

ORIGINAL

21-7193
NO. _____

Supreme Court, U.S.
FILED

FEB 19 2022

OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

JOSÉ YEYILLE

Petitioner,

v.

JUSTIN COLE SPEIGEL, MD

Respondent.

**PETITION FOR A WRIT OF CERTIORARI
TO THE FLORIDA DISTRICT COURT
OF APPEAL THIRD DISTRICT**

February 19, 2022

PRO•SE

**José Yeyille
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PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS

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

Related cases:

APPENDIX 1: *José Yeyille v. Justin Cole Spiegel, MD.*, 3D22-104
(February 15, 2022). Upon consideration, pro se Petitioner's Motions
for Rehearing and a Written Opinion are hereby denied.....**Appx. 1**

[Application (21A415) denied by Justice Thomas. (February 14, 2022)].

**[Application (21A415) for a stay of mandate, submitted to
Justice Thomas. (February 7, 2022)].**

APPENDIX 2: *José Yeyille v. Justin Cole Spiegel, MD.*, 3D22-104
(February 4, 2022). Upon consideration, pro se Petitioner's
"Emergency Motion to Stay Effect of Mandate and Stay Proceedings
in the Lower Court Pending Petitioner's Petition for a Writ of
Certiorari to the Supreme Court of the United States" is hereby denied.....**Appx. 2**

APPENDIX 3: *José Yeyille v. Justin Cole Spiegel, MD.*, 3D22-104
(January 19, 2022). Upon review, the pro se Petition for a Writ of
Prohibition and/or Writ of Mandam[u]s is hereby denied.....**Appx. 3**

**[Second Motion for Judicial Disqualification on federal
constitutional grounds: violation of Privileges and Immunity,
Due Process, and Equal Protection protected by the
Fourteenth Amendment to the Constitution of the
United States. (January 6, 2022)]**

APPENDIX 4: *José Yeyille v. Justin Cole Spiegel, MD.*,
21-24767-CA25 (January 5, 2022). Order Denying [First] Motion
For Judicial Disqualification.....**Appx. 4**

QUESTION PRESENTED FOR REVIEW

Whether a state trial court judge should be disqualified on Fourteenth Amendment due process, equal protection, and privileges and immunities grounds from presiding in another separate and contemporaneous case involving the same party whom she had previously forbidden to submit any other case before the court.

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JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked under **28 U.S.C. §1257(a)***; and **Rule 10(b)** of the Supreme Court of the United States.

The relief sought, the disqualification and recusal of a trial court judge on constitutional grounds, is not available from any court or judge. The relief requested was first sought in the appropriate courts below and from the trial court judge and a panel of appellate court judges. Petitioner respectfully requests that this Court issue a Writ of CERTIORARI to the Florida Third District Court of Appeal.

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution. Fourteenth Amendment, Section 1.

No State shall make or enforce any law which shall abridge the **privileges or immunities of citizens of the United States**; nor shall any State deprive any person of life, liberty, or property, without **due process of law**; nor deny to any person within its jurisdiction the **equal protection of the laws**. (*emphasis*).

* “[A] district court decision *rendered without opinion or citation* constitutes a decision from the highest state court empowered to hear the cause, and appeal may be taken directly to the United States Supreme Court.” *The Florida Star v. B.J.F.* 530 So. 2d 286, footnote 3 (Fla. 1988)(*emphasis*).

STATEMENT OF THE CASE AND FACTS

1. At the December 3, 2021 hearing of the case *José Yeyille v. The School Board of Miami-Dade County, Florida, Marta Perez, Perla Tabares-Hantman, Walter Harvey, Alberto Carvalho*, 20-21875-CA25, the following occurred:

Hearing of December 3, 2021 requested by Plaintiff to obtain ruling of the Court of his Complaint and Response to Defendants' Combined Motion to Dismiss. Zoom meeting.

1. Gentleman named Kim Gibson appears in ZOOM meeting.
2. Meeting starts. Plaintiff José Yeyille can see and hear opposing counsel Mr. Garcia and judge Manno-Schurr, but could not manage to unmute right away.
3. **Opposing counsel Mr. Garcia** proceeds to his peroration of irrelevant cases which are not mentioned in Plaintiff's Complaint. Then he pauses to mention that judge Cecilia Altonaga was recently named Chief United States District Court Judge of the Southern District of Florida. Mr. Garcia claims that since judge Altonaga dismissed Plaintiff's civil rights complaint against Defendants, Plaintiff could not claim the money defrauded by judge Altonaga and Defendants as damages in this case. Mr. Garcia added that since Defendants hired the law firm of Holland & Knight, LLP where judge Altonaga's husband worked, instead of her husband himself, that Plaintiff did not have a case.
4. **Plaintiff José Yeyille**: "May it please the court. Is there a court reporter present?"
5. **Judge Manno-Schurr**: "No."
6. **Plaintiff José Yeyille**: "Florida Rule of Appellate Procedure 9.200(a)(3) allows me to prepare a stipulated statement how issues presented arose and were decided in this tribunal. Will opposing counsel kindly stipulate to allow me to file this statement with the clerk?"

7. Judge Manno-Schurr says that she does not know what that stipulated statement meant.

8. Mr. Garcia: says nothing.

9. Plaintiff José Yeyille: “I object to Defendant’s inclusion of the affirmative defense of RES•IVDICATA in a motion to dismiss. They must legally raise the affirmative defense of RES•IVDICATA in an Answer.

10. Judge Manno-Schurr states that she is unaware that such is the law.

11. Plaintiff José Yeyille states that such is the settled law, and mentions *Pizzi* [*v. Central Bank and Trust Company*, 250 So. 2d 895, 897 (Fla. 1971)] and Florida Rule of Civil Procedure 1.110[d].

12. Judge Manno-Schurr: “I know her [judge Altonaga]. She could not have done it [agreed with Defendants to rule in their favor in exchange for Defendants’ promise to hire Altonaga’s husband’s law firm of Holland & Knight, LLP].” “You are wasting my time. You are a complete waste of my time, the judges’ time. You cannot continue to bring cases in the court.”

13. Plaintiff José Yeyille: “May it please the court to rule on my Complaint and Response to Defendants’ Combined Motion to Dismiss.”

14. Judge Manno-Schurr appeared bewildered, and proceeded visually to scan something in front of her.

15. Judge Manno-Schurr: [To Plaintiff] “Do you have evidence?”

16. Plaintiff José Yeyille: “I have evidence.”

17. Judge Manno-Schurr: “What evidence?”

18. Plaintiff José Yeyille: “The Complaint. After the hearing there will be requests for admissions, interrogatories, and production.”

19. Judge Manno-Schurr: “You are vexatious. I am going to order that you cannot file any other cases.”

20. Plaintiff José Yeyille: “I have another case assigned to you. I request that you recuse from that case.”

21. Judge Manno-Schurr: “What case?”

22. Plaintiff José Yeyille: “José Yeyille v. Spiegel.”

23. Judge Manno-Schurr: “What is the case about?”

24. Plaintiff José Yeyille: “Intentional infliction of emotional distress.”

25. Judge Manno-Schurr: “File motion to disqualify [me]from that case.”

26. Judge Manno-Schurr commands Mr. Garcia to draft the Proposed Order dismissing Plaintiff’s Complaint and granting Defendants’ Combined Motion to Dismiss.

27. The “Proposed Order” has judge Manno-Schurr’s signature.

The court’s order in December 3, 2021 dismissing petitioner’s case on RES• IVDICATA grounds does **not** contain the judge’s statements at the hearing.

2. Petitioner prepared this statement in lieu of the record of the hearing (there was no court reporter at the hearing) submitted by Petitioner in December 7, 2021; and Statement of the Hearing submitted in December 20, 2021 both pursuant to Florida Rules of Appellate Procedure 9.200(a)(3), 9.200(b)(3), and 9.200(b)(5) (equivalent to Federal Rule of Appellate Procedure 10(c) and 10(d)).

3. In December 6, 2021 Petitioner submits a Motion to Disqualify Judge Mano-Schurr in the present case *José Yeyille v. Justin Cole Spiegel*, 21-24767-

CA25 pursuant to Florida state law grounds.

4. In January 5, 2022 judge Manno-Schurr denied the motion for her disqualification and recusal on state law grounds.

5. The following day in January 6, 2022, petitioner submitted his second Motion for Disqualification on federal law grounds:

“Plaintiff’s Motion to disqualify Judge Valerie R. Manno-Schurr Pursuant to Florida Statute 38.10 and Rule of Judicial Administration 2.330. **Violation of Plaintiff’s Privileges and Immunities, Due Process, and Equal Protection Clauses Protected by the Fourteenth Amendment to the United States Constitution**; Florida Constitution, Article I, Section 9 Due Process; and Fla. Code. Jud. Conduct, Canons 2, 2A, and 3E(1)(b) with Memorandum of Law.”

6. As of today, February 19, 2022, judge Manno-Schurr has refused to rule on the second Motion to Disqualify on constitutional grounds.

7. In January 17, 2022, pursuant to Florida’s constitution and binding precedent, petitioner submitted Petition for Writ[s] of Prohibition (to disqualify the trial judge from this case) and/or MANDAMVS (to command the judge to rule on petitioner’s second Motion for Disqualification on constitutional grounds wielding *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680-682 (1930); *In re Murchison*, 349 U.S. 133, 136 (1955); *Timbs v. Indiana*, 139 S.Ct. 682, 691-698 (2019) (Justice Thomas, concurring); and binding state law precedent, *Livingston v. State*, 441 So. 2d 1083, 1086 (Fla. 1983): “**Every litigant...is**

entitled to nothing less than the cold neutrality of an impartial judge.”

8. In January 19, 2022 a panel of the Third District Court of Appeal of Florida denied that Petition without an opinion or citation.

9. In January 24, 2022 petitioner submitted a Motion for Rehearing and Written Opinion **again** raising the constitutional grounds for disqualification with binding authority, contending: “A state court does not have discretion or power to refuse to rule on a party’s **federal claims** prominently and repeatedly pleaded and stated in his second Motion for Disqualification on *constitutional grounds* and this Motion for Rehearing. *Davis v. Wechsler*, 263 U.S. 22, 24-25 (1923) and *Brown v. Western R. Co. of Alabama*, 338 U.S. 294, 298-299 (1949). *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 677-678 (1930).”

10. Judge Manno-Schurr’s conduct against Petitioner was unnecessarily **adversarial**. *Bundy v. Rudd*, 366 So. 2d 440, 442 (Fla. 1978).

11. In February 2, 2022 Petitioner submitted his Motion to Stay Effect of Mandate and Stay Proceedings in the Lower Court Pending Petitioner’s Petition For a Writ of Certiorari to the Supreme Court of the United States.

12. In February 4, 2022 the Third District Court of Appeal of Florida denied the Motion to Stay without an opinion or citation.

13. In February 7, 2022 Petitioner submitted an Application for a Motion

To Stay the Mandate of the Third District Court of Appeal of the State of Florida to Justice Thomas.

14. In February 14, 2022 it pleased Justice Thomas to deny Petitioner's Application.

15. In February 15, 2022 the panel of the Third District Court of Appeal denied Petitioner's Motion for Rehearing and Written Opinion to afford to Petitioner the ability to appeal to the Florida Supreme Court.

16. Since 1980 the Florida Supreme Court has outsourced its appellate docket to the Supreme Court of the United States. *Jenkins v. State*, 385 So. 2d 1356 (Fla. 1980). Most notably, and conspicuously, the indigent and racial and ethnic minorities are left without day because they are the recipient of the vast majority of the judgments without opinions issued by the Florida Appellate courts.

REASON FOR GRANTING APPLICATION TO STAY

17. "A fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U.S. 133, 136 (1955). The Privileges and Immunities Clause may further buttress the right to an impartial judiciary and equal protection of the laws. *Timbs v. Indiana*, 139 S.Ct. 682, 691-698 (2019) (Justice Thomas, concurring). The federal guaranty of due process [and equal protection] extends

to state action through its judicial as well as through its legislative, executive or administrative branch of government.” *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673, 680-682 (1930) [emphasis].

ARGUMENT

Constitutional Grounds for Judicial Disqualification

18. “A fair trial in a fair tribunal is a basic requirement of due process.” *In re Murchison*, 349 U.S. 133, 136 (1955). When any party before any trial court is told by the judge that she is going “to order that you cannot file any other cases” and “You are wasting my time. You are a complete waste of my time, the judges’ time. You cannot continue to bring cases in the court” he can only reasonably understand, and interpret, the judge’s remark to mean that the judge is at the very least biased and has already prejudged and decided any other case brought before her by Petitioner.

19. “[T]he right of the citizen of this great country, protected by implied guarantees of its Constitution, “to come to the seat of government to assert any claim he may have upon that government, to transact any business he may have with it, to seek its protection...”” *Slaughter-House Cases*, 83 U.S. 36, 79 (1872). The Privileges and Immunities Clause may further buttress the right to an impartial judiciary and equal protection of the laws. *Timbs v. Indiana*, 139

S. Ct. 682, 691-698 (2019) (Justice Thomas, concurring).

20. If judge Manno-Schurr is allowed to preside over the present case *José Yeyille v. Justin Cole Spiegel*, 21-24767-CA25, or any other case in which petitioner is a party, judge Manno-Schurr will violate Petitioner's constitutional rights to an impartial judge, the equal protection of the laws, and his privileges and immunities protected by the Fourteenth Amendment to the United States Constitution.

CONCLUSION AND RELIEF SOUGHT

In consideration of the foregoing, Petitioner respectfully urges this Court

—to grant his Petition for a Writ of CERTIORARI.

—to reverse the Third District Court of Appeal of Florida's decision and to command the trial court's judge Manno-Schurr to issue a judgment on Petitioner's Motion to Disqualify the judge on federal constitutional grounds.

—In addition, petitioner respectfully requests that this Court grant him any and all other relief that this Court may deem just and proper.

Date: February 19, 2022

PRO•SE

Respectfully submitted,

JY
José Yeyille
5505 SW 135th Court
Miami, Florida 33175

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOSÉ YEYILLE
Petitioner,

v.

JUSTIN COLE SPEIGEL, MD
Respondent.

PROOF OF SERVICE

I, José Yeyille, do swear or declare that on this date, February 19, 2022 as required by Supreme Court Rule 29 I have served the enclosed **PETITION FOR A WRIT OF CERTIORARI TO THE FLORIDA DISTRICT COURT OF APPEAL THIRD DISTRICT** to that party's counsel pursuant to Rule 29, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid mail for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Rolando Diaz, Diaz Law Group Dadeland Centre
9155 S. Dadeland Blvd. Suite 1218 Miami, Florida 33156

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 19, 2022

JY
José Yeyille