

No. 21-59

In The
Supreme Court of the United States

CARL GORDON,

Petitioner,

v.

REGENTS OF THE UNIVERSITY
OF CALIFORNIA, ET AL.,

Respondents.

**On Petition For Writ Of Certiorari
To The Supreme Court Of California**

PETITION FOR REHEARING

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THE CRITICAL NEED FOR REVIEW

If certiorari is not granted in this case, it would give the appearance that this Court is looking the other way with regard to political corruption and discrimination perpetrated on the people of California and by extension on all citizens of the United States by California Governor Gavin Newsom and his Malpolitics co-conspirators, especially in light of the documented case of conspiracy to commit election fraud and, in fact, election fraud in the 2021 California gubernatorial recall election. See *Carl Gordon v. Gavin Newsom, et al.*, Case No. 2:21-cv-07270-FMO-MAR. Date Filed: September 9, 2021.

Exhibit "A"

On October 28, 2021, a formal complaint letter was sent to Alejandro Villanueva sheriff of Los Angeles County, California, George Gascón the district attorney of Los Angeles County, and all 58 Counties Clerk-Recorder/Registrar of Voters. It is referenced as Exhibit "A" of Petitioner's CARL GORDON Petition for Rehearing, to be viewed online at <https://thebigcalifornialiegavinnewsom.com/>

INTRODUCTION

Pursuant to Rule 44 of this Court, petitioner Carl Gordon hereby respectfully petitions for rehearing of this case before the Court.

Ordinarily, it is exceedingly rare for this Court to grant rehearing. But in this case, it deserves a rehearing by the Court to right a wrong perpetrated on the people of California and, by extension, the citizens of the United States of America.

This is about seeking *equal governmental action* that results in *equal treatment*. As a nearly 76-year-old Black American man of African descent—a self-represented litigant—I hold my head high and I am proud to have performed my civic duty as a citizen of these United States to have made an attempt to contribute to my country’s promise to all its people—equal justice under law.

I have willingly spent funds from my personal resources to pay for the preparation of the special requirement for filing a petition for writ of certiorari and this present petition for rehearing with this Court pursuant to Rule 44, along with paying the corresponding court fees to the state and federal judiciaries, including the Supreme Court of California and the Supreme Court of the United States. The purpose of these efforts has been to sound the alarm through civil actions that the Democratic party-controlled state government in California; the Regents of the University of California (UC Regents, of which Governor Gavin Newsom is an ex officio regent and the governing board executive); and Gavin Newsom, in his role as governor of California, have moved far beyond the checks and balances, and indeed the intent of our federalist system of government, to firmly establish California as a semiautonomous state within the United States of America and

the UC Regents as a semiautonomous entity within the government structural hierarchy of the state of California with little or no oversight by the judiciary under the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex, or national origin—all while receiving federal funds for their programs.¹

Whatever the cost to me personally in time, in money, and in intellectual and psychological capital is a small price to pay to try to alert the nation about the siphoning away of the rule of law in California by Governor Newsom and his Malpolitics co-conspirators.

I have sought redress through the most powerful of the three branches of government, the United States federal judiciary. This Court's 5–4 decision on June 18, 2020, in *Department of Homeland Security v. Regents*

¹ Title IX of the United States Education Amendments of 1972 reads in part:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination **under any education program or activity receiving federal financial assistance**. [Emphasis added]

The Civil Rights Act of 1964 in part:

Title VI, 42 U.S.C. § 2000d et seq. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

of *University of California*, 591 U.S. ____ (2020), ruled that DHS's decision to rescind the Deferred Action for Childhood Arrivals program was arbitrary and capricious under the Administrative Procedure Act.

The UC Regents argued in federal court that the statutorily mandated administrative record was incomplete because it contains only documents personally considered by the acting secretary (and then only some considered by her) and excludes any and all other documents that indirectly led to the rescission. However, in the state case, *Gordon v. Regents of the University of California et al.* (this present case), the UC Regents provided no statutorily mandated administrative record (AR) even after twice being ordered by the trial court to do so and the UC Regents twice promising to do so. The UC Regents' false promises were only part of an elaborate scheme to commit fraud upon the court. For the most part, the UC Regents' federal and state cases ran parallel to each other. The UC Regents in the federal case demanded the AR as a matter of law. In the present case, the UC Regents nullified the laws—the California Privacy Rights Act (Government Code sections 6250 *et seq.*) and the court orders. All the attorneys in the case (including Petitioner's attorneys), as officers of the court, committed fraud upon the court by, among other things, not lodging a true and complete AR with the court for the court's review as required by law.

Along with understanding the underlying issues comes the realization that it's our moral duty and responsibility to work to help stop political corruption as

well as racial and ethnic discrimination. As caring humans occupying this space on Earth for only a limited time, we can do no less. However, to be clear, in the final analysis in a pluralistic society, the rule of law and the equal application of that law by the judiciary—the most transformative and powerful of the three branches of government—are the linchpins of the cessation of political corruption and institutional, racial, and ethnic discrimination, thus creating the foundation of true human harmony. This truism about the law is as ancient as the Code of Ur-Nammu, the oldest known written law code. *It's all about the rule of law, not of men!* That is crucial at this critical time amid the national reckoning on race, which is impacting millions of Americans in every state of the union in the wake of the extrajudicial, public execution of George Floyd and the *continuing* killing of other innocent Black men, women, and children by police and white vigilantes. These actions have sparked worldwide protest and calls for accountability and for an end to systemic racism, health inequities, and economic injustice disproportionately affecting the lives of millions of Black Americans as well as other people of color throughout the nation. Why is this important, and what is its historical significance?

California is a national and world leader; what happens in California matters.²

² **Yosemite National Park** On June 30, 1864, President Abraham Lincoln signed the Yosemite Valley Grant Act. The Yosemite Valley Grant created the first parkland set aside specifically for preservation and public use by the federal government.

It set the precedent for the creation of Yellowstone as the first national park in 1872. (Source: Wikipedia)

Ward v. Flood The “separate but equal” legal doctrine used by the U.S. Supreme Court in the *Plessy v. Ferguson* decision of 1896 was closely modeled on the California Supreme Court’s decision in *Ward v. Flood* in 1874, 22 years earlier. The *Ward v. Flood* case centered on an 11-year-old Black American female student in San Francisco, Mary Frances Ward, who was denied admission to her local school solely because of her God-given Black skin, kinky hair, and African ancestry. (Source: BlackPast, B. (January 24, 2007))

Mendez v. Westminster In February 1946, Paul John McCormick, U.S. District Judge for the Southern District of California, decided the *Mendez* case in favor of the Mexican-American parents. He first dismissed Ogle’s contention that the federal courts had no jurisdiction in state education cases. Any violation of U.S. constitutional rights by state or local government bodies, he wrote in his decision, warranted federal court intervention. The *Mendez* case was the predecessor of the landmark case *Brown v. Board of Education*. (Source: Library of Congress)

Regents of the University of California v. Allan Bakke In *Regents of University of California v. Bakke* (1978), the Supreme Court ruled that a university’s use of racial “quotas” in its admissions process was unconstitutional, but a school’s use of “affirmative action” to accept more minority applicants was constitutional in some circumstances. (Source: Thirteen/WNET New York.)

1996 California Proposition 209 In November 2006, a similar amendment, modeled on California’s Proposition 209, and titled the Michigan Civil Rights Initiative, was passed in Michigan. The constitutionality of the Michigan Civil Rights Initiative was challenged in the Sixth Circuit Court of Appeals. On April 22, 2014, the U.S. Supreme Court ruled 6-2 that the Michigan Civil Rights Initiative was constitutional. (Source: Wikipedia)

The defeat of California Proposition 8 in the Court—a win for equal protection throughout the nation. Prop 8 was a California ballot proposition and a state constitutional amendment passed in November 2008 that banned same-sex marriages in California. On June 26, 2015, the U.S. Supreme Court ruled in

What we say and do here in California reverberate throughout the nation and indeed around the world. California has the largest population of any state in the United States and also has the largest economy in the nation and the fifth-largest economy in the world. However, California is but one of 50 states; we are one nation. As then-Illinois state senator, U.S. senatorial candidate, and future president Barack Obama said in his keynote address at the 2004 Democratic National Convention, “We are not ‘red states’ or ‘blue states’ but the United States of America.”

So, the entire nation is being affected by the political corruption and the racial and ethnic discrimination schemes in California perpetrated by the governor of the state with the largest economy and largest population and by his Malpolitics co-conspirators.

California is also important judicially. The United States Court of Appeals for the Ninth Circuit in California is by far the largest court of appeals in the United States. However, the Supreme Court of the United States is the most important judicial body in the world and is the guardian of the rights of the public

Obergefell that state laws banning same-sex marriage violate the Fourteenth Amendment and are unconstitutional. (Source: Wikipedia)

The DACA Decision And of course, the June 18, 2020 U.S. Supreme Court ruling for “DREAMers” and against Trump’s racism, xenophobia, nativism, racial discrimination, and cruelty in *Department of Homeland Security v. Regents of the University of California* was a California lead initiative that was beneficial to the nation—California leadership matters.

as well as the citadel for the protection of those rights and for the preservation of democracy.

The California Supreme Court,³ consisting of the chief justice of California and six associate justices⁴—the most diverse Supreme Court in California history—

³ California Chief Justice Tani G. Cantil-Sakauye (June 8, 2020) I am deeply disturbed by the tragic deaths of George Floyd and others, as well as the action and inaction that led to these deaths. Justice is the first need addressed by the People in the preamble of our nation's Constitution. As public servants, judicial officers swear an oath to protect and defend the Constitution. We must continue to remove barriers to access and fairness, to address conscious and unconscious bias—and yes, racism. All of us, regardless of gender, race, creed, color, sexual orientation, or identity, deserve justice. Our civil and constitutional rights are more than a promise, a pledge, or an oath—we must enforce these rights equally. Being heard is only the first step to action as we continue to strive to build a fairer, more equal, and accessible justice system for all.

⁴ **California Supreme Court (June 11)** In view of recent events in our communities and through the nation, we are at an inflection point in our history. It is all too clear that the legacy of past injustices inflicted on African Americans persists powerfully and tragically to this day. Each of us has a duty to recognize there is much unfinished and essential work that must be done to make equality and inclusion an everyday reality for all.

We must, as a society, honestly recognize our unacceptable failings and continue to build on our shared strengths. We must acknowledge that, in addition to overt bigotry, inattention and complacency have allowed tacit toleration of the intolerable. These are burdens particularly borne by African Americans as well as Indigenous Peoples singled out for disparate treatment in the United States Constitution when it was ratified. We have an opportunity, in this moment, to overcome division, accept responsibility for our troubled past, and forge a unified future for all who share devotion to this country and its ideals.

One would think that this present on-point case challenging political corruption, racial discrimination, and unequal access to justice would have presented the California Supreme Court with the first opportunity to address the underlying reasons (a dual justice system—one white, one Black) for the worldwide spontaneous revulsion in the tumultuous summer of 2020 about the unequal duality of the administration of justice in America, which has historically impacted Black Americans negatively and dates back to before the ratification of the United States Constitution on June 21, 1788.

This case confronts systemic racism that UCLA, the UC Regents, and now the lower courts have condoned, codified, and perpetuated by their illegal behavior. The Supreme Court of California was in a unique position to punctuate its June 2020 six-month-old recommitment to justice for all with a decision in this

We state clearly and without equivocation that we condemn racism in all its forms: conscious, unconscious, institutional, structural, historic, and continuing. We say this as persons who believe all members of humanity deserve equal respect and dignity; as citizens committed to building a more perfect Union; and as leaders of an institution whose fundamental mission is to ensure equal justice under the law for every single person.

In our profession and in our daily lives, we must confront the injustices that have led millions to call for a justice system that works fairly for everyone. Each member of this court, along with the court as a whole, embraces this obligation. As members of the legal profession sworn to uphold our fundamental constitutional values, we will not and must not rest until the promise of equal justice under law is, for all our people, a living truth.

case that affirms the rule of law and equal access to justice, no matter the color of one's skin.

REQUEST FOR RELIEF

The Petitioner requests that this Court grant this Petition for Rehearing.

Petitioner believes that this present case, *Carl Gordon, v. Regents of the University of California, et al.* No. 21-59, and *Department of Homeland Security v. Regents of University of California*, 591 U.S. ____ (2020), should be viewed in the same light because of the exact same issues and the failure of the governmental body to provide the complete administrative record for review by the Court. Respectfully submitted, this 27th day of October, 2021

Respectfully submitted,

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CERTIFICATE OF GOOD FAITH

The undersigned hereby certifies that this Petition for Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay.

CARL GORDON