ORIGINAL

No. 21-283

IN THE

SUPREME COURT OF THE UNITED STATES

In re Roland N. Patterson, Jr., In His Capacity As
Petitioner for Reinstatement To The Maryland Attorney's Bar
And, As A Citizen of These United States,

Petition for an Emergency Writ of Mandamus
to: The Maryland Court of Appeals;
The Maryland Attorney Grievance Commission;
And Lydia E. Lawless, Bar Counsel, in her
Official Capacity;

EMERGENCY PETITION FOR WRIT OF MANDAMUS

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I. Questions Presented:

A) Whether Petitioner suffered the violation of his Constitutional Rights to Procedural Due Process when he was denied Reinstatement in 2012, without a Hearing;

B) Whether Respondents should be prohibited from considering certain insolvency matters and other personal circumstances of Petitioner in the context of his 2021 Petition For Reinstatement To The Maryland Bar; The subject matters include late tax-return filings; a federal tax lien; and, a demand to receive the names of persons who contributed to the payment of prerequisite (fines) to The Maryland Client Protection Fund (CPF;)

C) Whether Respondents should be prohibited from considering The Multiple Sclerosis (M.S.) Diagnosis and related medical records of the applicant regarding The 2021 Petition For Reinstatement;

D) Whether Respondents should be Ordered to forthwith complete their assessment of whether Petitioner practiced law in three instances during his suspension, so as to potentially render him unfit to be Reinstated To The Maryland Attorney's Bar. The three instances include one where Respondent alleges that Petitioner appeared improperly in the case of State of Maryland v. Brian Keith Dawson, infra; another in State of Maryland v. Torian Underwood, infra; and, a broad matter where Respondent potentially alleges that Petitioner practiced law by way of his chairmanship of The Legal Redress Committee of The NAACP, Baltimore County Branch.

E) Whether Respondents are violating The Procedural Due Process Clause of The Fourteenth Amendment to The U.S. Constitution by way of a letter it served on Petitioner May 28th, 2021;

F) Whether Respondents are violating Petitioner's Substantive Due Process Rights as guaranteed by The 14th Amendment by considering the prohibited matters described in Item E, above; and, by obtaining and granting two 60-day postponements during consideration of The 2021 Petition For Reinstatement; and,

G) Whether The Maryland System of Attorney-Discipline is uniquely structured to violate The Separation of Powers clauses of Articles I-III of The U.S. Constitution, as compared to similar Maryland professions, so as to facilitate the conduct complained of herein as unconstitutional, thereby harming Petitioner; and, whether this unique structure violates The Equal Protection Clause of The 14th Amendment;

II. PARTIES TO THE PROCEEDING

Roland N. Patterson, Jr. is the petitioner here and in The Court of Appeals of Maryland - Petition for Reinstatement to The Maryland Attorney's Bar, September Term, 2020; Misc. Dkt., AG-88. The Maryland Court of Appeals, (The Md. CA,) The Maryland Attorney Grievance Commission and, Bar Counsel Lydia E. Lawless, each in their official capacities, are named respondents here. The Maryland Attorney Grievance Commission is named alone below as Respondent.

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PRELIMINARY STATEMENT

In Meyer v. Nebraska, supra, The Supreme Court considered the question of whether The Nebraska Statute, challenged there, unreasonably infringed upon The Liberty guaranteed by The 14th Amendment. Specifically, the statute prohibited teaching German. Mr. Meyer was a German teacher by training and profession. The Court found that the statute infringed upon Mr. Meyer's Liberty Interest in working in his chosen profession. The Court found this way in spite of the fact the statute resulted from German misconduct in the context of World War I, (WWI.)

In the case at Bar, Petitioner has applied for Reinstatement to The Maryland Attorney's Bar in 2021, after a ten-year term of suspension. After Respondent Grievance Commission obtained the first of two 60-day extensions of time in which to respond to The 2021 Reinstatement Petition, it served Petitioner with 16 additional questions. The questions substantially focus upon manifestations of insolvency on the part of Petitioner. One or more of the questions addresses The Multiple Sclerosis (M.S.) Diagnosis given to Petitioner. These questions were described by Respondent as necessary for the review of The 2021 Reinstatement Petition. However, 15 of the 16 items required in the letter are not set forth by the relevant Maryland Rules of Procedure on Reinstatement. Stated differently, Respondent Grievance Commission built an arbitrary basis upon which to evaluate The 2021 Reinstatement Petition. Respondent Md. CA has facilitated this conduct with two contested extensions of time. Therefore, Petitioner believes that his Procedural and Substantive Due Process Rights to have his Reinstatement Petition properly considered are being denied him. No other court can resolve this problem.

For all of these reasons, Petitioner humbly requests that That This Court issue A WRIT OF MANDAMUS to The Maryland Court of Appeals; The Maryland Attorney Grievance Commission and, Md. Bar Counsel. Petitioner requests further That This Court Order Respondents to proceed immediately to the consideration of The 2021 Reinstatement Petition and, That This Court Order Respondents to exclude the fruit of The May 28th, 2021 Letter from the subject consideration.

JUDICIAL ORDERS BELOW

The Maryland Court of Appeals (Md., CA) 2011 Order of Discipline is attached below as Appendix Item A. The Md. CA 2012 Order of Reinstatement Denial is attached below as Appendix Item B. The Md. CA Orders of May 30th and July 30th, 2021, extending Respondent's time to respond to The 2021 Reinstatement Petition are also attached below as Appendix Items C.

JURISDICTION

This Court has jurisdiction to grant a WRIT OF MANDAMUS pursuant to 28 U.S.C S.1651(a.)

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Supreme Court may issue Writs of Mandamus in aid of its appropriate jurisdiction in accordance with standard principles of law. The authority to grant Extraordinary Writs is granted The Court by Congress at 28 U.S.C. S.1651.

STATEMENT OF THE CASE

Petitioner was suspended from The Maryland Attorney's Bar on September 21st, 2011. He applied for Reinstatement in May, 2012. His 2012 Petition for Reinstatement was denied without a Hearing. Petitioner would have disproven the basis of the denial had he been notified of it. That basis involved an unsigned reference letter that was accidentally included in The 2012 Petition Exhibits. This issue is explained fully in The Argument Section of This Pleading.

Petitioner applied for Reinstatement again in April, 2021. He served Respondent on April 27th. Maryland Rule 19-752(e)(1) establishes that Bar Counsel shall file and serve the attorney with a response **within 30 days after service** (of The Petition For Reinstatement.) Bar Counsel called Petitioner 31 days after service. She asked for more time. She served Petitioner with The May 28th Letter that day. The letter inquired into Petitioner having filed his taxes late during his suspension; his having suffered an IRS tax lien during his suspension; into the names of persons who contributed to his prerequisite Client Protection Fund (CPF) account payoff and, into whether he practiced law during his suspension. (Only this last area is relevant to Reinstatement, according to the Maryland Rules of Procedure.) However, Petitioner disproved that allegation in his responses to The May 28th Letter. Those responses are included in The Argument section below. This last area of the letter is the only area that **should** be considered by Respondents.

Respondent is denying Petitioner his Procedural and Substantive Due Process Rights by focusing on areas of Petitioner's personal life which do not involve The Maryland Rules on Reinstatement of Attorneys. Respondent Grievance Commission should have filed the response on May 27th. The Maryland Court of Appeals has now extended the response time to September 30th, 2021. The stated reason for the

two extensions is to acquire medical and bank records. The medical records are precluded by The Health Insurance Portability and Accountability Act (HIPAA,) 42 U.S.C. S.1320(d)-(6) and, The ADA, supra. Records releases were signed under duress. Bank records are generally allowed by The Maryland Rules on Reinstatement. But Respondent has stated the purpose of examining the donations of individuals who contributed to his CPF account payment. This interest by Respondent taints and delegitimizes the bank record request. A fuller statement of this position is set forth below in The Argument section.

STANDARD OF REVIEW

"'The Supreme Court has the power to issue all writs necessary and appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law,' 28 U.S.C. 1651(a.) To obtain a writ of mandamus, the applicant must (show) that he has no other adequate means to obtain the relief ...desire(d.) Cheyney vs. United States District Court, 542 U.S. 367, 380 (2004.) The applicant must (show) that his right to the writ is clear and indisputable, Cheyney at 381. Finally, the applicant must show that the writ is otherwise appropriate under the circumstances."

A writ is appropriate ... where the applicant can show a 'judicial usurpation of power or a clear abuse of discretion, (Please see Cheyney, supra, at 380; Roche v. Evaporated Milk Assn., 319 U.S. 21, 26 (1943): "The traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.") ... The required standard is met by this fact-pattern. There is no other way to get relief.

ARGUMENT

I. INTRODUCTION (Factual Predicate;)

Petitioner was suspended from The Maryland Attorney's Bar on September 21st, 2011 by The Md. CA. The suspension was caused by a set of violations of The Maryland Attorneys' Rules of Professional Conduct (MARPC.) There was no pecuniary loss suffered by Clients. The specific violations are set forth in The Court's Order of Discipline, Appendix Item-A. We incorporate The Md. CA's listing of those

charges, here by reference. Discipline was imposed against this petitioner in the form of an indefinite suspension with the right to request readmission in six months. Petitioner does not dispute the underlying suspension. The circumstances which gave rise to The 2011 Suspension are Petitioner's fault alone. Petitioner regrets those circumstances and asks humbly that the current, actual suspension-length, served as of today, be deemed sufficient.

Circumstances which occurred since 2011 require Petitioner to advocate with impact below for his constitutional right to have The 2021 Petition properly considered here. However, this advocacy changes neither his responsibility for the original period of suspension, nor his regret for the underlying decisions he made which caused it.

Petitioner applied for Reinstatement in May, 2012, or eight months after the suspension. That petition was denied without a Hearing. A person whose name was under the signature-line of an unsigned character letter denied that the letter was his/her own. We shall call this person Jane Doe. Petitioner was not informed of this event. Petitioner was denied the chance to answer this allegation because it was never cast as a MARPC violation. Had this allegation been lodged as a charge, Petitioner would have put on evidence showing that Petitioner asked Jane Doe to write a character-letter supporting The 2012 Reinstatement Petition; that Jane asked Petitioner to write the character letter for Jane's signature; that Jane disliked the letter, once written, for her signature; that Jane agreed to appear at Petitioner's attorney's office with a replacement letter; that Petitioner left the unsigned letter in the package because Jane was to exchange her new letter for the one written by Petitioner; that Petitioner flew to California on the morning the disputed letter was completed; that Jane is an attorney and went to work that morning, as best known; that Jane never appeared at Counsel's office; that the unsigned letter was included in The 2012 Reinstatement Petition accidentally, that Jane signed an affidavit in that case denying that the letter was hers but omitting much of the background provided here and, that The 2012 Petition For Reinstatement was denied summarily on that basis. Later, Jane refused Petitioner's requests to recant that affidavit. Jane was applying for The Bench at that time. Petitioner maintains that Jane's affidavit is materially false.

The denial of The 2012 Reinstatement Petition deprived Petitioner his constitutional right to be heard before losing a "Liberty," interest. This denial also recast the initial discipline from a suspension designed

to alert Petitioner to The MARPC and their controlling value; into an effective disbarment. It appears that this recasting was not intended by The Md. CA. However, it worked a catastrophe in the life of Petitioner.

This catastrophe ended the foreseeability of Reinstatement. Petitioner's job prospects were further damaged by this denial because Respondent Grievance Commission described Petitioner as not having The "Character," required to practice law. Potential Employers applied this statement to their own concerns. This dark cloud caused depression and later, insolvency.

In or about 2018, Petitioner recovered himself. He began to rebuild his affairs and prepare for a new Reinstatement Petition. This Petition for Reinstatement was filed on Wednesday, April 28th, 2021. However, Petitioner served Respondent on Tuesday, April 27th, 2021. Bar Counsel served Petitioner with 16 questions on May 28th, 2021, 31-days after service. The questions were described as necessary to facilitate the required investigation of Reinstatement by Respondent. However, the content of the questions is not covered by The Maryland Rules.

Bar Counsel telephoned Petitioner immediately before service of the questions. Bar Counsel asked for consent to request more time. Initially, Bar Counsel said that the reason for the proposed delay was that some medical records were not yet received. Petitioner questioned the need for medical records. Bar Counsel recited the fact that Petitioner testified in the case which gave rise to this discipline in 2011. In that testimony, Petitioner said that a stress-symptom of his M.S. diagnosis was made worse by receiving letters from Respondent. Petitioner delayed answering Respondent letters to alleviate this symptom. In the May 28th teleconference, Bar Counsel said that this symptom could form the basis of an objection by Respondent to The 2021 Petition for Reinstatement.

Petitioner answered the 16 new questions under protest after stating that the information sought violates several of his constitutional and statutory rights. Petitioner argues below that:

A) He should be readmitted immediately here because his constitutional rights to Procedural Due Process were violated because of the Denial of Reinstatement in 2012, without a Hearing;

B) The effort by Respondent to use elements of Petitioner's insolvency, (e.g., late tax-return filings, a tax lien and, a demand to receive the names of persons who contributed to Petitioner's CPF

payment,) as a ground to support denial of This Petition for Reinstatement, violates Petitioner's Right to Substantive Due Process as guaranteed by The United States Constitution, Amendments One, Five and 14, (USCA I, V, & XIV;) The Maryland Declaration of Rights, (MDR) Article (A.) 24; and the supporting caselaw. Therefore, the information provided by Petitioner in response to such questions must be excluded from consideration of his current Reinstatement Petition, together with any derivative evidence. Similarly, the provided information must not be used against any donor provided to Respondent Grievance Commission by Petitioner.

C) The effort by Respondent to use Petitioner's M.S. diagnosis as a ground to deny his Petition for Reinstatement violates Title II of The Americans With Disabilities Act of 1990, (ADA,) 42 United States Code Section 12101; USCA V, XIV; and, MDR, A. 24. Any derivative evidence should be excluded from consideration therefore.

The effort by Respondent to show that Petitioner is unfit for Reinstatement To The Maryland Attorney's Bar because he allegedly practiced law in three instances, during the suspension at issue here is dispelled, in two cases, by its own inaccurate premises; by Maryland Rule of Procedure 19-741(c)(1)(A) & (c)(2)(A) in two instances {These sections pertain to the attorney mitigating losses to clients resulting from the discipline within 15 and/or 30 days of The Disciplinary Order;} And, by The Official Transcript of Proceedings in the matter of State v. Torian Underwood, Case Number 12-K-11-356, September 27th, 2011. Therefore, this allegation, while germane, should be found to be without factual basis. Respectfully, this assertion is not a reason to deny The 2021 Petition for Reinstatement. And,

D) The pattern of conduct by Respondent Grievance Commission in exercising its police power against Petitioner, described above, has operated to deny Petitioner Equal Protection of The Laws. Specifically, Petitioner is an African-American. European-Americans with similar disciplinary charges are being treated less harshly than are Petitioner and his fellows. Further, the conduct of Respondent, complained about by Petitioner, results from a system of professional discipline which is constitutionally infirm. Therefore, Petitioner should be reinstated forthwith.

II. ARGUMENT

A) Procedural Due Process, 2012

(The factual statement set forth above is incorporated by reference as though expressly stated here and at every phase in this argument below.) The United States Constitution, Amendment Fourteen (USCA XIV,) reads as follows, in pertinent part, "No State shall make or enforce any law which ... shall deprive any person of life, liberty or, property without Due Process of Law..." . The United States Supreme Court (The S. Ct.) considered the question of Procedural Due Process in the case of Goldfarb v. Kelly, 397 US 254, 90 S. Ct. 1011, 25 L. Ed. 2d 287. There, residents of New York City sued The City and State for failing to provide them a meaningful Hearing before terminating their financial aid as provided by The New York State Department of Social Services.

In ruling that the residents **were** owed a Hearing, The S. Ct. ruled as follows at page 270, 'Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and (where) the reasonableness of the action depends on fact-findings, the evidence used to prove The Government's case must be disclosed to the individual so that he (or she) has the opportunity to show that it is untrue. While this is true in the case of documentary evidence, it is even more so where the evidence consists of the testimony of individuals whose memory may be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice, or jealousy. We have formalized these protections in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in The Sixth Amendment .... This Court has been zealous to protect these rights from erosion. It has spoken out not only in criminal cases, ...but also in all types of administrative...actions where (deprivations) were (are) under scrutiny,' Bell v. Burson, 402 U.S. 535, 91 S. Ct. 1586, 29 L Ed.2d 90 (1971.)

In the case at bar, Petitioner had a reasonable expectation that he would be reinstated to The Maryland Attorney's Bar in 2012 so long as he had lived in conformity with The MARPC, where relevant, during his suspension. A question of this conformity arose in the context of The Jane Doe Letter discussed in the introductory section of this memo. The Jane Doe Letter constituted a potential violation of The MARPC. However, the allegation was not so charged and then delivered as Notice to which Petitioner could respond. Neither did The Jane Doe Letter result in Respondents recognizing The Constitutional Requirement that Petitioner be heard before Respondents objected to and denied The 2012 Reinstatement Petition without a Hearing, Goldfarb, supra. Rather, it was silently adopted by Respondent-Grievance Commission as a reason to object to The 2012 Petition. The objection was made. Respondent Md. CA then denied The 2012 Petition for Reinstatement based upon that ground without any notice to Petitioner. Stated differently, the objection produced the denial in 2012.

Denials of Reinstatement Petitions without Hearings are condoned by Maryland Rule 19-752 on Reinstatement and its prior iterations. Respectfully, the scenario encompassing The 2012 Reinstatement Petition was not and, is not, permitted by USCA V, XIV and MDR, A. 24. Respectfully, this suspension became unconstitutional at the point when The 2012 Petition was denied. Therefore, Petitioner should be reinstated forthwith without further delay, Goldfarb v. Kelly, supra, (1970); Sniadech v. Family Finance Corporation, 395 U.S. 337, 343 (1969); Marshall v. Jerrico, 446 U.S. 238, 242 (1980;) Nelson v. Adams USA, Inc., 529 U.S. 460, 120 S. Ct. 1579, 146 L. Ed. 2d 530 (2000.) A Writ of Mandamus to this end is entreated by these facts.

B) Procedural Due Process, (NOTICE) 2021;

The S. Ct. stated in Beckles v. United States, 137 S. Ct. 886, (2017,) that The Due Process Clause prohibits The Government from "taking away someone's life, liberty, or property under a criminal (or other) law so vague that it fails to give ordinary people **fair notice** of the conduct it punishes, or, (is) so standardless that it invites arbitrary enforcement, Johnson v. United States, 576 U.S. ___, 135 S. Ct. 2551, 192 L.Ed.2d 5691. In this case, The

May 28th Letter constitutes, an "other official act," which must meet the requirements USCA XIV just like legislation, Schweiker v. Wilson, 450 U.S. 221, 230 (1981.) In Beckles, supra, there was a question of whether the statute in question was specific enough to give the defendant "fair notice," that his conduct had been proscribed. In the case at bar, the official act was taken **after** The 2021 Petition for Reinstatement was filed. Stated differently, it is an Ex Post Facto official action. As such it violates Article One, Section 9 of The Constitution, which bans Ex Post Facto laws and official actions. Simply put, Petitioner had no notice of the areas which appear to be the subject of proscription efforts now, at any time prior to the filing of The 2021 Reinstatement Petition which gives rise to this case.

The petitioner answered the letter under adversarial and professional compulsion. His objections are summarized in the introduction to his answers. Petitioner now asks that The May 28th, 2021 Letter be excluded from consideration together with all evidence which it has produced.

C) Substantive Due Process: Insolvency;

The S. Ct. addressed the question of whether Americans have a "Liberty Interest," in pursuing the profession of their choice pursuant to The Due Process Clause of The 14th Amendment in Meyer v. Nebraska, 262 U.S. 390, 43 S. Ct. 625 67 L. Ed 1042 (1923.) There, the plaintiff was convicted of teaching Reading in The German Language to a private school student. Plaintiff was prosecuted under a 1919 Nebraska Statute which proscribed teaching in any language other than English.

World War One (WWI) occurred from 1914 to 1918. The purpose of the statute was that The English Language would be the mother tongue of all children educated in America. Deemed a national priority in light of WWI, the enactment of the statute was reasonably within the police powers of Nebraska. The issue presented to The S. Ct. was whether the statute, as applied, unreasonably infringed (upon) the liberty guaranteed by The 14th Amendment. The pertinent part of Amendment XIV says that "No State shall … deprive any person of life, liberty, or property, without Due Process of Law."

While The S. Ct. has not sought to exactly define the liberty guaranteed by The Due Process Clause, some definite examples of same have been affirmatively stated. Those definite examples include, but are not limited to, freedom from bodily restraint, the right to contract, ***the right to engage in any of the common occupations of life,*** the right to acquire useful knowledge, the right to marry, the right to establish a home and to bring up children, The Right To Worship God according to ... one's own conscience, and generally to enjoy the right to those opportunities long seen as key to the orderly pursuit of happiness by a free people, The Slaughter House Cases, - 83 U.S. 36; Butcher's Union Co. v. Crescent City Co., 111 U.S. 746; Yick-Wo v. Hopkins, 118 U.S. 356; Minnesota v. Barber, 136 U.S. 313; Allgeyer v. Louisiana, 165 U.S. 578; Lochner New York, 198 U.S. 45; Twining v. New Jersey, 211 U.S. 78; Chicago et al. v. McGuire, 219 U.S. 549, Truax v. Raich, 239 U.S. 33; Adams v. Tanner, 244 U.S. 590; New York Life Insurance v. Dodge, 246 U.S. 357; Truax v. Corrigan, 257 U.S. 312; Adkins v. Children's Hospital, 261 U.S. 525; and, Wyeth v. Cambridge Board of Health, 200 Mass. 474.

The established doctrine is that this liberty may not be interfered with, under the guise of protecting the public interest, by legislative action, (or by other official action,) Schweiker v. Wilson, 450 U.S. 221, 230 (1981;) Meyer, supra at 400, which is arbitrary or without reasonable relation to some purpose within the proper authority of The State to effect. Determination of what is a proper use of the police power is subject to supervision by The Courts, Lawton v. Steele, 152 U.S. 133, 137.

"That The State may do much ... in order to improve the quality of its citizens, ..., is clear; ***but the individual has certain rights which must be respected.*** The protection of The Constitution applies to all(:) to those who speak other languages as well as to those who were born with English on the tongue. Perhaps it would be advantageous if all had ready understanding of our ordinary speech(.) But this cannot be coerced by methods which conflict with The Constitution(.) A desirable end cannot be promoted by (a) prohibited means," Meyer, supra at 401.

In the instant case, it is similarly desirable that Petitioner had been able to pay his taxes on time; that he had not suffered a tax lien; that he had not been reduced to raising money to pay his Client Protection Fund (CPF;) and, indeed, that Petitioner had not suffered this discipline. But these ideals cannot be coerced by introducing police measures which are not related to The MARPC, Meyer, supra at 401. Alone, the measures imposed on May 28th, 2021, as they relate to insolvency, financial delinquency, and other related circumstances, are **arbitrary**, Meyer, supra at 401; Johnson v. U.S., supra. These measures are not reasonably related to the statutory mission of Respondent. That mission is regulating the conduct of attorneys practicing law in The State of Maryland. Hence, the effort to use the financial condition of Petitioner to hinder his Reinstatement to The Bar, after 10 years of suspension, violates his Substantive Due Process Rights as guaranteed by The U.S. Constitution, Amendment XIV, Troxel v. Granville, 530 U.S. -57; McDonald v. City of Chicago, 530 U.S. 742 (2010.)

The U.S. S. Ct. contended directly with a Bar Association which exceeded the scope of its police power in Goldfarb v. Virginia (Va.) State Bar (VSB,) 421 U.S. 773 (1975.) There, The Goldfarbs sought to buy a home in Fairfax, Va. The necessary title-search required the services of a licensed Va. Attorney. However, fee-schedules were prescribed by The Va. Bar Association (VBA.) The legal services for which fees were prescribed by VBA included title-searches. A VSB Ethics Opinion held that "evidence that an attorney habitually charges less than the (prescribed) minimum fee schedule adopted by The VSB raises a presumption that such attorney is guilty of misconduct," Goldfarb, supra at 778.

The Goldfarbs were precluded from finding title-services below The VSB fee-schedule. Hence, they sued. They alleged that the fee-schedule violated Section One of The Sherman Anti-trust Act, 15 U.S.C. S.1, The Act. The S. Ct. ultimately heard the case. The Court found that the price-fixing schedule was a classic price-fixing scheme proscribed by The Act. It also found that real estate transactions are part of interstate commerce as required for coverage by The Act.

In striking the subject-matter fee-schedule, The S. Ct. stated that it was not diminishing the authority of The VSB to regulate its attorneys. This was an accurate statement. However, The

Court struck The Act, implicitly, because The VSB exceeded the scope of its police-power regarding the fee-schedule, to the extent that it violated a federal statute. It is this excessive use of authority that The Court curbed, Pierce v. Society of Sisters, 262 U.S. 399; Loving v. Va., 388 U.S. 1, 12. Petitioner respectfully asserts that, while on different facts, Respondent Grievance Commission has similarly exceeded the scope of its valid police-power in the case at bar.

Conversely, The Supreme Court of Florida (Fl. S. Ct.) handled the case of Florida Bar v. Taylor, 648 So. 2d 709. There, Mr. Taylor was divorced in 1972. He had two small children as the fruit of his marriage. Child-support was ordered in the course of the divorce. Mr. Taylor became a successful medical doctor after the divorce. However, he later lost everything due to alcohol and drug addictions. Mr. Taylor's losses included his license to practice medicine.

Later, Mr. Taylor obtained a law license after graduating from law school. However, in the course of all of these events, Mr. Taylor was found to be $37, 850 behind on his child support. The New Hampshire Trial Court issued an Order of Contempt for failure to pay child support. That court found that Mr. Taylor had failed to pay child support even at the times when he had the ability to do so.

The Florida (Fla.) Bar Association charged Mr. Taylor with violating Rules 3-4.3, Committing An Act That Is Unlawful or Contrary To Honesty and Justice; 4-8.4(a) and (d), Engaging In Conduct Prejudicial To The Administration Of Justice. The referee recommended that Taylor be found not guilty and, (found) that this matter was more akin to a civil dispute between co-parents of common children than a disciplinary matter appropriate for attention by The Fla. Bar. The referee noted that these details had not adversely affected the ability of Mr. Taylor to practice law. Neither did this general matter involve moral turpitude, immorality or, breach of trust. The referee was also concerned that the imposition of sanctions could form the basis of an Ex Post Facto violation because Mr. Taylor owed child support before being admitted to The Fla. Bar.

The Fla. S. Ct. found that the Florida Rules of Professional Conduct do not grant the authority to discipline an attorney for failure to meet a civil obligation such as child support in the absence of a finding of fraudulent or dishonest conduct. Restated, The Fla. S. Ct. found, implicitly, that The Fla. Bar sought to exceed its police-powers in the context of its case against Mr. Taylor. Therefore, The Court upheld the findings of the referee, against The Fla. Bar.

While the posture of the case at Bar is Reinstatement, we find the Fla. facts persuasive and functionally the same. The petitioner at bar suffered financial turmoil after the catastrophe of the denial of The 2012 Reinstatement Petition. In Florida Bar v. Taylor, the catastrophe was drug and alcohol addiction. Financial turmoil resulted in both cases. We humbly believe the analysis of The Florida Supreme Court should also be applied here so as to discard the several instances of insolvency which Respondent seeks to activate as grounds to deny The 2021 Petition For Reinstatement.

D) Alleged Practicing Law During Suspension;

Respondent accuses Petitioner of "entering your appearance in the following cases after the date of your suspension:"

i) State v. Torian Underwood, The Circuit Court of Maryland for Harford County, Case Number 12K11000356;

ii) State v. Brian Dawson, The Circuit Court of Maryland for Baltimore County, Case Number 03K110033482; and,

iii) In the context of his service as Legal Redress Committee Chairman with The NAACP, Baltimore County Branch. The response follows below.

Maryland Rule of Procedure 19-742, Subsections (c)(1)(A,) (c)(2)(A,) and, (c)(3) combine to say, in essence, "that the disciplined attorney, within either 15 or 30 days after the effective date of the order, shall take or cause to be taken, with no additional fee charged, any action immediately necessary to protect client interests who are at risk because of the discipline, which, as a practical

matter, cannot otherwise be protected." Against the backdrop of these provisions, Petitioner sought to get replacement counsel for each of his clients whom had a pending case on September 21st, 2011. Mr. Torian Underwood was one such client.

The transcript of the proceedings in the matter of State v. Torian Underwood, Case Number 12-K-11-000356, September 27th, 2011, is attached below as Appendix Item G. The key exchange, there, between Petitioner and Judge Emory E. Plitt, occurred when The Court asked Petitioner if he had apprised Mr. Underwood of his need to get new counsel. After unsuccessfully trying to approach The Bench so as not to discuss the suspension before the crowded courtroom, Petitioner sufficed to answer the question "yes." Mr. Underwood affirmed Petitioner on the record. The reason why Petitioner made this appearance is because he could not get a replacement counsel to cover this case within the six days which elapsed between September 21st and 27th, 2011. Petitioner believes that this limited appearance was within both the spirit and the letter of Rule 19-742 as set forth above. Petitioner could not have known without appearing that The Court had continued this case. The Court needed to know that Torian Underwood needed a continuance through no fault of his own. That is why Petitioner appeared.

With respect to Brian Keith Dawson, a check of The Maryland Judiciary Case Search does not disclose an appearance by Petitioner after September 21st, 2011, the date of discipline. Hence, this case appears to be cited by Respondent in error. The responses to these questions were submitted by Petitioner to Respondent in mid-June, 2021. This point about Brian Keith Dawson's case was included in that submission without response.

Finally, in this respect, we turn to The NAACP. At Questions 13 and 14 of The May 28th Letter, Respondent questions why a reporter for The Baltimore Sun referred to Petitioner as, "an attorney... with The NAACP." Respondent then asks about all work done by Petitioner with The NAACP in an apparent effort to gain an admission of practicing law during the suspension. The second question is addressed first below.

The NAACP is primarily an investigative organization. Its non-investigative functions include fundraising, educational support, political advocacy for issues (not candidates;) and, monitoring of critical agency functions such as the police department. In the area of investigations, The NAACP receives complaints of perceived infractions of USCA, V, XIV. The NAACP may be likened to a Constitutional Bureau of Investigation (CBI.) If a case can be made of a constitutional infraction, referrals are made to the appropriate litigation agency. Such agencies are either public law firms, private law firms or, governmental agencies. Examples of governmental agencies to whom The NAACP might refer cases include, but are not limited to, The Maryland Attorney General's Office and The U.S. Department of Justice.

With respect to reporters referring to Petitioner as an "attorney," we do not accept responsibility for comments made by reporters. We presume that such statements are due to inferences drawn from NAACP investigations and/or NAACP referrals which gave rise to the subject interviews.

E) The Americans With Disabilities Act

The S. Ct. considered the question of whether Substantive Due Process Rights are implicated by violations of The Americans With Disabilities Act (ADA,) 42 U.S.C. Sec. 12101, et. seq., in Tennessee v. Lane et al., 54 U.S. 509, 124 S. Ct. 1978, 158 L. Ed. 2d 820 (S. Ct., 2004.) Respondents, there, are paraplegics who use wheelchairs for mobility. They claim to have been deprived of access to The State Court System and the services provided thereby, by reason of their disabilities.

Mr. Lane was compelled to appear in court to answer criminal charges lodged against him. The Courthouse had no elevator and the relevant courtroom was on the second floor. Mr. Lane crawled upstairs for his first appearance. He refused to do that again. A bench warrant was issued and he was jailed for Failure to Appear.

Ms. Jones claims similar denial of access to several Tennessee Courthouses. She claims a loss of employment as a result. Both respondents sought money damages for violations of The ADA.
The S. Ct. established that USCA XI bars actions against The States for violations of Title I of The

ADA, Alabama v. Garrett, 531 U.S. 356, (2001.) However, The Court left open the question of whether USCA XI permits such actions under Title II, of The ADA.

A divided Court held that actions under Title I were based on Equal Protection Clause claims. Section 5 of USCA XIV reads, "The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article." In Popavich v. Cuyahoga County, 276 F.3d 808 (CA6, 2002,) The Sixth Circuit explained that (only) Title II Claims are allowed because they are based upon The Due Process Clause guarantees. That clause assures access to The Courts and its services. "The failure to accommodate qualified people with disabilities may result directly from unconstitutional animus and impermissible stereotypes. Title II of The ADA prohibits irrational disability discrimination," Tenn. v. Lane, supra. The rights protected by Title II, ADA, include those covered by Substantive Due Process Clause analysis, Boddie v. Connecticut, 401 U.S. 371,391 (1971;) MLB v. SLJ, 519 U.S. 102 (1996.) Congress created Title II within a pervasive backdrop of discrimination against the handicapped in the administration of State Services and Programs.

The duty to reasonably accommodate, ordered by The ADA at Title II, is perfectly consistent with the well-established principles of Due Process. These principles mean that The State must provide The Substantive Due Rights provided by USCA XIV, Boddie, supra at 379; Lane, supra at 533. These measures are reasonable, prophylactic actions targeting a legitimate end, Lane supra at 534. These cases were remanded to The Tennessee Courts so that Mr. Lane's and Ms. Jones' complaints could be heard in the light and consistency of this ruling.

In the case at Bar, Respondent said through Bar Counsel, as described in the introductory section of This Brief, that Petitioner's medical records require review because of his 10-year old testimony about M.S. exacerbations, brought on by the receipt of Attorney Grievance Letters. Respondent said verbally to Petitioner that the ongoing presence of this condition would support objection to This 2021 Petition For Reinstatement. This position by Respondent is antithetical to The ADA and The Duty to Reasonably Accommodate. Many accommodations are available to Respondents in favor of Petitioner in this regard. Hence, this position is further violative of The Due Process Clause of USCA V, XIV. Finally, this position of Respondents Grievance Commission and, Bar Counsel, regarding an

alleged, potential medical unfitness to practice law because of Grievance Commission-stress, denies the vigor of Petitioner's pro-se' participation in these adversarial, intense pleadings, before multiple Courts, at the present moment.

F) Forced Disclosure of CPF Funding Sources

The S. Ct. considered this question in NAACP v. Alabama, 357 U.S. 449, 460 (1958.) There, The Attorney General For The State of Alabama brought an equity suit in The Circuit Court of Alabama for Montgomery County to enjoin The NAACP from doing further business within its borders. (This case arose in the aftermath of The Montgomery Bus Boycott.) The complaint alleged The NAACP had not met the existing requirements for foreign corporations to register to do business inside The State. The State moved for discovery and requested a large number of The Association's records and papers, ..., including the names and addresses of all Alabama-NAACP "members," and "agents," of The Association. The Circuit Court ordered the production of most of the requested records, including the membership lists.

The NAACP moved to vacate that part of The Order which required disclosure of the membership lists. The Alabama State Superior Court dismissed two petitions for certiorari for different reasons. The S. Ct. granted certiorari because of the important constitutional issues presented. "It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute an effective restraint on freedom of association as the forms of governmental action which, although not directly suppressing association, nevertheless carries this consequence, can be justified only upon some overriding valid interest of The State."

"Effective advocacy of both public and private points of view, especially controversial ones, is undeniably enhanced by group association, as This Court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly," DeJonge v. Oregon, 299 U.S. 353, 364: Thomas v. Collins, 323 U.S. 516, 530. "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the liberty,

assured by The Due Process Clause of The 14th Amendment, which embraces Freedom of Speech," Gitlow v. New York, 268 U.S. 652, 666; Palko v. Connecticut, 302 U.S. 319, 324; Cantwell v. Connecticut, 310 U.S. 296, 303; Staub v. City of Baxley, 355 U.S. 313, 321. "It is immaterial whether the beliefs sought to be advanced by association (are) political, economic, religious or, cultural(.) ... (S)tate Action which may have the effect of curtailing the freedom of association is subject to the closest scrutiny," NAACP v. Alabama, supra at 461.

In the case at Bar, Respondent has required of Petitioner the names of individuals whom donated personal monies to help Petitioner pay a nearly $6,000 sum due The Maryland Client Protection Fund (CPF) as a prerequisite to Reinstatement. Some of these persons are attorneys whom actively practice law in The State Of Maryland. Respondents would immediately violate The Due Process Rights of both Petitioner, the citizen-donors, and the respective attorneys should it merely contact them or take any scintilla of action against such persons in these regards.

"We have long recognized that significant encroachments into First Amendment Rights of the sort that compelled disclosure imposes cannot be justified by (a) mere showing of legitimate governmental interest," Buckley v. Valeo, 424 U.S. 1, at 60, 96 S. Ct. 612, 46 L. Ed.2d 659 (1978;) Cousins v. Wigoda, 419 U.S. 477, 487 (1975.)

Here, these forced disclosures should be the collective object of directions by This Honorable Court to Respondents that these matters are to be discarded and that no action on these predicates is to be taken by Respondents in any regard. This kind of direction would give life and meaning to USCA XIV within the context of this case.

G) Separation of Powers, Due Process and, Equal Protection;

The final argument of Petitioner in support of The Petition for Writ of Mandamus is that the regulatory system of The Maryland Attorneys' Bar operates to violate The U.S. Constitution at The Separation of Powers Clauses of Respective Articles I-III, Section One (of each Article;) The Due Process Clauses of The Fifth and 14th Amendments, as well as Article 24 of The Maryland Declaration of Rights; and, The Equal Protection Clause of The 14th Amendment. Petitioner believes that this improper system gave rise to the several instances of misconduct by Respondents as complained of above. In so doing, Petitioner cites his understanding that The Maryland Attorney Grievance Commission was created in 1975. None of the current members of The Md. CA were sitting then. Hence, Petitioner implores All Courts to take no umbrage at the arguments made below. Petitioner is solely seeking his Reinstatement and, possibly the enhancement of the circumstances observed. The analysis follows below.

Petitioner requests This Honorable Court to consider the following several facts regarding the regulation of the professions in The State of Maryland. Physicians are possibly the group of professionals most similar to attorneys. Physicians handle the medical affairs of mankind. The competence or incompetence of a physician in a particular case may positively or negatively affect the balance of life for a respective patient. The same may be said for attorneys engaged in the private practice of law. However, the similarity stops there in Maryland.

Physicians are licensed and regulated by The Maryland Board of Physicians, (The Board.) The members of The Board are appointed by The Governor of The State of Maryland. The medical professional licensure and regulatory process is established by The Medical Practice Act, (The Act,) The Maryland Annotated Code, Health General Article (HO,) Sections 14-101 et seq. 14-205 – 206, 313 and, 404. If a medical-disciplinary-matter seems appropriate to The Board, it may refer the inquiry to The Medical and Chirurgical (Surgical) Faculty of Maryland (MedChi) Physician Peer Review Committee, HO S. 14-401(c)(2); (COMAR) 10.02.32.03(B)(1.) If The Bd. files a charge, notice is sent to the physician and an administrative prosecutor assumes the pursuit of the case, COMAR 10.332.02.03(C.)

The physician is entitled to a contested hearing at The Maryland Office of Administrative Hearings (OAH,) pursuant to The Maryland Administrative Procedures Act (APA,) Md. Ann. Code, State Government Article (SG) S. 10-201. The Bd. is not bound by the final decision of The ALJ, cite omitted. However, The Board must review The OAH Record, review the proposal of The ALJ and then hold a Hearing on Exceptions, COMAR 10.32.02.03(F.) The resulting decision of The Board will produce findings of fact and conclusions of law, COMAR 10.32.02.03(E)(10.) The Board disposition is subject to review by The Circuit Court of Maryland for the involved jurisdiction, in accordance with The APA, HO S. 14-408(b.) Finally, the case of physician-discipline may be appealed to The Maryland Court of Appeals, The Md. APA, supra.

Conversely, the disciplinary process for attorneys is less than that of physicians in terms of both appellate rights and constitutional protections. First, attorneys are licensed by The Maryland Court of Appeals, the premier **judicial** entity of The State; not an executive branch agency, as are physicians. The Court delegates its **own** regulatory authority to The Maryland Attorney Grievance Commission pursuant to Maryland Rule of Procedure (Md. Rule) 19-702. If The Commission elects to file a charge against a subject attorney, the matter shall be referred to The Peer Review Committee (PRC,) Md. Rule 19-704. This Committee is appointed by The Grievance Commission, Md. Rule 19-704(b.) The PRC will either dismiss the charges or sustain them. Sustained charges are forwarded to The Md. Court of Appeals for disposition. That Court may delegate the case to an appropriate Md. Circuit Court for the limited purpose of Finding Facts and making Conclusions of Law. However, disposition of attorney discipline cases will be made by The Court of Appeals because "it" is the licensing principal. The prosecuting agent of the disciplined attorney is the regulatory delegee of The Court of Appeals: The Maryland Attorney Grievance Commission.

The physician contending with potential discipline has two rounds before The Med-Chi Board, one before and the second after, The OAH Hearing. (While OAH is apparently an executive agency, like The Medical Board Of Physicians, the administrative law judges are not appointed by The Medical Board.) The counterpart attorney has one round before The PRC. And, there is no OAH Hearing provided to attorneys as compared to physicians. As a result, attorneys are treated in a

subordinate manner to physicians as a class. Further, PRC members **are** appointed by The Md. Atty. Grievance Commission.

Turning to The Separation of Powers Clauses, the physicians benefit because they receive scrutiny from a **"separate but equal,"** branch of government when that professional appeals an adverse disciplinary decision rendered by appointees of The Governor to The Board of Physicians. Stated differently, doctors facing threat of professional discipline receive the constitutional benefit of a **"Check and Balance,"** of the power which is at risk of imposition. This Constitutional Protection takes the form of a neutral judiciary evaluating the constitutional and other propriety of the action proposed by the executive against an accused physician.

In Maryland, Respondent Bar Counsel is the chief prosecuting agent of Respondent Attorney Grievance Commission. The Maryland Daily Record indicates that The Chief Judge Of The Court of Appeals approved the appointment of the current Bar Counsel on June 22nd, 2017. The S. Ct. has held that The 5th and 14th Amendment Guarantees of Due Process of Law forbid The State from infringement upon certain "fundamental interests," regardless of what process is provided. A caveat is made for those infringements which have been narrowly tailored to serve a "compelling state interest," Collins v. Harker Heights, 503 U.S. 115, 125 (1992;) Bowers v. Hardwick, 478 U.S. 186, 191; Reno v. Flores, 507 U.S. 292 (1993;) Roe v. Wade, 410 U.S. 3 (1973.)

Petitioner asserts that his right to have his professional future determined by a judiciary unrelated to his prosecutive authority constitutes a "fundamental right," within the meaning of Due Process analysis. Petitioner has been repeatedly denied that fundamental right by Respondents. Stated differently, "The constitutional system of checks and balances is designed to guard against 'encroachment or aggrandizement,' by Congress (one branch of government) at the expense of other branches of government, Buckley v. Valeo, 424 U.S. at 122." Here, Respondent Grievance Commission, as an agency, operates with the delegated authority of The Md. Court of Appeals. Respondent, together with its counterpart agencies around America, fills a legitimate role in theory. But in practice, The Maryland Attorney Grievance Commission is an executive agency dressed in judicially delegated clothing. As such, there is no constitutional "check" or "balance," against the

great power wielded by Respondent Grievance Commission in any one year. Consequently, Maryland Rule 19-752 says that a Petition for Reinstatement to The Maryland Attorney's Bar can be denied without a Hearing. At the same time, The S. Ct. holds that The 14th Amendment Liberty Interest "in a (mere) driver's license," **cannot** be confiscated without a Hearing, Bell v. Burson, 402 U.S. 535 (1971.)

Circumstances suggest that Respondent Grievance Commission would have been far less likely to produce The May 28th Letter and its contents if it was literally an executive-branch agency subject to adverse judicial scrutiny. Petitioner respectfully asserts that Respondent operated within this unconstitutional dichotomy (performing executive branch duties from the judicial branch) to object to The 2012 Petition For Reinstatement filed by Petitioner. The May 28th, Letter is evidence that Respondent seeks to do the same here, in 2021. European-American attorneys in Maryland with similar circumstances are not treated in this way.

In closing, the harms done to Petitioner's career have required these arguments to be made. As stated above, nothing said in these lines is intended to deny that the reasons for the original discipline here is the fault of Petitioner alone. Petitioner owns that fact.

Still, The U.S. Constitution applies to disciplined Maryland attorneys.

CONCLUSION

For all of the reasons set forth above, this applicant, respectfully requests that The United States Supreme Court issue the requested Writ of Mandamus to the Respondents named above. Applicant requests This Court to Order: The Maryland Court of Appeals to abstain from seeking to consider Applicant's personal financial matters relating to the payment of his CPF fines; The Maryland Court of Appeals to abstain from seeking to consider Applicant's medical records inasmuch as such consideration appears to violate The Constitution and Laws of The United States; The Maryland Court of Appeals determine whether to reinstate the applicant to The Maryland Attorney's Bar based only on the content of his Petition for Reinstatement, FORTHWITH; The Maryland Attorney Grievance Commission and Bar Counsel shall halt their investigation of Petitioner

in so far as they are considering matters not prescribed by Maryland Rule 19-752 and related provisions; that Respondents Grievance Commission and Bar Counsel shall respond to The 2021 Petition Reinstatement FORTHWITH, and without further delay; All Respondents shall consider the fact that the suspension of this applicant may have become unconstitutional in 2012 because of the denial of The 2012 Reinstatement Petition without a Hearing; And, The Chief Judge Of The Maryland Court of Appeals, and/or her designees, shall meet with the appropriate officers of The Maryland State Government with **all deliberate speed.** The meeting(s) shall address the structure of The Md. Attorney-Discipline System and its need to conform with The Separation of Powers Clauses of The U.S. Constitution.

Earnestly Submitted August 23rd, 2021

By:_____/s/_____

Roland N. Patterson, Jr., Applicant

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APPENDIX

A. True copy of Original Opinion and Order dated September 21st, 2011 which is on file in The Clerk's Office of The Md. CA as Attorney Grievance Commission v. Roland N. Patterson, Jr., Misc. Dkt. No. AG No. 22, September term, 2010;

B. Exhibit "B," to the Response To The Petition For Reinstatement filed by Bar Counsel and Original Order Dated August 17th, 2012, denying Petition For Reinstatement which are on file in The Clerk's Office of The Maryland Court of Appeals In The Matter of The Reinstatement of Roland N. Patterson, Jr. to The Maryland Bar, AG No. 97, September Term, 2011; And,

C. Motion For Extension of Time To Respond to Petition For Reinstatement dated, May 28th, 2021, (with attached letter of same date;) The Md. CA Order Extending Time To Respond, May 28th, 2021; Original Order dated May 28th, 2021 (granting extension to July 30th, 2021;) Motion For Extension of Time To Respond To Petition For Reinstatement dated, July 27th, 2021; and Original Order dated July 30th, 2021, (granting extension to September 30th, 2021,) which documents are on file in The Clerk's Office of The Maryland Court of Appeals as In The Matter of The Petition For Reinstatement of Roland N. Patterson, Jr., Misc. Dkt. AG No. 88, September Term, 2020.

D. Official Transcript: State v. Torian A. Underwood, Case Number 12-K-11-000356;

Earnestly submitted,

_____/s/_____

Roland N. Patterson, Jr., Petitioner for

CERTFICATE OF SERVICE

I hereby certify and affirm that I directed the aforegoing Petition For Writ of Habeas Corpus be mailed by Federal Express Service to the following Respondent-Agencies:

1. The Maryland Court of Appeals
   361 Rowe Boulevard
   Annapolis, Md. 21401
   ATTN.: Suzanne C. Johnson, Clerk;

2. The Maryland Attorney Grievance Commission
   200 Harry S. Truman Parkway
   Annapolis, Md. 21401
   ATTN.: Lydia E. Lawless, Bar Counsel;

_____/s/_____

Roland N. Patterson, Jr., Petitioner

August 23rd, 2021