No. 20-8229

SUPREME COURT OF THE UNITED STATES

MARTIN REINER

Petitioner

vs.

JOHN ROBERTS, ELENA KAGAN, LAURIE WOOD, MARA SILVER, AND CALIFORNIA STATE BAR

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

PETITION FOR REHEARING

(filed and served concurrently with (1)the Petitioner's Request for Judicial Notice, and (2)the related and alternative Petition for a Writ of Mandate in Equity pursuant to HAZEL-ATLAS GLASS CO. vs. HARTFORD-EMPIRE CO. 322 U. S. 238 (1944), ARMSTRONG vs. MANZO 380 U. S. 545 (1965), and SANCHEZ-LLAMAS vs. OREGON 548 U. S. 331 (2006))

Martin Reiner, Pro Se
1414 Greenfield Avenue, #302
Los Angeles, California 90025
Telephone: (310)709-0236

TABLE OF CONTENTS

TABLE OF AUTHORITIES

State Cases

State Statutes

Other Authorities

PETITION FOR REHEARING

Respectfully, pursuant to Rule 44 of the Supreme Court of the United States ("this Court") Petitioner Martin Reiner hereby petitions this Court for rehearing of this Court's October 4, 2021 order denying certiorari in this case.

THE GROUNDS FOR REHEARING

Respectfully, who in this country is ultimately responsible for the delivery of wrongfully deprived Federal Constitutional Rights? Is it this Court, or are the deprived victims relegated to having to conduct an effort at self-help? In the circumstance of an attorney who is a member in good standing of the Bar of this Court who later is subjected to wrongful professional discipline in the form of disbarment by the California Supreme Court which was procured by the wrongful deprivation of the federal constitutional right of Procedural Due Process and its component of having a meaningful opportunity to be heard by extrinsic fraud upon the institution of the court, as initially imposed by the California State Bar ("BAR"), which is the administrative agent of the California Supreme Court, rendering that professional discipline legally null and void, should this Court compound the wrongdoing and automatically impose reciprocal disbarment of that attorney from membership in this Court's Bar, causing that attorney further undue harm by also wrongfully obstructing that attorney from being able to conduct even just a federal law practice, and rendering this Court as a participating *loci delicti commissi*? No, clearly not. But that is what this Court has done. Instead, this Court should exercise its supervisory authority with regard to the wrongdoing, which is of a constitutional dimension, and summarily order the California Supreme Court to itself issue an order which (1)vacates the California Supreme Court's subject professional discipline orders, (2)directs the California State Bar to immediately restore that attorney's law license and (3)directs the California State Bar to immediately pay to that attorney the due compensatory damages, as well

as for this Court to immediately restore the attorney's membership in the Bar of this Court. Rehearing should be granted to clarify the extent to which this Court is, or is no longer, a guarantor for the delivery of wrongfully deprived federal constitutional rights, because as this matter presently stands, the denial of certiorari in this Court's case number 20-8229 is legally null and void, and the appearance being given by this Court is that this Court is constitutionally dysfunctional.

THE INITIAL TORTFEASORS – THE CALIFORNIA STATE BAR AND THE CALIFORNIA SUPREME COURT

As an attorney licensed in California, I was charged for the imposition of professional discipline by the BAR for allegedly violating California Business and Professions Code Section 6103 for supposedly engaging in willfully disobeying certain State of California administrative agency orders issued by the California Workers' Compensation Appeals Board ("WCAB"). The BAR is the administrative agent of the California Supreme Court and the BAR, and litigates professional disciplinary matters in its administrative court ("BAR Court"). A trial was conducted in the BAR Court, in its consolidated case number 09-O-10207 /10-O-08540- PEM. The final written disposition of that BAR Court proceeding was issued by the BAR Court's Review Department judges. In that written dispositional document, on its Page 6 (which is located in the underlying Petition for Writ of Certiorari's Appendix D, page 44) in the bottom paragraph of that page, those judges correctly identified the three elements comprising the burden of proof that was required to have been met in order for the imposition of professional discipline to be legally authorized, as no professional discipline can be imposed if the required burden of proof is not met a trial WALKER vs. SAN GABRIEL (1942) 20 Cal. 2d 879 ("WALKER"), LA PRADA vs. DEPARTMENT OF WATER AND POWER (1945) 27 Cal. 2d 47 ("LA PRADA"), and PARKER vs. FOUNTAIN VALLEY (1981) 127 Cal. App. 3d 99 ("PARKER"). Those three elements, each of which must be proven by the BAR Court at trial,

are: (1)that the subject orders which supposedly are being willfully disobeyed are "final" – that all legal challenges to their constitutional validity have been proven to have been exhausted, (2)that the subject orders are also "binding" – that they are each proven to be constitutionally valid and (3)that the charged attorney's mindset is proven to know that the subject orders are so final and binding.

At the trial of that BAR Court case, the evidence (please see the underlying Petition for Writ of Certiorari, Appendix D, at pages 35 through 42) was, and remains, irrefutable that the subject orders were not final because a legal challenge against their validity was, and remains, ongoing, thereby negating the "final" element of the required burden of proof from being met. On the record, the BAR Court trial judge acknowledged that the "final" element had been negated (the underlying Petition for Writ of Certiorari Appendix D, page 41, line 17 through page 42, line 13), as I had a right to exercise in challenging the constitutional validity of the subject order, as recognized and articulated by the governing law, CANATELLA vs. STOVITZ 365 F. Supp. 2d 1064 (N. D. Cal. 2005) ("CANATELLA"), which, at pages 1073-1074, holds that:

> "... attorneys may be disciplined for violating ***only*** court orders that an attorney '***ought in good faith***' to comply with ... This provision ensures that attorneys will not be disciplined for failing to comply with an ***unjust*** court order. The provision ... allows for an attorney to exercise his or her ***right to disobey*** a court order the attorney believes to be unconstitutional" (emphasis added),

and, in THE MATTER OF KLEIN (Rev. Dept. 1994) 5 Cal. State Bar Ct. Rptr. 1 ("KLEIN"), which, at page 9, provides that the attorney charged is:

> "... obligated to obey the order, ***unless he took steps to have it modified or vacated***" (emphasis added).

That BAR Court trial judge issued a disposition in favor of a conviction imposing professional discipline for the suspension of my law license in utter defiance of that judge's acknowledgement on the record that the "final" element of the required burden of proof failed to

have been met (by it having been factually negated) by depriving me of my federal constitutional right of Procedural Due Process and its component of having a meaningful opportunity to be heard and defend, as a disposition in favor of conviction which issues in defiance of the failure to meet the required burden of proof constitutes a deprivation of that federal constitutional right of Procedural Due Process, and specifically its component of having a meaningful opportunity to be heard, so as to be able to defend against the charges made, because when the requirement to meet the burden of proof is disregarded by the court, any opportunity to be heard that was provided is nothing more than a mere pro forma, hollow exercise which is rendered utterly meaningless, JACKSON vs. VIRGINIA 443 U. S. 307 (1979) ("JACKSON"), at pages 313-314, which holds that:

> "... the due process standard ... constitutionally protects an accused against conviction except upon evidence that is sufficient fairly to support a conclusion that ***every element*** ... has been established"
>
> "... a person cannot incur loss ... for the offense without ... a ***meaningful*** opportunity to defend ... A ***meaningful*** opportunity to defend, if not the right to a trial itself, presumes well that a total want of evidence to support a charge will conclude the case ***in favor of the accused***"
>
> "a conviction based upon a record wholly ***devoid of any relevant evidence of a crucial element of the offense charged is constitutionally infirm***"
>
> "... thus secures to an accused the most elemental of due process rights: ***freedom from a wholly arbitrary deprivation*** ..." (emphasis added).

Further, the case of MARSHALL vs. JERICHO, INC. 446 U. S. 238 (1980) ("MARSHALL"), at page 242, holds that it is constitutionally incompatible for to impose a conviction in evasion of a failure to meet the required burden of proof:

> " ... the Due Process Clause would not permit ***any*** procedure which would offer a possible temptation ... ***as a judge to forget the burden of proof to convict the defendant*** ..." (emphasis added).

Furthermore, such wrongful conviction so procured constitutes extrinsic fraud upon the institution of the court because thereby a falsehood is being imposed by an officer of the court,

defiling the integrity of the court, IN RE INTERMAGNETICS AMERICA, INC. 926 F. 2d 912 (9th Cir. 1991) ("INTERMAGNETICS"), at page 916, MOORE's FEDERAL PRACTICE 3d, Volume 12, Chapter 60, Section 60.21[4][b]. The legal consequence of such disposition being so procured by such deprivation of Procedural Due Process, by deprivation of its component of having a meaningful opportunity to be heard, is that such disposition is legally null and void, UNITED STUDENT AID FUNDS, INC. vs. ESPINOZA 559 U. S. 260 (2010) ("UNITED"), at pages 270-271:

> "A void judgment is a legal nullity" when it is "premised ... on a violation of due process that deprives a party of ... the opportunity to be heard",

and MATHEWS vs. ELDRIDGE 424 U. S. 319 (1976) ("MATHEWS"), at page 333, which holds that:

> "The 'right to be heard before being condemned to suffer grievous loss of any kind, even though it might not involve the stigma and hardships of a criminal conviction, ***is a principle basic to our society***'", (emphasis added).

The reason why the deprivation of Procedural Due Process by the deprivation of its component of having a meaningful opportunity to be heard renders the proceeding legally null and void is because, as the case of WINDSOR vs. MCVEIGH 93 U. S. 274 (1876) ("WINDSOR") explains at page 277:

> "A sentence of a court pronounced against a party without ... giving him an opportunity to be heard, ***is not a judicial determination of his rights***, and ***it is not entitled to respect in any other tribunal"*** (emphasis added),

as it is procured not by the rule of law but instead by the dysfunction of capricious tyranny, and it "never can be upheld" OLD WAYNE MUTUAL LIFE ASS'N vs. MCDONOUGH 204 U. S. 8 (1907) ("WAYNE"), at page 17.

Attorneys charged to be professionally disciplined are entitled to Procedural Due Process, WILNER vs. COMMITTEE ON CHARACTER 373 U. S. 96 (1963) ("WILNER"), which holds, at page 102:

"the requirements of due process must be met before a state can exclude a person from practicing law",

and IN RE RUFFALO 390 U. S. 544 (1968) ("RUFFALO"), which, at page 550, states:

"Disbarment ... is a punishment or penalty imposed on the lawyer ... He is accordingly ***entitled*** to procedural due process" (emphasis added).

The consequence of a disposition being procured by extrinsic fraud upon the court is that every court that participates in that wrongdoing is not only entitled to rectify it, but is also duty-bound to rectify that wrongdoing, to entirely to wipe the slate clean, ARMSTRONG vs. MANZO 380 U. S. 545 (1965) ("ARMSTRONG"), which on page 552, holds that where a meaningful opportunity to be heard is deprived, the court is to subsequently fully accord this right:

"only by granting his motion to set aside the decree and consider the case anew. Only that would have wiped the slate clean. Only that would have restored the petitioner to the position that he would have occupied had due process of law been accorded to him in the first place",

and, as the case of HAZEL-ATLAS GLASS CO. vs. HARTFORD-EMPIRE CO. 322 U. S. 238 (1944) ("HAZEL") provides on page 248, that when extrinsic fraud has been imposed upon the court, the court is:

"...to accord ***all the relief necessary*** to correct the particular injustices involved ..." (emphasis added).

I duly appealed the BAR Court trial judge's disposition to the BAR Court's Review Department judges, who then issued their written disposition ratifying the conviction in favor of imposing professional discipline in utter defiance of the failed burden of proof. In those Review Department judges' written dispositional document, they admit that the required burden of proof failed to have been met, as they admitted that also the "binding" element – proof that the subject orders were constitutionally valid – had not been established a trial (as reflected in the previously filed Appendix D, on its page 45 – which was page 10 of the BAR Court's Review Department's dispositional document – at line 7 through 9 of that page), and that despite the admitted failure of

the required burden of proof to have been met, professional discipline was nonetheless going to be imposed by capricious tyranny, in replacement of the rule of law. That written admission is expressly made on that page, which comprises a part of that case's judgment roll, rendering that entire proceeding legally null and void *on its face*, as documented proof of the constitutional infirmity exists within the very judgment roll of the proceedings of that case.

I duly filed a petition for review with the California Supreme Court, and in utter defiance of the law, the Federal Constitution, the 14th Amendment's right of Procedure Due Process, and the admitted failure to have met the burden of proof of trial, the California Supreme Court nonetheless "ratified" the BAR Court's null and void disposition, and in California Supreme Court case number S218700 the California Supreme Court issued a null and void order suspending my law license premised upon the null and void Bar Court disposition. In response I asserted that the California Supreme Court's order in its case number S218700 was also legally null and void for being premised upon the BAR Court's legally null and void disposition (please see the previously filed Appendix D's page 50 – which was page 4 of the BAR Court's dispositional document in the case designed for disbarment – in that page's first paragraph), and the California Supreme Court in its case number S239410 then premised another null and void order on the BAR Court's null and void disposition which purportedly disbarred me from the practice of law.

THE SUBSEQUENT TORTFEASORS – THE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES

As I was a member of the Bar of this Court, I filed a Rule 8 Petition seeking relief pursuant to the HAZEL case, as that is the governing law with regard to matters infected with extrinsic fraud upon the court. My Rule 8 Petition was assigned this Court's case number 18D3030. Under this Court's Rule 8, this Court is required to issue "an appropriate order", which should have provided all of the redress and relief required by the HAZEL case. Just the opposite was done.

In this Court's case number 18D3030, the wrongful deprivation of Procedural Due Process, and the deprivation of its component of having a meaningful opportunity to be heard, as contrived by the BAR Court's extrinsic fraud re-occurred by this Court's premising its disposition in its case number 18D3030 upon this Court's adoption of the BAR Court's original deprivation by extrinsic fraud. Thereby this Court robbed me, in violation of Title 18 United States Code Section 242, of my membership to the Bar of this Court, as an independent wrong, additional to that of the BAR Court and that of the California Supreme Court, making the situation much worse, by this Court wrongfully obstructing my being able to at least practice law on the federal level. The present disposition in this Court's case number 20-8229, of denying certiorari, is, at best, entirely thoughtless, and at worst, wickedly sinister, as it is a further despicable insult upon the integrity of the institution of this Court, as well as the federal Constitution, and the rights thereto, the promised delivery of which somebody in the federal government is supposed to guarantee, as according to the United States Court of Appeal for the District of Columbia Circuit, in its opinion underlying this Court's case number 20-8229, the Rooker-Feldman doctrine makes this Supreme Court of the United States the only Court with jurisdiction to be able to rectify the subject constitutional infirmity rendered by the BAR Court and the California Supreme Court.

CONCLUSION – THE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES MUST CORRECT THEIR OWN WRONGDOING, AS WELL AS THAT OF THE CALIFORNIA STATE BAR AND THE CALIFORNIA SUPREME COURT, AS ALL OF THE WRONGDOING IS OF A CONSTITUTIONAL DIMENSION

This Court has the jurisdiction to enforce the delivery of the federal Constitution's 14th Amendment right of Procedural Due Process upon the California Supreme Court, as well as the BAR, because all of the subject wrongdoing – the wrongful deprivation of the federal constitutional 14th Amendment right of Procedural Due Process by extrinsic fraud upon the court – is a wrong that is of a constitutional dimension that this Court cannot tolerate and that this Court is authorized to rectify, SANCHEZ-LLAMAS vs. OREGON 548 U. S. 331 (2006)

("SANCHEZ"), at pages 345-346. A fortiori, this Court also has the jurisdiction to correct its own wrongful misconduct – the theft of my membership in the Bar of this Court, and the ability to at least engage in a federal law practice, by this Court's wrongful deprivation of my federal constitutional 5th Amendment right of Procedural Due Process by this Court's wrongful "ratification" of the original deprivation by extrinsic fraud – to which the Justices of this Court have no discretion to avoid or evade, because not only do courts have the inherent equity authority to rectify such deprivation contrived by extrinsic fraud upon the court, courts, including this Court, are duty-bound to do so – "both the duty and the power", the HAZEL case, at page 250.

This Court is obligated to, fully and forthwith, rectify the complained-of constitutional wrongdoing. This would include, in addition to fully and forthwith this Court restoring my membership in the Bar of this Court, summarily ordering the California Supreme Court to issue its own order which (1)vacates its subject offending dispositions in California Supreme Court case numbers S218700 and S239410, (2)orders the BAR to forthwith fully restore my law license, and (3)orders the BAR to pay my compensatory damages, including my loss of professional income since October 10, 2014, which is presently in the amount of $882,000.00 ($10,500.00 a month), and for the destruction of my professional reputation in the reasonable amount of $2,500,000.00 ($100,000.00 a year for the 25 years of an entirely ethical professional experience into which my blood, sweat, and tears have been invested), and at least, approximately, $9,000,000.00 for the reasonable value of my precious time on earth consumed by the anger, anxiety, sleep deprivation, and physically painful headaches that I have suffered some 15 hours a day, on average, since October 10, 2014, with these compensatory damages having been actually, proximately, and foreseeably caused by the BAR's complained-of wrongdoing in its fully participating in wrongfully depriving me of my federal constitutional right of Procedural Due Process by extrinsic fraud, at the reasonable rate that I was earning as of

October 10, 2014 (which is when the null and void suspension order commenced) of $300.00 an hour, for an approximate total of $12,382,000.00. The BAR, which has its separate corporate existence (California Business and Professions Code Section 6001), in which the BAR can sue and be sued, for which the BAR maintains its own wealth which is separate and distinct from that of the State of California's treasury, owes to me, pursuant to California Business and Professions Code Section 6085, the express legal duty to have provided to me my federal constitutional right of Procedural Due Process which the BAR refuses to do, is thereby liable to me in tort for all of my above stated compensatory damages, for which the BAR does not enjoy 11th Amendment immunity, KELLER vs. STATE BAR OF CALIFORNIA 496 U. S. 1 (1990) ("KELLER").

The simple reason why the Justices of this Court must so act to issue such an order is that each Justice of the Supreme Court of the United States is responsible to not only set a good example of fidelity to the promised delivery of constitutional rights, and to be decent citizens, but, a fortiori, to be the guiding example for our society in at least a satisfactory performance of Your Honor's sworn duty to uphold the federal Constitution and laws. For Your Honors to refuse to even rectify Your Honor's own wrongdoing in this Court's case number 18D3030, by this Court's participation in depriving me of my federal constitutional right of Procedural Due Process by this Court's "ratification" of the initial wrongful deprivation by extrinsic fraud, is for Your Honors to act in the worst possible way – in the manner of persons engaging in criminal malfeasance. Respectfully, please immediately cease and desist from such malfeasance.