AVOID ERRONEOUS DEPRIVATIONS OF THE RIGHT OF PETITIONER, THIS COURT SHOULD CLARIFY THE STANDARD OF REJECTING A JUDGE'S ORDER WHO ENFORCES PROVIDING EXHIBITS BEFORE TRIAL , REJECTING A TRIAL COURT POLICIES WHICH ENFORCES EXHIBITS BEFORE TRIAL AND REJECTING APPELANT REQUEST TO CONTINUE A TRIAL	
XII.	CONCLUSION.....	14

V. Index of Appendices

Appendix A: Opinion of CA Court of Appeal (February 11 th , 2020)....	1a
Appendix B: Decision of CA Trial Court (August 1 st , 2017).....	16a
Appendix C: Decision of CA Supreme Court (April 29 th , 2020).....	22a
Appendix D: CA Superior Court Order (July 12 th , 2016).....	23a
Appendix E: CA Superior Court Trial policies.....	25a
Appendix F: Transcript pages of the hearing (May 15 th , 2017).....	28a
Appendix G: Transcript pages of the trial (June 22 nd , 2017).....	30a
Appendix H: Direct appeal (August, 25 th 2017).....	36a
Appendix I: Transcript pages of the trial (June 6 th , 2016).....	37a
Appendix J: Picture of two binders containing 34 Exhibits given to petitioner few minutes prior to the trial.....	44a

VI. Table of Authorities

Statutes

Cal Rules of the Court 5.394..... 25a

Superior Court Trial policies.....25a

Superior Court Order

Superior Court Order issued on July 12 July 201623a

Constitutional Provisions

United States Constitution, Amendment VI.....2

VII. Petition for Writ of Certiorari

Ghassan Hage, a US citizen and Pro Per, respectfully this court for a writ of certiorari to review the judgment of the California Court of Appeals.

VIII. Opinions Below

The opinion by the California Court of Appeals attached as Appendix “A” (p. 1a) denying Mr. Hage’s direct appeal from CA trial court decision attached as Appendix “B” (p. 16a). The California Supreme Court denied Mr. Hage’s petition for review of the opinion of California Court of Appeal on April 29, 2020 without stating its opinion. That order is attached as Appendix “C” (p. 22a).

IX. Jurisdiction

The petitioner’s petition for review to the Supreme Court was denied on April 29, 2020. The Petitioner invokes this Court’s jurisdiction under 28 U.S.C § 1257, having timely filed this petition for a writ of certiorari within ninety days of the California Supreme Court’s decision.

X. Statement of the Case.

a. PREVIOUS JUDGE ORDER, TRIAL POLICIES AND DENYING CONTINUING OF THE TRIAL

Petitioner has never waived his right for a fair trial which is constitutional right, a fair trial when he comes prepared to trial Court to defend himself against the other party's allegations. 34 Exhibits for the trial in two 5 inches binders (Appendix "J") were provided to him few minutes before the trial began in contrary of 10 days prior to the trial as per a Court Order listed in Appendix "D" (p. 23a) and at least 5 days prior to the trial as per California trial Court policies listed in Appendix "E" (p. 25a), in fact as described in the Reporter's transcript of the trial, petitioner told the Judge that the Exhibits of the Trial should have been submitted to him prior to the trial and not few minutes before the trial began as listed in Appendix "G" (p. 34a lines 14-21) . In addition petitioner has requested from the Judge of the Superior Court several time during the trial to continue the trial to a later date but the Judge refused , Appendix "G" (p. 32a lines 24-28, p33a, lines 1-4)

b. DIRECT APPEAL

Petitioner found himself forced to stay in the trial by the Judge Christopher Rudy on June 22nd , 2017 no matter how he objected on Exhibits not provided before the trial and the importance that the trial to continue in order for the petitioner to prepare to defend himself, and when the Judge issued the order of

Vexatious litigant , petitioner filed on August 25, 2017 a direct appeal (Appendix “H” p. 36a) stating the violation committed by the Judge Christopher Rudy and the Lawyer David Yomtov as :

“CCP 657. The presiding Judge has violated a court order filed on 07/12/16 by a prior Judge(on retirement) who said “Submit all Exhibits to the court and to Respondent(Rsp) no later than ten days prior to the hearing.34 Exhibits were submitted by petitioner’s attorney to Rsp and to court on the morning of the trial in the Courtroom. Rsp objected to the Judge and requested 3 times to continue the trial but the Judge refused. Violation of Rsp’s right. Violation of Judicial Code of Ethics.

Irregularity in the proceedings of the court, abuse of discretion by which Respondent was prevented from having a pretrial rights, rights during the trial and post-trial rights. Judge Knowing the notice of unavailability of Respondent between 7/15/17 and 8/15/17 has delayed filing the order until when Respondent was unavailable to prevent him filing motion of reconsideration.”

XI. REASONS FOR GRANTING THE WRIT

- a. TO AVOID ERRONEOUS DEPRIVATIONS OF THE RIGHT OF PETITIONER, THIS COURT SHOULD CLARIFY THE STANDARD OF REJECTING A JUDGE’S ORDER WHO ENFORCES PROVIDING EXHIBITS BEFORE TRIAL , REJECTING A TRIAL COURT POLICIES WHICH ENFORCES EXHIBITS BEFORE TRIAL AND REJECTING APPELANT REQUEST TO CONTINUE A TRIAL

One of several main issues that the Appeal Court did not take in consideration the history behind the wrongful decision declaring the petitioner a Vexatious litigant and the history. On June 6, 2016 the Opposing party’s lawyer David Yomtov brought a motion for a hearing to declare petitioner a Vexatious

litigant. The motion included a two page spreadsheet prepared by lawyer David Yomtov (Appendix "T" p. 38a lines 13-15 , p39a lines 7-28, p40a lines 1-10)

"THE COURT: All right. The document, which appears to be a two page document, is going to be marked for identification as Petitioner's Exhibit 1.

MR. YOMTOV: And this is a demonstrative exhibit. I ask the Court to take – to review that for Court's convenience as we go through –

THE COURT: Well, hang on on a sec. Counsel until this is admitted it's not something I'm going to be able to look at.

MR. YOMTOV: Well –

THE COURT: And you could lay the foundation and you can do it that way.

MR. YOMTOV: The foundadtion is that this is spreadsheet that is – it indicates the various motions –

THE COURT : Who prepared it ?

MR. YOMTOV: -- that Mr. Hage has filed –

THE COURT: No. Who prepared this ?

MR. YOMTOV : I prepared this motion –

THE COURT: Okay

MR. YOMTOV: -- after revieweing this voluminous files

THE COURT: Okay, hang on a sec. Mr Hage are you objecting to this exhibit?

THE RESPONDENT: I didn't read it. I mean he just drop it in front of me. I haben't

had a chance to read what is in it.

THE COURT: Okay. So, What we're going to do here is I'm going to have the document admitted subject to a motion to strike or other appropriate motion."

In addition the Judge Mary Ann Grilli instructed the lawyer Yomtov on June 6 , 2016 to provide the Exhibits that he is intending to use 10 days before any future trial on vexatious litigant (Appendix "I" p. 41a - 42a)

THE COURT: Okay, here's what we're going to do, with all due respect to everybody, I think this motion needs to be refiled. So, I'll vacate the trial on this motion without prejudice to your refiling. In the event you elect to refile it will be a long cause matter, please indicate that on the pleadings.

And reluctantly I say this, I want copies of any documents that you intend to rely upon in that motion attached or provided to the Court as exhibits and to Mr. Hage as exhibits at least ten days in advance, ten court days in advance, of the continued hearing

MR. YOMTOV: And the exhibits to be provided to the courtroom, Your Honor?

THE COURT : Yes, you can provide them either by filing them as attachments to the motion –

MR. YOMTOV: I would not do that.

THE COURT: -- or as exhibits

MR. YOMTOV: It would be far too much to give to the file clerk

THE COURT: So, then we'll do it as exhibits, but at least ten calendar days before or court days, I'm sorry.

MR. YOMTOV: And I want to indicate, Your Honor –

THE COURT: You'll need to resubmit the proposed exhibits.

MR. YOMTOV: I will do that."

As you see above that the Judge Mary Ann Grilli insisted twice on the Lawyer David Yomtov to provide the Exhibits to Mr. Hage (Petitioner) 10 days prior to the trial. However Mr. Yomtov lied to the Judge Grilli and he did not provide the Exhibits to the Petitioner 10 days prior to the Trial on June 22, 2017 with the new Judge Christopher Rudy after the Judge Mary Ann Grilli left for retirement, instead the lawyer David Yomtov violated the Judge Grilli Order filed on 07/12/16 that states the below(Appendix "D" p.24a):

"The court vacated Petitioner's motion to have Respondent found to be a vexatious litigant off calendar, with leave to re-file said motion. In the event that petitioner re-files this motion, she shall:

- a. Indicate that said motion is to be a long cause matter and calendar it as such,
and*
- b. Submit all exhibits to the court and to Respondent no later than ten days prior to
the hearing.*

and then the lawyer Yomtov has provided two 5 inches binders of 34 Exhibits to petitioner in the Courtroom on June 22, 2017 immediately before

the trial with the new Judge Christopher Rudy as Attached in Appendix "J" p.44a.

Reason 1: A Court Order issued on 07/12/16 (Appendix "D" p. 23a) by Judge Mary Ann Grilli ordering the opposing party and her lawyer Yomtov to provide the Exhibits of the trial to the petitioner 10 days prior to the trial which was clearly violated by the lawyer David Yomtov and Judge Rudy.

Reason 2: CA Superior Court Trial policies (Appendix "E" p. 25a) of the Department 76 trial presided by Judge Christopher Rudy that states the below was violated by the lawyer Yomtov and the Judge Christopher Rudy himself:

ii. Each party's list of exhibits, except rebuttal exhibits. Exhibit lists and copies of all exhibits to be used at trial shall be exchanged no later than the deadline for serving the Trial Brief;

(b) Service of brief

The parties must serve the trial or hearing brief on all parties and file the brief with the court a minimum of 5 court days before the trial or long-cause hearing
Rule 5:394, adopted effective January 1, 2013.

Reason 3: Petitioner has requested on June 22, 2017 from the Judge Rudy to continue the trial because the Exhibits were not provided to him 10 days prior to the trial Appendix "G" (p. 32a lines 24-28, p33a, lines 1-4)

Reason 4: CA superior court Court failed to keep its agreement with the

petitioner of having the Vexatious litigant long trial to be more than one day to cover 4 years 2014-2017 (Appendix "F" p.29a lines 13-17).

"MR. HAGE : I don't think so, Your Honor, because the vexatious litigant needs at least one day and a half, and you have said at that time that you will continue it, "

Reason 5: CA superior Court failed to keep its agreement with the petitioner of continuing the trial for more than one day instead the Judge shows disrespect to the petitioner and has proceeded with the trial regardless of petitioner's objection (Appendix "G" p.31a lines 17-28)

It took 12, 14 months for the Judge Grilli to validate what I'm saying. I filed motions, so when we start the trial if you want to wish to proceed on this trial, you're going to see evidence that prove every word that I'm saying is correct. This is not only this. This is why I ask you, Your Honor, it's a long cause, it's goin to be three days. But Your Honor, you said we'll do one day and then we'll continue, and I accept all this. So --

THE COURT: All right, thank you.

Mr. Yomtov, are you ready to proceed?

MR. YOMTOV: I am, Your Honor.

THE COURT: Okay.

Reason 6: CA Superior Court failed to continue the trial as per 2nd request of the petitioner and rejected his request (Appendix "G" p. 32a lines 24-28)

MR. HAGE: I want to also ask the Court to keep in mind that this will need to be continued because there are items to --

THE COURT: This case is not going to be continued. We're hearing this case today. You have until

Reason 7: CA Superior Court through Judge Christopher Rudy failed to

continue the trial and failed to acknowledge that the Exhibits should have been

submitted to petitioner and to the Court at least 5 days as per the superior court trial policies but instead Judge Rudy defended the lawyer David Yomtov which

is seen as a total bias instead of support the Law and the Court order of Judge

Grilli. (Appendix "G" p.34a lines 14-28)

Your Honor, to answer your question, Mr. Yomtov gave me two binders. He gave me two binders now. If you're asking me to go into one by one for him, I will do it later after finishing my stuff. But you have a Court rule that I got -- he has to provide me five days before the trial of the exhibits that he wants to provide. Did he do it? No. He gave it to me right now. And you're asking me now to do it, to do it right away. And this --

THE COURT: Okay. So, so, Mr. Hage, the time for you to tell the Court that you had an objection to any of Mr. Yomtov's exhibits was at 9:00 o'clock this morning when the Court sat down with these binders and we started this case. You didn't say a word about that.

Reason 8: CA Superior Court through Judge Christopher Rudy failed to assert the importance of the lawyer Yomtov to follow the rule of the trial policies (Appendix "E" p.25a) and Judge Mary Ann Grilli order by providing the exhibits to Petitioner prior to the trial, but instead Judge Rudy supported the lawyer yomtov in what he has done which is a complete bias and the petitioner was forced to prepare to defend himself during lunch time (Appendix "G" p. 35a lines 1-6)

THE COURT: I'm just saying if you had an objection to Mr. Yomtov's exhibits -- and by the way, all of his exhibits are just the Court file.

MR. HAGE: But I have to go and search for all my list, and I did it through the -- during the lunch time. I was quickly --

Reason 9: The lawyer David Yomtov failed to respect Judge Mary Ann Grilli decision and petitioner's decision to accept to continue a trial based on the two pages document provided by the lawyer Yomtov on 6/6/2016 (Appendix "T" p. 38a lines 13-15)

INDEX OF EXHIBITS

PETITIONER'S

EXHIBITS:

	<u>IDENTIFIED</u>	<u>EVIDENCE</u>
No. 1 two page document	10	11

The decision of the Judge Grilli and the petitioner to use the two pages documents as a vehicle for a trial was totally refused as shown in (Appendix "T", p.41a lines 9-18)

9 And I'm saying this is wrong. We stated for the first
 10 one, Your Honor. There's some information I know and then
 11 -- go in the number -- number 6 or 21 that Mr. Yomtov
 12 is -- so, continuing is not my -- I don't accept it.

13 THE COURT: Don't accept what?

14 THE RESPONDENT: Continuing this.

15 THE COURT: Okay, here's what we're going to do,
 16 with all due respect to everybody, I think this motion
 17 needs to be refiled. So, I'll vacate the trial on this
 18 motion without prejudice to your refiling. In the event

The lawyer David Yomtov has resubmitted the same two pages documents to the new Judge Christopher Rudy for June 22nd trial.

Reason 10: the lawyer David Yomtov misled on purpose the Superior Court by providing a two page documents in his motion filed in superior court on 1/19/17 in which the lawyer Yomtov included it in his motion to Augment (filed in Appeal Court on 03/4/19) showing that only 24 Exhibits will be in question when the lawyer added 10 more Exhibits to them on the morning of the trial on 06/22/17 inside the two binders reaching 34 Exhibits provided to the petitioner and to the Judge Rudy.(as seen in the picture of the binders of the Appendix "J" p.44a inside the petitioner brief letter filed in the Sixth appellate Court on 01/02/2018)

Reason 11: The Judge Christopher Rudy failed to take the time to understand petitioner's Case prior to the trial by agreeing with Judge's Grilli's order who was on petitioner case for four years and wanted the Exhibits to be provided to her and to the petitioner's 10 days before the trial while the Judge Christopher

Rudy did not want the Exhibits 10 days prior to the trial even though he was new on petitioner's case for only one month .

Reason 12: The Judge Christopher Rudy failed to respect the petitioner's civil rights and to have enough time to defend himself and to be prepared by refusing to continue the trial because the Exhibits were not provided to him 10 days prior to the trial.

Reason 13: The Judge Christopher Rudy took a revenge from the petitioner's who filed a Peremptory Challenge against him after the Judge Christopher Rudy allowed a Fraud upon the Court to happen in his Courtroom from the lawyer David Yomtov and has protected him (Refer to the Related Case mentioned above in Appeal Court H045364 and in Supreme Court S249160) and the peremptory challenge was denied by the Judge Rudy on 06/19/17 three days prior to the trial on Vexatious litigant case which was calendared on 06/22/17

Reason 14: The Judge Christopher Rudy lacks impartiality and failed to perform a fair trial by protecting petitioner's civil rights to been able to prepare to defend himself and have all the Exhibits provided to him 10 days prior to the trial . Keeping in mind that the lawyer David Yomtov has exploded the number of Exhibits from 24 to 34 Exhibits on the morning of the trial without providing the list of the additional 10 Exhibits to the petitioner and to the court prior to the trial.

XII. CONCLUSION

This is not the first time that the CA court of Appeal denied Petitioner's appeal against the decision of Judge Christopher Rudy, a prior appeal case mentioned in the related cases (H045364) targeting a a Peremptory challenge against the Judge who allowed Fraud upon the Court to be committed by the lawyer David Yomtov was dismissed by the CA court of Appeal even before receiving the Reporter transcripts showing the evidence of the Fraud upon the Court, Petitioner filed a petition for Review if CA supreme Court (S249160) which was also denied. Petitioner has missed the deadline to file a Writ of Certiorari in the US Supreme Court.

For the foregoing reasons, Mr. Hage has not and will accept violation of the LAW by any judicial officer and cannot be part of this misconduct committed by the Judge and the law who are domestic enemies to the United states of America. Mr. Hage respectfully requests that this court issue a writ of certiorari to review the judgment of the California Court of Appeals.

Dated this 13th of July, 2020.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Ghassan Hage', with a large, stylized flourish extending to the right.

Ghassan Hage

2680 Fayette Drive , #202
Mountain View, CA, 94040
Tel: 1-650-5806274