No. _____

IN THE
Supreme Court of the United States

NINA RINGGOLD, California State Bar No. 133725, *Petitioner*,
v.

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA,
***Respondent*.**

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The questions presented are:

1. When there is undisputed evidence that a non-court state administrative agency lacks jurisdiction under federal law, whether the Ninth Circuit can disregard the lack of jurisdiction and accept the District Court's assignment of such agency with the authority of a state court of record (in direct conflict with the state's constitution). Whether the Ninth Circuit can disregard that a state agency lacking jurisdiction has been used by the federal judges to issue orders to show cause as to attorney discipline that are politically motivated?

2. Whether the lower courts' enforcement of discriminatory retaliation of a state agency against minority attorneys and enforcement of the state agency's orders that are void under federal law violates the Civil Rights Act of the 1866 and this Court's decision in Hurd v. Hodge.

3. Given the October 26, 2021 public promise made before Congress by the national policy-making body for the federal courts, the Judicial Conference of the United States, whether there should be review of the Ninth Circuit's disregard of the standards for judicial disqualification, established legal precedent of this Court, and its own

decisions, as a method to punish attorneys and their clients who properly seek to implement a special judicial election in compliance with the Voting Rights Act.

PARTIES TO THE PROCEEDINGS AND STATEMENT OF RELATED CASES

The parties are Nina R. Ringgold, Esq.; Law Offices of Nina R. Ringgold, and Nina Ringgold as an individual.

The respondent is the United States District Court for the Central District of California.

Pursuant to Rule 14.1 (b)(iii), petitioners provide the following statement of related cases:

United States Court of Appeals for the Ninth Circuit:

Dorian Carter v. Nathalee Evans, et al, Case No. 20-55952 (Filed: September 10, 2020)

United States District Court:

In re Nina Ringgold, Case No. 19-ad-00196-PSG

Prior Case:

United States Supreme Court:

In re The Law Offices Of Nina Ringgold And All Current Clients Thereof on their

own behalves and all similarly situated persons, Case No. 19-359
(Filed September 18, 2019)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Nina Ringgold respectfully requests that a writ of certiorari issue to review the judgments of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The original April 29, 2021 opinion of the United States Court of Appeals for the Ninth Circuit is reported at 845 Fed. Appx. 693. (Also at Appendix "App." 20-23). Then a new August 4, 2021 opinion was substituted and it is reported at 854 Fed. Appx 941. (Also at Appendix "App" 1-5).

The August 4, 2021 substituted opinion adds a footnote that reveals the punitive and retaliatory nature of the action of the District Court. The footnote clarifies that, without notice to clients of petitioner, the District Court effectively barred them from proceeding with their existing case (even those who could only appear through and attorney) and it also barred petitioner from proceeding in an existing case in her personal capacity. (See footnote at App. 3).

The Court of Appeal denied a petition for rehearing en banc and panel rehearing at the April 29, 2021 opinion. (App. 19). However, it procedurally prevented any petition for rehearing as to the new and final substituted judgment of August 4, 2021 because its August 4, 2021 order specified that no further filing could be filed in the case. (App. 19). There does not exist a prior order that would bar the petitioner from proceeding under the applicable appellate rules and standards of the United States Court of Appeals for the Ninth Circuit.

The orders of the District Court that were the subject of review are not published and are reprinted in the Appendix. (March 2, 2020) (App. 6-8); January 24, 2020 (App. 9-10); December 11, 2019 (App. 11-12); December 11, 2019 (App. 13-14); October 29, 2019 (App. 15-17).

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1), 28 U.S.C. §1651, and 28 U.S.C. § 2106.

RELEVANT PROVISIONS INVOLVED

The Supremacy Clause of the Constitution, Article VI, Section 2, in pertinent part states:

> This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The Fifth Amendment to the United States Constitution provides, in pertinent part states:

> No person shall…be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Civil Rights Act of 1866 in pertinent part states:

Section 1

> That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

Section 3

> That the district courts of the United States, within their respective districts,

shall have, exclusively of the courts of the several States, cognizance of all crimes and offences committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act; and if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court, against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act or the act establishing a Bureau for the relief of Freedmen and Refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper district or circuit court in the manner prescribed by the 'Act relating to habeas corpus and regulating judicial

> proceedings in certain cases,' approved March three, eighteen hundred and sixty-three, and all acts amendatory thereof. The jurisdiction in civil and criminal manners hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect….

28 U.S.C. § 1446 (d) states:

> "(d) Notice to adverse parties and State court.--Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded."

28 U.S.C. § 2072, in pertinent part, states:

> "(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of

> evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.
> (b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken.

The local rules of the United States District Court for the Central District of California, in pertinent part, state:

> L.R. 83-3.2.5 Discipline by Agencies. Information that a member of the Bar of this Court has been suspended or disbarred from practice by the order of any federal or state administrative agency, shall be treated as a complaint which can be the basis of disciplinary action by this Court. The matter shall be referred to the Committee for investigation, hearing and recommendation as provided hereinabove in the case of other complaints….

INTRODUCTION

Petitioner provides legal representation primarily to persons in most vulnerable populations in the State of California. In 2012 petitioner and clients of her law office filed a class action seeking a monitored special judicial election under the Voting Rights Act of 1965 and asserting other federal and state claims.[1] The VRA Case claims that Section 5 of California Senate Bill x211 commands an involuntary waiver of rights under federal law and the United States Constitution. They also claim that this uncodified statutory provision is unconstitutional and is in direct conflict with the Supremacy Clause and Section 1 of the Civil Rights Act of 1866 and federal law pertaining to racial equality. The uncodified provision of the state statute purports to provide super-retroactive immunity to judges as to civil, criminal, or disciplinary proceedings. For over 10 years the State Attorney General has failed to respond to the California Commission on Judicial Performance's

[1] See SAC at Dkt 25 RJN#10. ("VRA Case").

[2] Due to the high number of recusals the motion requested issuance of a certificate of necessity for assignment of the VRA Case to an out-of-state court (i.e District of Columbia).

[3] Written Testimony of The Honorable Jennifer Walker Elrod

confidential requests for legal opinion. (Like the members of the VRA Case, the Commission formed its own opinion that Section 5 of Senate Bill x211 was unconstitutional and it requested a legal opinion from the from the Office of the Attorney General while Jerry Brown and Kamala Harris were in office.

In part the VRA Case claims that there is an existing condition that causes a constitutional vacancy of judicial office. It seeks to develop a procedure to implement a monitored special judicial election that complies with the Voting Rights Act of 1965 as amended. Petitioner and VRA members claim that they are being subjected to serious discrimination, retaliation, in violation of federal law including but not limited to the Civil Rights Act of 1866 and the United States Constitution. The VRA Case requests the appointment of a public trustee from the office of the Inspector General due to serious unwaivable conflicts of interests of the highest law enforcement officers of the State of California.(in part because by statute and in fact the Office of the State Attorney General represents judges in the state). (Dkt 25 RJN#10).

The VRA Case was filed prior to this Court's decision in Shelby County, Ala. v. Holder, 570 U.S. 529 (2013). The VRA members requested appointment of a three-judge court. The assigned judge would not rule on the request and entered an

order striking the renewed request made in 2016. The judge disregarded the Supreme Court's precedent in Shapiro v. McManus, 136 S.Ct. 450 (2015) and Stratton v. St. Louis Southwestern Ry. Co., 282 U.S. 10 (1930). The Ninth Circuit held that the District Court "did not err in denying plaintiffs' motion for a three-judge panel" However, in reality no motion was ever denied. Instead, the District Court either ignored or struck timely and properly filed requests for appointment of the required three-judge court. (SeeDkt 25 RJN #11 Pet. for writ of mandamus). The judge presiding over the case failed to disclose mandatory disqualifying interests in that he had direct financial and general interests in the case. (Id).

A portion of the plaintiffs (including but not limited to petitioner Ringgold were dismissed from the case *without prejudice*). (Shortly following the election of Kamala Harris to the United States Senate a judgment of dismissal was signed by the clerk of court although *no signed order of dismissal had ever been signed by the district court judge*. All VRA members maintain their position that the orders of the district court judge in the VRA Case are void based on the refusal to comply with the mandatory provisions of 28 U.S.C. § 2284 and due to mandatory disqualifying interests of the assigned judge. The VRA members further maintain that the Ninth Circuit was without jurisdiction to substitute

a decree of a single judge for a decree by a three-judge court and a direct appeal to the Supreme Court. See Stratton at 16.

The VRA members filed a petition for writ of mandamus in this court on or about September 16, 2019. (Case No. 13-359). Although the petition was denied on our about December 9, 2019 it is well-established law that the denial of the petition is not an expression of an opinion on the merits. See Laborers' Internt. Un. Of NA Local No. 107 v. Kunco, 472 F.2d 456, 459 fn2 (8th Cir. 1973).

While the petition for writ of mandamus was pending in this court the Chief Judge of the District court at the time issued an order to show cause on October 29, 2019. (App. 15-17). Simultaneously with this order to show cause this judge wrote a political letter to members of Congress including Kamala Harris which essentially was vying for political favors or special assistance. (Dkt 25 RJN #13). The October 29, 2019 order to show cause is extraordinary. Although no court of record in the United States had issued any disciplinary order against petitioner and disregarding the plain language of the District Court rules of court the judge treated an action of a state agency (that had not been adopted or approved by the California Supreme Court) as an order of suspension. Moreover, she disregarded undisputed evidence that

the state agency was acting in a complete absence of jurisdiction. She further ignored that the local rules mandated that any information of a state agency that a member of the District Court Bar had been suspended from practice had to be treated as a complaint and had to be referred to the Standing Committee on Discipline. (L.R. 83-3.2.5). The local rules only allow the Chief Judge to make an immediate suspension of an attorney is when there has been conviction of a serious crime. (L.R. 83-3.2.1, App.35). Here there was no order of discipline or any crime whatsoever. After petitioner filed a well-founded and reasoned Petition for Writ of Mandamus and a Motion for Stay and Injunction[2] in this Court, the Chief Judge initiated a discriminatory boycott. She essentially barred access to the court to petitioner and to all clients of petitioner that were pending in the District Court. Most of the clients were racial minorities.

Certiorari should be granted because the Ninth Circuit's judgment and unfair procedural devices intended to prevent fair review in this court is blatantly in conflict with the decisions of this court, its own decisions, and the Rules Enabling Act. Despite the extraordinary number of recusals and showing that a extraordinarily high number of

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[2] Due to the high number of recusals the motion requested issuance of a certificate of necessity for assignment of the VRA Case to an out-of-state court (i.e District of Columbia).

judges have direct financial and general interests in the VRA Case the standards for mandatory disqualification were ignored. Based on the pervasive pattern of retaliation, disregard of established precedent, and complete disregard of the mandatory requirements for judicial disqualification this Court should grant certiorari consistent with the promises made by The Honorable Jennifer Walker Elrod in her testimony in Congress on October 26, 2021.

> "The fair and impartial adjudication of cases, in a transparent environment, is a fundamental duty of the federal Judiciary. An independent federal Judiciary is essential to the rule of law in our nation. The statutes and case law on recusal, the Code of Conduct provisions, as well as the Judiciary policies, practices, and enforcement mechanisms I have outlined in this testimony are the tools and resources available to the federal Judiciary and to the public to ensure the functioning of an ethical and independent judicial branch and to enhance the public's trust in the Third Branch. As Chair of the Codes of Conduct Committee, and on behalf of the Judicial Conference of the United States, I assure you the federal

> Judiciary takes these obligations seriously. We have taken and will continue to take action to ensure ethical obligations, including recusal and reporting requirements, are met." [3]

STATEMENT

A. Procedural

As various cases were pending before this court in 2019 when the October 29, 2019 order to show cause was issued to petitioner. She was an , an active member in good standing of the District Court bar, the United States Supreme Court, and the Ninth Circuit. (App. 15-17). The order specified that the judge had received notice that petitioner was

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[3] Written Testimony of The Honorable Jennifer Walker Elrod United States Court of Appeals for the Fifth Circuit Chair, Committee on Codes of Conduct Of the Judicial Conference of the United States appearing on behalf of the Judicial Conference of the United States before the United States House of Representatives Committee on the Judiciary Subcommittee on Courts, Intellectual Property, and the Internet Hearing on: "Judicial Ethics and Transparency: The Limits of Existing Statutes and Rules" (October 26, 2021) (https://www.uscourts.gov/sites/default/files/judge_jennifer_walker_elrod_testimony_to_congress_october_2021_0.pdf)

enrolled involuntarily as an inactive member of the State Bar of California and was counsel of record in cases in the District Court. She ordered petitioner to show cause why she should not be disbarred from practice of law before the Central District under Local Rule 83-3.3.

On November 27, 2019 petitioner filed an application to file a declaration and document under seal and an application for accommodation for disability, for extension, and/or for temporary stay. (Dkt 6-3 BS 365-421, Dkt 8 BS 422.001-422.009 (Sealed)).

Having received no response on the application for stay and disability accommodation petitioner filed a tentative response pending disposition of application for accommodation for disability, for extension, and/or for stay. (Dkt 6-3 BS 323-364). In that filing, in part, petitioner addressed extraordinary retaliation and deprivation of due process in state administrative proceedings including a physical assault during a court ordered inspection of documents. She specified that the retaliation was targeted at petitioner and clients who were seeking to implement a special judicial election in the County of Los Angeles and other counties in the State of California under the Voting Rights Act of 1965 as amended. She also contended that the state agency engaged in the discriminatory retaliation lacked

jurisdiction under federal law (based on violation of removal jurisdiction) and was prohibited under state law from hearing the defenses of petitioner. She demonstrated that there was no court order, judgment, or even a recommendation of suspension or disbarment.

Still having received no response on the application for stay and accommodation, on December 6, 2019 petitioner filed an application seeking permission to file a motion in a case and for stay to avoid serious irreparable injury. (Dkt 6-3 BS 261-322).

On December 11, 2019 the District Court entered an order which granted a stay *only in part*. It erroneously referred to an alleged "suspension from the California State Bar" when there was no suspension or even a recommendation of suspension in existence. (App. 11-12). After referencing a non-existent suspension the District Court specified that the public was protected by an "effective suspension from the practice of law." However, only the California Supreme Court could order a suspension and no such order had been made.

On January 24, 2020 the District Court entered an order which denied the application to file a motion in a case in the District Court and motion for stay. (App. 9-10). Again the order erroneously

referred to an "effective suspension". Even though there is no actual suspension, the January 24, 2020 order went on to state that the alleged "effective suspension" by a non-court state agency would serve to prevent appellant "from practicing in this District as well." The order disregarded that the operation of the court's disposition would have the actual and functional effect of extinguishing the valid lawful claims of petitioner and persons involved in or associated with the voting rights case because it was impossible to obtain substitute counsel.

On February 22, 2020 petitioner filed a motion to vacate, for stay of the proceedings and impacted proceedings and for relief therein and for stay pending review by appeal or writ. (Dkt 6-2 BS 120-222 to Dkt 6-3 244). The motion set and requested a hearing, and specified in part:

> This motion also requests a stay of all adversely proceedings in the district that are directly harmed by these proceedings, including each and every party and client who are ALL African American *except* one person who is a white male that has a developmental disability raised by and supported by an African American woman. They are all persons who would not be able to obtain substitute counsel based on the

> initiation of these proceedings that are in direct conflict with Supreme Court decisions, the federal rules, and federal law. Moreover the orders function as a boycott are retaliatory and present direct harm to the family of the respondent based on valid legal positions taken….This court is without jurisdiction to interpret its local rules inconsistent with authority of the Supreme Court and the federal rules or in a manner which perpetuates an administrative proceeding that is operating in violation of federal jurisdiction under 28 U.S.C. § 1446 (d) and the Supremacy Clause. (Dkt 6-2 BS 22-23).

In part the motion requested judicial notice of a November 14, 2019 report delivered to the California State Bar concerning racial disparities in the discipline system. (See Dkt 6-2 BS 44- Dkt 6-3 BS 244).

On March 2, 2020 the District Court denied the request for a hearing and denied the motion to vacate without prejudice. (App. 6-8).

On May 8, 2020 the State Bar Court Review Department, which is also part of the non-court state administrative agency, vacated the October 10, 2019 default of the hearing department. (App. 24-32). Notably, this tribunal did not rule on any jurisdictional issue and petitioner repeatedly and clearly since 2015 has reserved all federal claims. (See Dkt 6-3 BS 346-360).

After an opening brief was filed in appeal of the District Court's orders, on June 25, 2020 petitioner filed a motion for stay or injunction. This was concurrently filed with a motion to recall the mandate in a related appeal. (Dkt 18-120).

On April 29, 2021 the Ninth Circuit entered judgment and thereafter petitioner filed a timely petition for rehearing and accompanying request for judicial notice. (App. 20-23)

On August 4, 2021 the Ninth Circuit filed an order withdrawing its original judgment and also filed a new substitution judgment. It denied all pending motions. (App. 1-5).

B. Historic Background

In1988 Hispanics in the county filed a voting rights action seeking to redraw the district for the Los Angeles County Board of Supervisors. They

claimed that the boundaries were gerrymandered to dilute Hispanic voting strength. In 1990 a federal decree was entered against the county finding intentional discriminatory vote dilution. Garza v. County of Los Angeles, 918 F.2d 763 (9th Cir. 1990). As a result the County of Los Angeles was subject to a federal consent decree and the bail-in mechanism of Section 3(c) of the Voting Rights Act.[4]

Also in 1988 California voters overwhelmingly passed proposition 97, a legislative constitutional amendment, to permit judges of the courts of record to accept part-time teaching positions. The ballot pamphlet expressly informed voters that public employment of a judge of the courts of record was prohibited and a constitutional amendment was needed to allow this limited exception for part time teaching. Two days after the election, counsel for the County of Los Angeles, provided a secret legal opinion the judge of the courts of record that they could remain county employees and officials in direct conflict with the plain language of the state

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[4] Alameda County is also subject to Section 3 (c). Prior to Shelby there were at least 17 cases, primarily counties, subject to the bail-in provision of Section 3 (c). The following counties in the State of California were governed under Section 5 of the Voting Rights Act: Kings County, Monterey County, and Yuba County.

constitution and the constitutional amendment just passed by California voters.

California Government Code §53200.3 allowed public employment and office of judges of the courts of record by a county but in 2008 this provision was deemed unconstitutional. Thereafter uncodified Section 5 of SBX2 11 was enacted in 2009. The California Commission on Judicial Performance twice specified that the provision was unconstitutional and confidentially provided its opinion to the highest law enforcement officers of the state. (Brown and Harris). They did nothing.

California Constitution Art. VI §17 expressly mandates that acceptance of public employment or office results in a self-effectuating constitutional resignation of a judge of a court of record.[5] Upon acceptance of public employment and/or office, a judge of a court of record must provide disclosure and obtain the consent of the court user before s/he can act as a judge pro tempore. Cal. Const. Art. §21.

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[5] See CJEO Formal Opinion 2017-011 Judicial Service On A Nonprofit Charter School Board**,** Opinion of the California Supreme Court Committee on Judicial Ethics (2017); **Cal.** Attorney General Opn 83-607, 66 Cal. Attorney General 440; Alex v. County of Los Angeles, 35 Cal. App.3d 994 (Cal. 1973), Abbott v. McNutt, 218 Cal. 225 (Cal. 1933).

Throughout the entire period the voting rights case proceeded before Judge John A. Mendez he did not disclose that he was a former state court judge in one of the counties identified in the complaint and had financial and general interests in the case. This includes but is not limited to interests in former or current benefit plans, the financial fines and penalties requested for the benefit of the class based on failure to comply with mandatory disclosure and reporting requirements under the California Political Reform Act, the request for publication of the opinions of the Commission of Judicial Performance on its website, the selection of the special counsel to act as public trustee and to render the requested response to the opinions of the Commission on Judicial Performance).

VRA members exhausted every means possible to obtain the necessary stay and injunction to effectively pursue the claims specified in the complaint and to obtain the required appointment of a three-judge court. Without mandatory compliance with 28 U.S.C. § 2284 they were barred the right to pursue a preliminary injunction as a group and were intentionally trapped in state court proceedings where they targeted for retaliation based on their views, their attempts to implement a special judicial election in compliance with the Voting Rights Act, and their objections to Section 5 of SB x211 and forced involuntary waiver of federal rights.

Following the Shelby decision the judge continued to ignore the request for a three-judge court and VRA members continued to be subjected to retaliation in the state court. They unsuccessfully attempted to obtain injunctive relief by alternative forms (i.e. via individual direct action or civil rights removal). In those cases petitioner requested relief by issuance of a certificate of necessity to the statutory officer.[6]

On February 20, 2014 the California Supreme Court, the California Judicial Council, various justices of the California Court of Appeal for the Second Appellate District, and others filed an admission of disqualifying interests in the federal court one case of a lead plaintiff and identified representative voter in the VRA Case.

On October 18, 2016 petitioners filed a renewed request for appointment of a three-judge court in the VRA Case. On October 20, 2016 Judge Mendez struck the request for appointment of a three-judge court. Two days after Kamala Harris was elected to the United States Senate a docket text order was entered stating that the merits of the

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[6] Generally the applications under 28 U.S.C. § 292 were not referred to the statutory officer (the Chief Judge of the Ninth Circuit) by indicating that there no jurisdiction for a party to make such request.

motions to dismiss had been considered and the voting rights case was dismissed with prejudice. Although the docket specifies that a "signed order was entered", there is no signed order. A judgment was entered by the clerk dated November 18, 2016. It did not disturb the earlier judgment which dismissed a segment of plaintiffs (including the petitioner here) without prejudice.

The Ninth Circuit determined that there was no basis for judicial disqualification despite the clear showing that Judge Mendez had a direct financial interest in the VRA Case and the relief in the case.

REASONS FOR GRANTING THE PETITION

I. Certiorari Should Be Granted Because The Ninth Circuit's Decision Plainly Conflicts With Precedent Of This Court, Its Prior Decisions, And The Rules Enabling Act.

This Court's precedent clearly establishes that a state court's disciplinary action is not conclusively binding on federal courts. Theard v. United States, 354 U.S. 278, 281-82 (1957). There is no automatic acceptance of a state court's suspension or disbarment order. In the instant case there did not exist a state court suspension or disbarment order.

There did not exist even a recommendation of suspension or disbarment. Under California law the State Bar Court is not an actual court and it has no authority to render a suspension or disbarment order.[7] It also has no authority to determine that a state statute is unenforceable or unconstitutional; or to refuse to enforce a statute on the basis that federal law prohibits its enforcement.[8] In In re

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[7] See Cal. Const. Art. VI §1 (App. 39); As a non-court administrative agency the State Bar Court exercises no judicial power. See In re Rose, 22 Cal.4th 430, 436 (2000)("The State Bar Court exercises no judicial power, but rather makes recommendations to this court, which then undertakes an independent determination of the law and the facts, exercises its inherent jurisdiction over attorney discipline, and enters the first and only disciplinary order"), 437 ("The State Bar Court, however, is not itself a judicial court established by article VI"), 439 ("….{T] he State Bar [Court] is but an arm of this court, and ... this court retains its power to control any such disciplinary proceeding at any step"). Under the State Bar Act the State Bar acting through its Board of Trustees or the State Bar Court has no authority to initiate an investigation in the federal court. It can only undertake investigations assigned to it by the California Supreme Court. (See Cal. B & P § 6092.5 (f)).

[8] In the agency proceedings operating in violation of 28 U.S.C. § 1446 (d), petitioner was prohibited from asserting proper and valid defenses. (Dkt 6-2 BS 100¶30-111 ¶37). Speech regarding the qualifications and integrity of judges is essential for democracy to function properly and cannot be suppressed merely to protect judicial reputation. Here the facts at issue in the VRA Case are based on directives of the state constitution and federal and have no focus on humiliating or embarrassing any judge. Attorneys should not be forced to betray the

Snyder 472 U.S. 634, (1985), this Court held that it was improper for an attorney's conduct and expressions concerning the administration of certain laws or certain inequities to be grounds for discipline or suspension.

The judge enjoined petitioner, an active member of the bar of the Central District in good standing and engaged in pending cases, from making or responding to matters in a pending case. This action was taken despite the fact that the represented personal representative of an estate could not appear without an attorney there did not exist a court order or judgment of discipline against the petitioner. The judge's erroneous application of local rules was intended to extinguish claims of petitioner's clients (and VRA members) of which most were racial minorities and directly harm members of petitioner's family. She undertook this action without notice directly to them. The only circumstance in which the Chief Judge can make an immediate suspension of a member of the bar of the district is when attorney has been convicted of a serious crime.[9] Petitioner had been never been

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constitution, federal law, or their client's interest due to a judge's concern how the truth of certain facts may be troublesome.

[9] L.R. 83-3.2.1 (App. 35-36).

convicted of any crime. The judge was misusing the local rules and at the same time asking for assistance of a defendant in the VRA Case.[10]

Even if there had been a state court order of suspension or disbarment none of the factors set forth in this Court's decision in Selling v. Radford, 243 U.S. 46 (1917) had been satisfied.[11] Erroneously acting in conflict with its own decisions the Ninth Circuit erroneously applied an abuse of discretion standard. (App. 3). [12] And it cited L.R. 83-3.3.[13]

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[10] Dkt 25 (RJN #10 BS 3 (Kamala Harris)).

[11] Selling at 51. (i.e. that there had been due process including notice and opportunity to be heard, there was no infirmity of proof as to facts relating to private or professional character, and there was not some other grave reason that exists impacting the principles of right and justice).

[12] A challenge to the legality of a District Court local rule and its application is reviewed de novo. Giannini v. Real, 911 F.2d 354, 359 (9th Cir. 1990). The failure to conduct an adequate review of the state bar disciplinary procedure is a question of law reviewed de novo. In re Kramer 193 F.3d 1131, 1132-33 (1999).. Interpretation of federal statutes or rules is reviewed de novo. City of Los Angeles v. United States Dept of Commerce, 307 F.3d 859, 868 (9th Cir. 2002). When local rules involve interpretation of the law there is de novo review. In re North, 383 F.3d 871, 874 (9th Cir. 2004), E.E.O.C. v. Deer Valley Unified School Dist., 968 F.2d 904, 906 (9th Cir. 1992). A "district court's interpretation of the underlying legal

which is completely irrelevant. This rule only applies when an attorney is no longer enrolled active in any court. (Dkt 14 p. 33-35). L.R. 83-3.3 states it applies to "[a]ny attorney *previously* admitted to the Bar of this Court". Petitioner was not a former member of the bar of the Central District but rather a current and active member in good standing engaged in active cases. L.R. 83-3.3 did not apply and it was prejudicially used to infer some inappropriate conduct by petitioner while matters were pending before this court and to advance the judge's personal political agenda. The conduct violated First Amendment principles of freedom of speech, freedom of association, and court access. The intended boycott initiated by the Chief Judge is evident by the Ninth Circuit's substituted judgment because it adds footnote 1. The modification reveals the judge's action barred petitioner from filing an action in her personal capacity. [14]

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principles… is subject to de novo review." Jackson v. City & County of San Francisco, 746 F.3d, 958 (9th Cir. 2014) .

[13] App. 38.

[14] See Dkt __ BS 263-266 description of case and harm to petitioner's family, BS 294-318 (Complaint), and App. 9 (January 24, 2020 order specifying that a report of a state agency is an effective suspension from the practice of law and prevents petitioner from practicing in the district). The order

The Chief Judge indicated she received information that petitioner had been suspended or disbarred. (App. 15-17). L.R. 83-3.2.5 mandates that such receipt of such information shall be treated as a complaint and mandatorily referred to the Standing Committee on Discipline entitling the attorney to all of the procedural and substantive rights of the District's rules of court.[15] Instead the Chief Judge acted alone erroneously proceeding in violation of local rules and claiming that there had been a state court disciplinary order. Her actions prevented petitioner from representing clients in pending cases in the district. An interpretation that conflicted with precedent of this Court and the Ninth Circuit. Kramer *supra* held that disciplinary action based solely on a state court's order of disbarment violated due process. The District Court rules and the proceedings conducted did not provide notice that there could be suspension from active and pending cases in the Central District when no state court order of discipline existed.

District Court rules are governed by the Rules Enabling Act, 28 U.S.C. §§ 2071-2077 and such rules

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disregards the undisputed evidence that the state agency was in violation of 28 U.S.C. § 1446 (d). See Dkt 6-2 BS 46 lines 21-24, Dkt 6-3 BS 228-243.

[15] *Supra* at Relevant Provisions Involved

cannot abridge, enlarge, or modify any substantive right or expand or diminish the jurisdiction conferred by Congress. See Venner v. Great N. Ry. Co., 209 U.S. 24, 35 (1908); Standish v. Gold Creek Mining Co., 92 F.2d 662, 663 (9th Cir. 1937). The judge's method of application of the District Court rules to adopt a non-court state administrative order (that by law cannot suspend or disbar an attorney) as an "effective suspension" from the federal district court bar abridges and modifies substantive rights of petitioner and her clients.

II. Certiorari Should Be Granted Because There Is Undisputed Violations of the Supremacy Clause and 28 U.S.C. § 1446 (d) and Federal Judicial Enforcement of Discriminatory State Practices and Proceedings Are Prohibited Under This Court's Decision in *Hurd v. Hodge.*

The fact that the state bar court proceedings were initiated in violation of removal jurisdiction and there does not exist a remand order filed in the state bar court, that tribunal never had power to "presume" jurisdiction. The agency's purported default order was ineffective. Acts upon an erroneous order in violation of 28 U.S.C. 1446 (d) are void. See National S.S. Co. v. Tugman, 106 U.S. 118, 122-123 (1882), U.S. Const. Art. VI cl. 2, Supremacy Clause; See also Maseda v. Honda Motor Co. Ltd, 861 F.2d

1248, 1254 (11th Cir. 1988); Hyde Park Partners, L.P. v. Connolly, 839 F.2d 837, 841 (1st Cir. 1988). There is undisputed evidence that a certified remand order has ever been filed in the state bar court. See Bucy v. Nevada Const., 125 F.2d 213, 217 (9th Cir. 1942)("The proper procedure for carrying the order of remand into execution would be by filing of a certified copy of the order in the state court."), See also Spanair S.A. v. McDonnell Douglas Corp., 172 Cal.App.4th 348 (Cal. 2009). There was no legal basis to treat a void administrative order not approved or adopted by any court as an effective suspension that could render an attorney in continuous good standing in the District Court as unable to practice in that court.

Judicial enforcement of discriminatory acts of a non-court administrative agency are " subject to the restrictions and limitations of the public policy of the United States as manifested in the Constitution, treaties, federal statutes, and applicable legal precedents." Hurd v. Hodge 334 U.S. 24, 35 (1948). In Hurd this Court barred federal judicial enforcement of discriminatory acts of state governmental action in violation of the Civil Rights of 1866, the Fourteenth Amendment, and other federal law. Additionally, it barred federal judicial enforcement of action contrary to public policy of the United States and held that federal jurisdiction should be exercised under supervisory powers to take

corrective action. In violation of 28 U.S.C. § 1446 (d) discriminatory and retaliatory acts are being used to interfere with the VRA case, to penalize for legal views and positions taken in the VRA Case, and as efforts to intimidate petitioner and VRA members.

Petitioner demonstrated a pattern of discriminatory retaliation in violation of the Civil Rights Act of 1866 and other federal law. The 1866 Act provides for the full and equal benefit of all laws and proceedings for the security of persons and property as enjoyed by white citizens. The District Court's action is contrary to the public policy of the United States because it perpetuates a state tribunal's discriminatory retaliation. Federal judicial enforcement of non-court actions are "subject to the restrictions and limitations of the public policy of the United States as manifested in the Constitution, treaties, federal statutes, and applicable legal precedents." Hurd at 35. This Court held that "[w]e cannot presume that the public policy of the United States manifests a lesser concern for the protection of such basic rights against discriminatory action of federal courts than against such action taken by the courts of the States." Id at 35-36. Moreover there is not a lesser concern of discriminatory action taken by non-court administrative agencies. Also, the discriminatory retaliation of a non-court state administrative agency cannot be used to initiate or maintain a

boycott, to disadvantage the presentation of legal causes, or to violate the First Amendment; because the legal positions taken by an attorney may be unpopular among judges or because the judges have a financial or general interest in the matters asserted in the VRA Case. Attorney criticism of the judicial system is an important and substantial right in that attorneys have special knowledge of the judicial system and are in a special position to use that knowledge to improve the system and correct

III. Certiorari Should Be Granted Due To The Pervasive Pattern Of Discrimination And Retaliation That Is Directly Linked To Legitimate Efforts To Enforce Voting Rights Act And The Complete Disregard Of Established Precedent And Standards For Judicial Disqualification

Petitioner demonstrated serious discrimination and retaliation, including a physical assault, in the state agency proceedings. The record and briefing shows that the Ninth Circuit created ad hoc rules and failed to apply its own legal precedent. As to the pending appeal concerning civil rights removal the Ninth Circuit would not allow a brief to be filed. It adopted a procedure of indicating in the order "no further filings" as a method to deter effective review in this Court. (i.e. by preventing an application for stay and injunction pending filing and

determination of a Petition for a Writ of Certiorari in this Court, or preventing rehearing on a new and substituted judgment). In fact due to the use of the "no further filing indication" when there was a critical change in law favorable to petitioner for over 10 months was no ruling on her to recall the mandate in a related appeal. Investigation determined that the "no further filing indication" was the basis of a lack of a ruling. However, there is no order entered specifying this as the reason for the lack of a ruling. This status prejudicially left no way to seek review even though it impacted later filed appeals. (See Dkt 18). There does not exist any prefiling order or ruling that the relevant and applicable Federal Rules of Appellate Procedure would not apply to the petitioner.

Over one-half of the judges in the district court have recused themselves based on acknowledgement of bias and prejudice or due to the fact that their peers or colleagues may be impacted by the VRA Case. Foundationally starting with the VRA Case itself, had the assigned judge disclosed his direct financial and general interest in the case, most likely VRA members would not have had to suffer the outrageous retaliation and harassment and the valid request for assignment of a three-judge court would not have been improperly stricken and effective injunction relief may have been granted. However, there was a complete disregard of the established

precedent and standards for judicial disqualification and even the fact that

When the mandatory statutory basis for disqualification is violated and disclosure is not given to the parties, the judge's rulings on appeal are to be vacated. William Cramp and Sons Ship and Engine Building Co. v. International Curtis Marine Turbine Co., 228 U.S. 645 (1913). ("[O]ur duty is not to hold the case upon the docket, for ultimate decision upon the merits, but to at once reverse and remand to the court below, so that the case may be heard by a competent court, conformably to the requirements of the statute"). Judge Mendez had undisclosed financial and general interest in the case and refused to comply with the mandatory procedures to appoint a three-judge court providing the inference of attempting to maintain jurisdiction to protect is own interests.[16] Disqualification under 28 U.S.C. § 455 (b) was mandatory.

Fortunately, the Honorable Jennifer Walker Elrod publically made a promise that the federal judiciary will take the obligations concerning judicial qualification seriously. This was after the Wall

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[16] See also Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 865(1988) (A full disclosure …would have completely removed any basis for
questioning the judge's impartiality).

Street Journal's reported that approximately 131 judges had failed to recuse themselves from cases involving companies in which they or their family members owned stocks.[17]

Issuance of a writ of certiorari enables this court enforce its established precedent, ensure that attorneys bringing valid constitutional and federal claims are not subjected to pervasive discrimination and retaliation thereby supporting a robust population of diverse attorneys as members of the Bar (including this the Bar of this Court), and to maintain an ethical and independent judicial branch.

[17] See Written Testimony *supra* (https://www.uscourts.gov/sites/default/files/judge_jennifer_walker_elrod_testimony_to_congress_october_2021_0.pdf) (https://www.uscourts.gov/sites/default/files/judge_jennifer_walker_elrod_testimony_to_congress_october_2021_0.pdf)

♦

CONCLUSION

For the above and foregoing reasons, Petitioner respectfully request issuance of a writ of certiorari to the United States Court of Appeals for the Ninth Circuit.

Dated: November 2, 2021

Respectfully Submitted,
Nina R. Ringgold
Counsel of Record
Law Offices of Nina R. Ringgold
17901 Malden St
Northridge, CA 91325
Telephone: (818) 773-2409

APPENDIX A

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED
AUG 4 2021
MOLLY C. DWYER,
CLERK
U.S. COURT OF
APPEALS

In re: IN THE DISCIPLINARY MATTER OF NINA RAE RINGGOLD, California State Bar No. 133735, NINA RINGGOLD, California State Bar No. 133735, Petitioner-Appellant.	No. 20-55199 D.C. No. 2:19-ad-00196-VAP MEMORANDUM*

Appeal from the United States District Court for the
Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted April 20, 2021 **

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

Nina Ringgold appeals pro se from the district court's orders in her disciplinary action. To the extent we have jurisdiction, it is under 28 U.S.C. §1292(a)(l). We review for an abuse of discretion. *Jackson v. City & County of San Francisco,* 746 F.3d 953, 958 (9th Cir. 2014). We affirm in part and dismiss in part.

The district court did not abuse its discretion by denying Ringgold's request to file a motion in her separate civil action.[1] *See Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007) ("Broad deference is given to a district court's interpretation of its local rules."); C.D. Cal. L.R. 83-3.3 ("Any attorney previously admitted to the Bar of this Court who no longer is enrolled as an active member of the Bar, Supreme Court, or other governing authority of any State ... shall not practice before this Court.); *see also Jackson,* 746 F.3d at 958 (setting forth requirements for a

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[1]There were four plaintiffs in that action, including Ringgold. The proposed motion was sought to be filed on behalf of all four plaintiffs.

preliminary injunction).

We lack jurisdiction to consider the district court's orders entered on October 29, 2019 and December 11, 2019 because they are not final appealable orders. *See* 28 U.S.C. §1291 (jurisdiction of appeals from "final decisions"); *Midland Asphalt Corp. v. United States,* 489 U.S. 794, 798 (1989) ("For purposes of [28 U.S.C. §1291], a final judgment is normally deemed not to have occurred until there has been a decision by the District Court that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." (citation and internal quotation marks omitted)). Moreover, Ringgold did not file a notice of appeal within 30 days after entry of these orders. *See* Fed. R. App. P. 4(a)(l) (notice of appeal must be filed within 30 days after entry of the order appealed from).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, including Ringgold's request for relief under 28 U.S.C. §1651. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009); *Acosta- Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in appellant's opening brief are waived).

All pending motions are denied.

AFFIRMED in part, DISMISSED in part.

APPENDIX B

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No. **2:19-ad-00196-VAP** Date March 2, 2020

Title ***In the Disciplinary Matter of Nina Rae Ringgold***

Present: The Honorable VIRGINIA A. PHILLIPS,
CHIEF UNITED STATES DISTRICT JUDGE

BEATRICE HERRERA	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s): None Present	Attorney(s) Present for Defendant(s): None Present

Proceedings: (IN CHAMBERS) MINUTE ORDER DENYING MOTION TO VACATE (Doc. No. 14)

On February 22, 2020, Respondent Nina Rae Ringgold filed a "Motion to Vacate; for Stay of Proceedings and Impacted Proceedings and for Relief Therein; and for Stay Pending Review by Appeal or Writ of Mandamus" ("Motion"), which moved the Court to, inter alia, vacate its prior Orders entered in this case. The Court has reviewed and considered all of the papers filed in support of the Motion and concludes this matter is suitable for ruling without oral argument pursuant to Local Rule 7-15 and hereby vacates the hearing set for the Motion on March 23, 2020 at 2:00 p.m. For the following reasons the Court DENIES the Motion without prejudice.

After Respondent filed the instant Motion, on February 24, 2020 she filed a notice of appeal, appealing each of the Orders entered in this matter to the Ninth Circuit Court of Appeals. The appeal remains pending.

"Once a notice of appeal is filed, the district court is divested of jurisdiction over the matters being appealed." Nat. Resources Def. Council v. Sw. Marine Inc., 242 F.3d 1163, 1166 (9th Cir. 2001) (citing Griggs v. Provident Consumer Disc. Co. 459 U.S. 56, 58 (1982) (per curiam)); McClatchy Newspapers v. Central Valley Typographical Union No. 46, 686 F.2d 731, 734 (9th Cir. 1982)); see also United States v.

Welton, No. 09-CR-00153-MMM, 2010 WL 11545419, at *1 (C.D. Cal. July 30, 2010) (collecting cases).

The issues raised in the Motion are directly linked to the matters on appeal. In other words, the Court is unable to grant the relief requested, i.e., vacate its prior Orders, as those Orders are the subject of Respondent's appeal. Moreover, to the extent there are any issues raised in the Motion that are not directly at issue on appeal, the Court concludes those matters are inextricably bound up with those matters on appeal and jurisdiction over those matters has been divested as well. See In re Williams Sports Rentals. Inc., No. 2:17-CV-00653 JAM-EFB, 2017 WL 4923337, at *1 (E.D. Cal. Oct. 31, 2017) ("If the Court's rulings on Willis's motions were inextricably bound up with the merits of the limitation issues, then this Court would be divested of jurisdiction."). Accordingly, the Court is without jurisdiction to rule on the Motion while the appeal is pending. The Court DENIES the Motion without prejudice for lack of jurisdiction.

IT IS SO ORDERED.

APPENDIX C

United States District Court
Central District of California

In The Disciplinary Matter of Nina Rae Ringgold California State Bar No. 133735	Case No: 19-ad-00196-VAP **Order Denying Application to File Motion (Doc. No. 7)**

Before the Court is an Application to Stay this Before the Court is an Application to File a Motion in Another Case filed by Respondent Nina Rae Ringgold. (Doc. No. 7, "Application"). The Court has considered the Application and the supporting documents Respondent submitted and DENIES the Application. Respondent 's effective suspension from the practice of law by the California State Bar serves to prevent Respondent from practicing in this District as well. L.R. 83-3.3. It is Respondent's duty to avoid prejudice to any clients by seeking the assistance of attorneys duly authorized to practice before the Court.

IT IS SO ORDERED.

Date: 1/24/20

/s/ Virginia A. Phillips

_____

Virginia A. Phillips
Chief United States District Judge

APPENDIX D

United States District Court
Central District of California

In The Disciplinary Matter of Nina Rae Ringgold California State Bar No. 133735	Case No: 19-ad-00196-VAP **Order Staying Action**

Before the Court is an Application to Stay this action pending Respondent Nina Rae Ringgold's collateral attacks on her suspension from the California State Bar. (Doc. No. 2). The Court has considered the Application and the supporting documents Respondent submitted and GRANTS in part Respondent's Application to Stay.

The Court finds it is not necessary for this matter to proceed now to protect the public because it is already protected by Respondent's effective suspension from the practice of law by the California State Bar, which serves to prevent Respondent from practicing in this District as well. L.R. 83-3.3. Proceeding with this disciplinary matter while the litigation is pending would require the duplication of

efforts and would not promote judicial economy, as it appears that Respondent will present the same arguments and evidence in each matter.

Accordingly, the Court hereby STAYS this disciplinary matter until the California State Bar Court Rules on Respondent's motion to vacate default and until the Ninth Circuit has ruled on the petition for rehearing. The Court declines to extend the stay to include all subsequent potential appeals of those matters at this time.

Respondent shall provide the Court with a status report following the State Bar Court's decision on her motion to vacate default within seven days of its entry as well as a copy of the decision. Respondent shall also provide the Court with a status report of the Ninth Circuit's decision on her petition for rehearing within seven days of its entry as well as a copy of the decision.

IT IS SO ORDERED.

Date: 12/11/19

/s/ Virginia A. Phillips

_____

Virginia A. Phillips
Chief United States District Judge

APPENDIX E

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No. **2:19-ad-00196-VAP** Date December 11, 2019

Title ***In the Disciplinary Matter of Nina Rae Ringgold***

Present: The Honorable VIRGINIA A. PHILLIPS, CHIEF UNITED STATES DISTRICT JUDGE

BEATRICE HERRERA	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s): None Present	Attorney(s) Present for Defendant(s): None Present

Proceedings: MINUTE ORDER (IN CHAMBERS) DENYING AAPLICATION TO FILE DOCUMENT UNDER SEAL (Doc. No. 3)

As the Court has granted Respondent's Application to Stay, the Court DENIES the Application to File Documents Under Seal (Doc. No. 3) as MOOT.

IT IS SO ORDERED.

APPENDIX F

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

IN THE DISCIPLINARY MATTER OF NINA RAE RINGGOLD California State Bar No. 133735	CASE NO: 2:19-ad-00196-VAP ORDER TO SHOW CAUSE

This Court has received notice that the attorney named above has been enrolled involuntarily as an inactive member of the State Bar of California, effective October 13, 2019. He or she is currently counsel of record in a case pending before this Court. Accordingly, the attorney named above is HEREBY ORDERED TO SHOW CAUSE, in writing, within 30 days of the date of this order, why he or she should not be disbarred from the practice of law before this Court, pursuant to Rule 83-3.3 of the Local Rules for the Central District of California.

If the attorney does not contest the imposition of disbarment from this Court or does not respond to this order to show cause within the time specified, the Court, shall issue an order of disbarment. A response to this order to show cause must make the showing

required in Local Rule 83-3.2. In addition, at the time a response is filed, the attorney must produce a certified copy of the entire record from the other jurisdiction or bear the burden of persuading the Court that less than the entire record will suffice. *See* Local Rule 83-3.2.3.

A response to this order to show cause and any related documentation may be filed electronically, in accordance with the Court's local rule, or manually, at the Edward R. Roybal Federal Building and Courthouse, 255 East Temple Street, Room 180, Los Angeles, California 90012, Attn: Civil Intake. All documents filed must include the case number in the caption.

Unless stated otherwise by order of the Court, an attorney who has been disbarred from the Bar of this Court because of discipline imposed by the Supreme Court or State Bar of California will be reinstated to the Bar of this Court upon proof of reinstatement as an active member in good standing in the State Bar of California.

An attorney registered to use the Court's Electronic Case Filing System (ECF) who is disbarred by this Court will not have access to file documents electronically until the attorney is reinstated to the Bar of this Court.

Date: October 29, 2019

/s/ VIRGINIA A. PHILLIPS

_____
VIRGINIA A. PHILLIPS
CHIEF UNITED STATES
DISTRICT JUDGE

APPENDIX G

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED
AUG 4 2021
MOLLY C. DWYER,
CLERK
U.S. COURT OF
APPEALS

In re: IN THE DISCIPLINARY MATTER OF NINA RAE RINGGOLD, California State Bar No. 133735, NINA RINGGOLD, California State Bar No. 133735, Petitioner-Appellant.	No. 20-55199 D.C. No. 2:19-ad-00196-VAP Central District of California, Los Angeles ORDER

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en bane and no judge has requested a vote on whether to rehear the matter en bane. See Fed. R. App. P. 35.

Ringgold's petition for panel rehearing and petition for rehearing en bane (Docket Entry No. 26), and motion for judicial notice (Docket Entry No. 25), are denied.

The court sua sponte withdraws the April 29, 2021 memorandum disposition. A replacement memorandum disposition will be filed concurrently with this order.

No further filings or petitions for rehearing will be entertained in this closed case.

APPENDIX H

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED
APR 29 2021
MOLLY C. DWYER,
CLERK U.S. COURT
OF APPEALS

In re: IN THE DISCIPLINARY MATTER OF NINA RAE RINGGOLD, California State Bar No. 133735, NINA RINGGOLD, California State Bar No. 133735, Petitioner-Appellant.	No. 20-55199 D.C. No. 2:19-ad-00196-VAP MEMORANDUM*

Appeal from the United States District Court for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted April 20, 2021 **

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

Nina Ringgold appeals pro se from the district court's orders in her disciplinary action. To the extent we have jurisdiction, it is under 28 U.S.C. §1292(a)(l). We review for an abuse of discretion. *Jackson v. City & County of San Francisco,* 746 F.3d 953, 958 (9th Cir. 2014). We affirm in part and dismiss in part.

The district court did not abuse its discretion by denying Ringgold's request to file a motion in her separate civil action. *See Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007) ("Broad deference is given to a district court's interpretation of its local rules.""); C.D. Cal. L.R. 83-3.3 "Any attorney previously admitted to the Bar of this Court who no longer is enrolled as an active member of the Bar, Supreme Court, or other governing authority of any State ... shall not practice before this Court."); *see also Jackson*, 746 F.3d at 958 (setting forth requirements for a preliminary injunction).

We lack jurisdiction to consider the district court's orders entered on October 29, 2019 and December 11, 2019 because they are not final appealable orders. *See* 28 U.S.C. §1291

(jurisdiction of appeals from "final decisions"); *Midland Asphalt Corp. v. United States,* 489 U.S. 794, 798 (1989) ("For purposes of [28 U.S.C. §1291], a final judgment is normally deemed not to have occurred until there has been a decision by the District Court that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." (citation and internal quotation marks omitted)). Moreover, Ringgold did not file a notice of appeal within 30 days after entry of these orders. *See* Fed. R. App. P. 4(a)(l) (notice of appeal must be filed within 30 days after entry of the order appealed from).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, including Ringgold's request for relief under 28 U.S.C. §1651. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009); *Acosta- Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in appellant's opening brief are waived).

All pending motions are denied.

AFFIRMED in part, DISMISSED in part.

APPENDIX I

FILED
May 8, 2020
STATE BAR
COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

En Banc

In the Matter of	)	09-O-13090
	)	
NINA RAE RINGGOLD,	)	**ORDER**
	)	
State Bar No. 133735.	)	
_____	)	

On February 18, 2020, respondent Nina Rae Ringgold filed a petition for review and application for stay of the hearing judge 's order denying respondent's motion to vacate a default order, along with three appendixes in support of the petition. On February 26, respondent filed a corrected petition for review and application for stay and an appendix containing three CDs with audio recordings. On March 2, we granted

respondent's petition, ordered the Office of Chief Trial Counsel of the State Bar (OCTC) to respond, and indicated that respondent would have 10 days after OCTC filed its response to file a reply. On March 17, OCTC filed a response and a supplemental appendix. On April 10, we granted respondent's motion requesting an extension of time to file her reply due to the COVID-19 public health emergency. On April 23, respondent filed her response to petition for review and a volume 4 supplemental appendix.[1]

Respondent seeks review of an October 10, 2019 order entering her default for not appearing at trial, as well as a December 26, 2019 order denying her motion to vacate the default order and for a stay of the proceedings, and a January 27, 2020 order denying her motion for reconsideration of the denial.

The trial was originally set to begin on August 15, 2019, but was continued to August 20. Respondent participated in pretrial proceedings and two days of trial on August 20 and September 25. The October 10

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[1]Respondent has submitted voluminous records. However, we have focused our review on her request that we review the hearing judge's orders relating to her default.

trial date was set by order filed on September 26, 2019, which continued the trial to October 2, and 17-18, with October 9-11 as additional tentative trial dates, subject to further ruling of the court. The order also provided that respondent must provide documentation by September 27 regarding her representations to the court that she was unavailable on September 27 and October 8-11.

On September 27, 2019, Ringgold filed a document titled Dates of Unavailability, including that she had a mediation scheduled for October 9-11. The documentation she provided regarding the mediation appeared to be a notice of meditation, but did not include a case number, location, or identify a mediator. On September 27, the hearing judge issued an order stating that the documentation respondent provided was insufficient, and setting trial for October 2, and October 10-11. The order provided that if respondent did not appear on any of these dates, her default would be taken. On September 30, Ringgold filed a request for reconsideration of the September 27 order, stating that the documentation she provided regarding the mediation on October 9-11 was sufficient. She stated that she was the mediator and that other details regarding the mediation were confidential. She also clarified that she had provided documentation regarding a doctor's appointment on October 2. On October 1, the hearing judge issued an

order which vacated the October 2 trial date, but left the October 10-11 dates in place. The order also referred to Evidence Code section 1120 which provides that an agreement to mediate a dispute is admissible.

When respondent did not appear at trial on October 10, 2019, the hearing judge entered her default. Respondent appeared on October 11, at which point she learned that her default had been entered. On October 15, she filed a motion to stay the default order, which was rejected by the judge's court specialist. On November 25, she filed a motion to vacate and stay, which the hearing judge denied on December 26, finding that respondent failed to establish the requisite "mistake, inadvertence, surprise, or excusable neglect." The judge found that respondent failed to follow her October 1 order setting trial without seeking reconsideration or attempting to continue the trial dates. On January 10, 2020, respondent filed a motion for reconsideration of the hearing judge's December 26, 2019 order, which the judge denied on January 27, 2020.

Respondent argues that she demonstrated mistake, inadvertence, surprise or excusable neglect because she informed the court that she was unavailable on October 10 due to a scheduled mediation. OCTC argues that the hearing judge did not abuse her discretion because respondent had

notice of the trial date and that she willfully failed to appear.

Having considered respondent's petition on the merits, we find that denial of relief from default by the hearing judge was an abuse of discretion. We acknowledge that the judge properly entered respondent's default when she failed to appear at trial.

However, the unique facts of this case persuade us that relief from default should have been granted. First, respondent filed notice of dates of unavailability and a motion to reconsider when the hearing judge declined to vacate the October 10-11, 2019 trial dates. Second, she participated in pretrial and trial proceedings before her default was entered. And finally, she appeared the following day and upon discovering that her default had been entered, she promptly attempted to seek reconsideration of that order.

The effects of a default may deny a disposition of the case on the merits irrespective of the charges or potential mitigation. As a result, we closely scrutinize orders denying relief from default, and any doubts must be resolved in favor of the attorney. (*In the Matter of Carver* (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348, 354, citing *Elston v. City of Turlock* (1985) 38 Cal.3d 227, 233.) When respondent moves

promptly to seek relief, only "very slight evidence" is required to justify an order setting aside a default. (*Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478.)

The facts of this matter call for relief from default. We acknowledge that respondent failed to appear for trial on the third scheduled day without notifying the judge, other than the notice of mediation that the judge had determined was insufficient to justify a continuance.

Respondent did not, however, abandon her case such that the ultimate sanction of disbarment is appropriate under our default procedures. We must take into account the strong public policy that favors disposition on the merits (*Shamblin, supra*, 44 Cal.3d at p. 478), the severe consequences of disbarment for default (Rule Proc. of State Bar., rule 5.82), that respondent had already participated in pretrial and trial proceedings, and that she filed her motion for relief from default well within the time allowed under the rule. (Proc. of State Bar, rule 5.83(C).) Considering case law and the factual circumstances presented here, we find that respondent's discipline case should be decided on the merits. Holding a trial will not prejudice OCTC as only a short time has passed since the default was entered. (See I*n the Matter of Navarro* (Review Dept. 1990) l Cal. State Bar Ct. Rptr. 192, 199-200 [hearing judge violated discretion in denying

motion for relief from default where record establishes respondent's mistake, inadvertence, surprise or excusable neglect]; Rules Proc. of State Bar, rule 5.150(K).)

Accordingly, we vacate the default order, effective upon the filing of this order, and remand this matter for trial.

Catherine D. Purcell
Presiding Judge

CERTIFICATE OF ELECTRONIC SERVICE

[Gen. Order 20-04; Code Civ. Proc., §1013b, subds. (a)-(b)]

I, the undersigned, certify that I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, on May 8, 2020, I electronically served a true copy of the following document(s):

ORDER FILED MAY 8, 2020

by electronic transmission on that date to the following:

NINA RAE RINGGOLD
nrringgold@aol.com

KIMBERLY G. ANDERSON
Kimberly.Anderson@calbar.ca.gov

I hereby certify that the foregoing is true and correct.

Date: May 8, 2020

Mel Zavala

_____

Mel Zavala Court Specialist
State Bar Court of
California
845 S. Figueroa St.
Los Angeles, CA 90017
Mel.Zavala@calbar.ca.gov

APPENDIX J

ADDITIONAL PERTINENT FEDERAL AND STATE AUTHORITIES

I. FEDERAL AUTHORITIES

A. Excerpts from Rule 83 of the Federal Rules of Civil Procedure, Rules by District Courts; Judge's Directives.

(a) LOCAL RULES- IN GENERAL

(1) In General. After giving public notice and an opportunity for comment, a district court, acting by a majority of its district judges, may adopt and amend rules governing its practice. A local rule must be consistent with—but not duplicate—federal statutes and rules adopted under 28 U.S.C. §§2072 and 2075, and must conform to any uniform numbering system prescribed by the Judicial Conference of the United States. A local rule takes effect on the date specified by the district court and remains in effect unless amended by the court or abrogated by the judicial council of the circuit. Copies of rules and amendments must, on their adoption, be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public.

(2) Requirement of Form. A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

B. Excerpts Of Central District Attorney Disciplinary Rules Of Court

L.R. 83-3 Attorney Disciplinary Rules of the Court.

…

L.R. 83-3.1 Discipline

L.R. 83-3.1.4 Who May Originate Complaints - Initial and Further Investigation - Hearing and Opportunity for Attorney Involved to Appear and Present Evidence. A complaint that an attorney has violated any of the standards of conduct specified in Rule 83-3.1.2, may come to the Committee from any District, Bankruptcy or Magistrate Judge of the Court or from any other person. The complaint shall be in writing addressed to the Committee in care of the Clerk of Court….

L.R. 83-3.2 Enforcement of Attorney Discipline

L.R. 83-3.2.1 Disbarment or Suspension by Other Courts or Conviction of a Crime. Upon receipt of reliable information that a member of the Bar of this Court or any attorney appearing pro hac vice (1) has been suspended or disbarred from the practice of law by the order of any United States Court, or by the Bar, Supreme Court, or other governing authority of any State, territory or possession, or the District of Columbia, or (2) has resigned from the Bar of any United States Court or of any State, territory or possession, or the District of Columbia while an investigation or proceedings for suspension or disbarment was pending, or (3) has been convicted of a crime, other than in this Court, the elements or underlying facts of which may affect the attorney's fitness to practice law, this Court shall issue an Order to Show Cause why an order of suspension or disbarment should not be imposed by this Court.

Upon the filing of a judgment or conviction demonstrating that any attorney admitted to practice before this Court has been convicted in this Court of any serious crime as herein defined, the Chief Judge or his or her

designee shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, nolo contendere, verdict after trial, or otherwise, and regardless of the pendency of any appeal. The suspension so ordered shall remain in effect until final disposition of the disciplinary proceedings to be commenced upon such conviction . A copy of such order shall be immediately served upon the attorney. Upon good cause shown, the Chief Judge or his or her designee may set aside such order when it appears in the interest of justice to do so.

The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction in which it was entered, involves false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or the use of dishonesty, or an attempt, conspiracy, or solicitation of another to commit a "serious crime."

If the attorney files a response stating that imposition of an order of suspension or disbarment from this Court is not contested, or

if the attorney does not respond to the Order to Show Cause within the time specified, then the Court shall issue an order of suspension or disbarment. The order shall be filed by the Chief Judge or his or her designee.

…

L.R. 83-3.2.3 Contested Matters. If the attorney files a written response to the Order to Show Cause within the time specified stating that the entry of an order of suspension or disbarment is contested, then the Chief Judge or other district judge who may be assigned shall determine whether an order of suspension or disbarment or other appropriate order shall be entered. Where an attorney has been suspended or disbarred by another Bar, or has resigned from another Bar while disciplinary proceedings were pending, the attorney in the response to the Order to Show Cause, must set forth facts establishing one or more of the following: (a) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (b) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the Court should not accept as final the

other jurisdiction's conclusion(s) on that subject; (c) imposition of like discipline would result in a grave injustice; or (d)other substantial reasons exist so as to justify not accepting the other jurisdiction's conclusion(s). In addition, at the time the response is filed, the attorney must produce a certified copy of the entire record from the other jurisdiction or bear the burden of persuading the Court that less than the entire record will suffice.

…

L.R. 83-3.3 Practice Prohibited While on Inactive Status. Any attorney previously admitted to the Bar of this Court who no longer is enrolled as an active member of the Bar, Supreme Court, or other governing authority of any State, territory or possession, or the District of Columbia, shall not practice before this Court. Upon receipt of reliable information that such attorney is practicing before the Bar of this Court, this Court shall issue an Order to Show Cause why the attorney should not be disbarred from this Court, and shall proceed with the Order to Show Cause in the manner set forth in L.R. 83-3.2.1.

II. CALIFORNIA AUTHORITIES

A. Constitution

Art. VI Section 1

> The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record.

Art. III Section 3.5

> An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power:
>
> (a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional;
>
> (b) To declare a statute unconstitutional;
>
> (c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal

regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations.

B. Public Interest Priority
1. B & P §6001.1

B & P Code §6001.1 in effect on March 23, 2015 on removal stated:

Protection of the public shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

B & P Code §6001.1, in effect after the assault on appellant, and at the time of January 15, 2019 removal stated:

Protection of the public, *which includes support for greater access to, and inclusion in, the legal system*, shall be the highest priority for the State Bar of California and the board of trustees in exercising their licensing, regulatory, and disciplinary functions.

Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

B. Requirement of a Verified Complaint

1. B & P §6108

Initiation of State Bar Complaint requires a verified statement.

Cal. B & P. Code §6108 states:

If the proceedings are upon the information of another, the accusation shall be in writing and shall state the matters charged, and be verified by the oath of some person, to the effect that the charges therein contained are true.

D. Inability Of State Bar to Consider An Attorney's Defense If the Defense Involves Judicial Conduct

1. B & P §6108

Cal. B & P Code §6031 (b) states:

(b) Notwithstanding this section or any other provision of law, the board shall not conduct or participate in, or authorize any committee, agency, employee, or commission of the State Bar to conduct or participate in any evaluation, review, or report on the qualifications, integrity, diligence, or judicial ability of any specific justice of a court provided for in Section 2 or 3 of Article VI of the California Constitution without prior review and statutory authorization by the Legislature.