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SUPREME COURT, U.S.

IN THE SUPREME COURT
OF THE UNITED STATES

KARIM CHRISTIAN KAMAL, Petitioner

vs.

JOSEPH FARROW et al, Respondents

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

- 1) The Ninth Circuit is in disagreement with the Second and Eight Circuits: Do attorney's fees and court costs incurred as a result of fraud constitute RICO economic damages?
- 2) Did County of Los Angeles ("County") and individual defendants associated with County discriminate against Appellant on the basis of his national origin as alleged in the Second Amended Complaint?

LIST OF PARTIES

The Petitioner is: Karim C. Kamal.

The Respondents are:

SACRAMENTO California Highway Patrol: Joseph Farrow, I.J. Tillman, Jose Haro, Lisa Ann Fossi, Gurwinder Rakkar.

ALTADENA California Highway Patrol Station: Dustin Sherman, Rebecca Lynch, Robert Garcia.

COUNTY OF LOS ANGELES: Gail Farber, Arnel Dulay, Craig Cline, Rosemarie Brazal.

COUNTY'S ATTORNEYS: Hurrell-Cantrall LLP, Thomas Hurrell, Melinda Cantrall, Warren Williams.

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**IN THE UNITED STATES SUPREME COURT
PETITION FOR WRIT OF CERTIORARI**

OPINIONS BELOW

The memorandum of the United States court of appeals entered on September 23, 2021. (App. A; P 1)

The judgment of the USDC entered on September 23, 2019. (App. B; P3)

The Report and Recommendations of the USDC for the Second Amended Complaint entered on May 2, 2019. (App. C; P 4)

The Report and Recommendations of the USDC for the Fourth Amended Complaint entered and November 26, 2019. (App. D; P 25)

JURISDICTION

The United States Court of Appeals decided my case on September 23, 2021.

A timely petition for rehearing was denied by the United States Court of Appeals on December 28, 2021. (Appendix E; P 37)

An extension of time to file the petition for a writ of certiorari was granted to and including May 27, 2022 on March 29, 2022 in Application 21A524.

The jurisdiction of this Court is invoked under 28 U.S.C. 1254 (1)

STATEMENT OF THE CASE

Appellant alleges that the Respondents, using their positions as California Highway Patrol ("CHP") employees, have engaged in a long-standing, well-oiled, fraudulent and corrupt scheme to prevent Kamal and several others, including the public and state and federal authorities such as CALTRANS, the United States Forest Service ("USFS") and the Federal Highway Administration ("FHWA") from discovering that factors other than speed, caused or contributed to causing a collision of which Kamal was the victim on April 17, 2011 on a segment of Big Tujunga Canyon Road ("BTRC"), a property of the United States. BTRC was constructed as a federal-aid project and managed by County of Los Angeles and policed by CHP. These factors include, but are not limited to, a defective construction of the road, that is in stark violation of the plans, a failure to mitigate dangers known to County and CHP, CHP and County mismanagement of public funds granted over the decades for road safety purposes, including to remedy the very location of the collision, and CHP's willful failure to provide adequate law enforcement in an area particularly notorious for its high incidence of collisions. Fourth Amended Complaint ("FoAC") (App. G)

County of Los Angeles and CHP expected that the victims would seek compensation for their injuries from County and the United States. Pursuant to a well-oiled scheme, the Respondents tampered with evidence at the collision scene, sought to falsely incriminate one of the victims of the collision, Samuel Morales, prevented a reconstruction of the collision, procured and suborned a false witness who was not at the scene and produced, over 4 years, doctored statistics to conceal the true number of collisions and

fatalities at the location of the collision, with the result that the true numbers were severely underreported while other collisions were moved to different locations, sometimes miles away, in order to spread the alarming concentration of collisions at certain locations. The fraud hindered Kamal's attempt to establish the truth and to be compensated for his injuries. Kamal spent hundreds of thousands of dollars unsuccessfully pursuing his actions in state court, not knowing he did not stand a chance because the Respondents had colluded to prevent him from prevailing in court from day one and continuing throughout the state litigation.

Respondents meddled with Kamal's right to seek compensation from USFS and County for his injuries and, through their willfully fraudulent investigation prevented Appellant from making a fair assessment of the facts relating to the collision, leading Kamal to sue, at great cost to him, the wrong parties, and to sue based on the wrong facts and perverted evidence. Kamal has suffered economic damages by expending over two million dollars in attorney's fees and costs on an action that was doomed from day one due to Respondents' RICO activities.

The district court has dismissed Kamal's FoAC on the sole issue of economic damages, which issue is now before this Court. The district court further rejected Appellant's claim for discrimination against County and County officials in his First Amended Complaint.¹

¹ Respondents' actions defrauded not only Kamal but also the United States, local government, insurance companies and road users. Over a period of 4 years, starting on the day of the collision, the Respondents used the mail and wire to perpetrate their fraud. They tampered with evidence and witnesses and hindered federal official proceedings. Unfortunately, the Respondents and other culprits, including County officials, have been able to get away.

We are asking the court to review the dismissal of the action for discrimination because the claim is part of a larger context of government abuse that this Court is called to rein in while we still have a functioning country.

Prior state and federal court actions:

In May of 2012, Kamal filed an action against both the other victim of the collision, Samuel Morales ("Morales"), alleging that Morales was speeding on his motorcycle at the time he collided with Kamal, and County of Los Angeles for failure to warn of a dangerous condition of the road. Because of Respondents' RICO activities, Kamal believed Morales was at fault when in fact he was himself a victim of County misappropriation of federal funds that, had they been applied as they should have, would have allowed for a safer road.

County manages the road per Special Use Permit the United States Forest Service granted County. Kamal v. County of Los Angeles, EC058265 ("LASC action"). The LASC granted County summary judgment on the ground of design immunity and sign immunity as to Kamal while denying summary judgment as to Morales. The disparate treatment is owed to national origin discrimination, no less. Indeed, County indicated on the record that it did not believe

with their fraudulent schemes and corrupt act because courts, in this case 10 years in the making, including other connected state and federal court cases, have lavished immunity upon immunity upon the culprits. It is noteworthy that at no point in any of the underlying and connected actions did the culprits ever deny the facts, choosing instead the more convenient way out: immunity or Article III standing.

Kamal, who was admittedly not at fault in the collision, was entitled to damages because Kamal is a foreign-born United States citizen.

Seeing that he was losing in state courts, Kamal sued for negligence the United States Forest Service ("USFS") in the United States District Court for the Central District of California ("USDC"). Kamal v. United States, CV15-1585 FMO (JCx) ("USDC action"). In the course of the USDC action, Kamal discovered that the segment of the road was defectively constructed, that is in violation of the plans that the USFS reviewed and had to approve before construction. County had concealed the existence of material documents relating to the construction history of the road in the course of the state court action, thus making it impossible for Kamal to properly investigate whether the road was constructed according to the plans. As constructed, the blind corner where the subject collision happened is a compound turn instead of being smooth. Also, the evidence showed, as is seen below, that CHP doctored statistics to conceal the true number of collisions, severe injuries and fatalities at that location. It is only in the course of the USDC action that counsel for County in the LASC action, fearing he would commit perjury in a federal proceeding, admitted that it was he that procured the evidence based on which County successfully procured Summary Judgment in its favor.

The USDC court granted USFS Summary Judgment on the ground of discretionary immunity. The USDC rejected Kamal's argument that the USFS, as a daily user of the road for its forestry business, and although USFS reviewed the plans ahead of construction, although USFS financed the construction and inspected the road after construction, and although USFS has the authority to police the road just as CHP has the right to, was liable to Kamal.

for the injuries he sustained on the road. The USDC ruled that USFS had discretion to not exercise oversight on County's management of the road, to not secure the road or to otherwise demand that County secure the road. In brief, all courts agreed that nobody was liable to anyone for the injuries Kamal, and so many others have sustained over decades on that road.

Attorney's Fees As Economic Damages

Kamal argued that by colluding to tamper with evidence from day one, and by writing a false report of investigation, the Respondents sent Mr. Kamal on a goose chase, causing Kamal to unnecessarily sue Morales and to sue the USFS based on falsified facts and evidence that had been tampered with. Had Respondents not engaged in RICO activities to prevent Kamal from establishing the truth, Kamal would have sued the proper parties and he would have sued based on the correct facts.

The court rejected the allegation that Kamal's legal fees incurred in the state court actions and in his action against the USFS are RICO economic damages, reasoning that the Ninth Circuit has not recognized legal fees as a valid injury to a business or property under RICO. See Thomas v. Baca, 308 F. App'x at 88 *supra*. ("This court has not recognized the incurrence of legal fees as an injury cognizable under RICO, and we decline to do so here.")

Other circuits have however held that prior legal expenses are cognizable as injury under RICO. Handeen v. Lemaire, 112 F.3d 1339, 1354 (8th Cir. 1997) (prior legal expense "qualifies as an injury to business or property that was proximately caused by a predicate act of racketeering"); Stochastic Decisions, Inc. v. DiDomenico, 995 F.2d 1158, 1166-67 (2d Cir. 1993) ("Legal fees may constitute RICO damages

when they are proximately caused by a RICO violation.").

The National Origin Discrimination As Against The Individual County & Attorney Respondents

As the First Amended Complaint alleges, in furtherance of their corrupt scheme, County and individuals associated with County resorted to discrimination based on national origin. At Kamal's deposition in the LASC action, County and County of Los Angeles individual Respondents' attorney Warren Williams stated:

COUNTY ATTORNEY MR. WILLIAMS:

Q. Are you a citizen of the United States?

A. I am.

Q. When did you become a citizen?

**MS. WITNESS ATTORNEY
KAMAL-GRIFFIN:** *Irrelevant;
objection...*

THE WITNESS: *In January of 2012.*

MR. WILLIAMS:

*Q. Were you ever granted asylum
status in the United States?*

**MR. WITNESS ATTORNEY
SCHENKMAN:** *Objection; relevance,
possible invasion of privacy. You can
answer.*

THE WITNESS: *I was granted the
status of political refugee from France.*

MR. WILLIAMS:

Q. At the time were you a citizen of France?

A. I was a citizen of France at that time.

Q. Are you still a citizen of France?

MS. KAMAL-GRIFFIN: Irrelevant.
Objection. Irrelevant.

MR. SCHENKMAN: Go ahead and answer unless we instruct you not to.

THE WITNESS: Yes.

MR. WILLIAMS:

Q. Do you currently have a French passport?

A. No.

MS. KAMAL-GRIFFIN: Irrelevant.

MR. WILLIAMS:

Q. Have you ever had a French passport?

A. Yes.

Q. When did your French passport expire?

MS. KAMAL-GRIFFIN: Irrelevant; objection. What's the relevance of the line of questioning?

MR. WILLIAMS: Like I mentioned, to see if there's an issue with regard to damages.

MS. KAMAL-GRIFFIN: More specifically, he told you he's a US citizen. The rest is completely irrelevant.

MR. WILLIAMS: It may or may not be.

MS. KAMAL-GRIFFIN: Well, what are the grounds?

He told you he's a US citizen. That's all there is to know.

MR. WILLIAMS: If someone obtains asylum in the United States, but the

reason for the asylum no longer exists, or they do something that shows there was no reason for the asylum, even if they obtain permanent residence, that could be changed.

MS. KAMAL-GRIFFIN: *But he is a US citizen. It doesn't matter. We're not talking about somebody who was granted asylum. He is a citizen. All this is behind now. So in terms of damages, there's no difference between him and any other citizen of the United States. So I would have to object to this line of questioning at this point.*

MR. WILLIAMS: *I'm not positive if that is completely accurate.*

MS. KAMAL-GRIFFIN: *I am absolutely positive. I object to this line of questioning. I'm going to instruct him not to answer, because he's a citizen, just like anybody else around this table. And at this point, what you're doing is basically trying to create some kind of discrimination.*

MR. WILLIAMS: *No.*

MR. WILLIAMS: *I have one more question about France.*

MS. KAMAL-GRIFFIN: *We'll see. And please don't answer until I --*

THE WITNESS: *I start feeling very uncomfortable with your questions,*

*because I'm American, and that's what
needs to be known.*

BY MR. WILLIAMS: Q. When was
the last time you were in France?

THE WITNESS: 1994. (FAC 30)

Ultimately, after procuring summary judgment as to Kamal, the County entered into a monetary settlement with Samuel Morales sometime in 2017. County awarded Samuel Morales monetary damages and a waiver of all costs. By contrast, not only did the County procure termination of Kamal's case without compensation, it procured an award for costs in an amount greater than \$18,000.00. Kamal paid County its costs.

The district court rejected the discrimination claim stated in the Second Amended Complaint, essentially reasoning that County exercised discretion as to how it wished to proceed.

"Intentional discrimination means that a defendant acted at least in part because of a Petitioner's protected status." Maynard v. City of San Jose, 37 F.3d 1396, 1404 (9th Cir. 1994). Alternatively, a Petitioner may allege facts showing that he has been intentionally treated differently from others similarly situated without a rational basis for the difference in treatment. See Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000) (per curiam); Squaw Valley Dev. Co. v. Goldberg, 375 F.3d 936, 944 (9th Cir. 2004), overruled on other grounds by Action Apt. Ass'n v. Santa Monica Rent Control Bd., 509 F.3d 1020, 1025 (9th Cir. 2007). The district court ruled that however, this type of equal protection claim does not arise from state actions that "by their nature involve discretionary decision [-]making based on a vast array of subjective, individualized assessments." Towery v.

Brewer, 672 F.3d 650, 660 (9th Cir. 2012) (per curiam) (citing Engquist v. Oregon Dep't of Agric., 553 U.S. 591, 603 (2008)). Thus, reasoned the district court, "the existence of discretion, standing alone, cannot be an Equal Protection violation." Id. at 660-61 ("Absent any pattern of generally exercising the discretion in a particular manner while treating one individual differently and detrimentally, there is no basis for Equal Protection scrutiny under the class-of-one theory.")

Again, the court strained the law to find in favor of government officials by applying the shield of immunity, as has been a pattern in all the underlying or related cases. The court's error was made even more evident by new California State Bill 41 signed into law by California Governor Gavin Newsom and effective January 1, 2020. SB 41 specifically prohibits consideration of race, gender and ethnicity in damage awards, as such racial considerations are discriminatory.

The Court is urged to step in to redress the discrimination the district court and the Court of Appeals for the Ninth Circuit have allowed to stand. This Court's intervention is necessary as this country is suffering from fractures that won't heal until and unless this Court firmly steps in. It is vital that this Court takes the lead in helping to heal the fractures this country has been sustaining for too long, and that requires ending the selective enforcement of racial justice by the government, and that includes of course the judicial branch.

REASONS FOR GRANTING THE WRIT

The United States Supreme Court Should Grant Certiorari because:

- 1) There is a disagreement among Circuit Courts of Appeals on whether attorney's fees may, in some instances, constitute economic damages for RICO purposes.
- 2) This case arises out of a general context of dereliction of duties, selective enforcement of racial justice and corruption of California institutions, the very kind that has been severely undermining public trust in our institutions, to the point of pushing the nation on the brink of disaster.

1) THE CORRUPT ENVIRONMENT OUT OF WHICH THIS RICO CASE ARISES

The California and the County of Los Angeles administrations.²

The California Highway Patrol ("CHP") East Los Angeles Office came under investigation for the overtime billing fraud. As a result of the scheme, attorney general Rob Bonta has charged 54 current and former CHP officers with defrauding the state of hundred of thousands of dollars.

² We cannot help but to note that at the time of the events described above, Kamala Harris and Xavier Becerra were, successively, Attorney General of California. It is inconceivable that they did not know about this case at that time. Both moved to Washington D.C. to serve in the current administration. Unfortunately, the issues they left behind remained unaddressed.

- CALTRANS is now conducting an audit to determine whether some of its employees facilitated the CHP overbilling scheme at CALTRANS' expense.³

- The City of Los Angeles Department of Water and Power is currently engulfed in a corruption scandal whereby customers were overbilled while the City of Los Angeles Department of Public works is under investigation by the Federal Bureau of Investigations for corrupt practices, extending to officials of the County of Los Angeles, involving questionable building and safety inspections and foreign money.

- Currently, the County Board of Supervisors is in an open feud with County Sheriff Villanueva over a mounting budget deficit in the LASD fueled in large part by unexplained overtime charges⁴. This is without

³ <https://www.nbclosangeles.com/news/local/East-LA-CHP-Officers-Suspended-for-Allegedly-Exaggerating-Overtime-505216671.html>

<https://www.latimes.com/local/lanow/la-me-caltrans-chp-audit-fake-hours-20190204-story.html>

CALTRANS is now investigating transit employees for any possible misconduct related to CHP officers unlawful conduct.

⁴ <https://www.latimes.com/california/story/2019-10-01/supervisors-sheriffs-department-budget-deficit>

Just as cities are considering defunding or dismantling police departments in the wake of George Floyd's murder by a police officer, and in the same vein, the California State legislature came to withhold, in an unprecedented move in March of 2016, public funds from the California Commission on Judicial Performance for its massive failures in terms of exercising its oversight of judges while failing to properly account for the funds its receives for its operation. The Commission was outraged by the terrible mistreatment minorities and poorer litigants received at the hands of inconsiderate and unfair judges banking on the absolute

mentioning the presence of tattooed gangs within the LASD, such as the Banditos, operating within the LASD just as gangs.⁵

Recent allegations of fraud were raised a few days ago by whistleblowers claiming that the top levels of the LA County Tax Assessor's Office favored well-connected property owners, costing County millions of dollars in lost revenues, this while the County is experiencing a terrible homeless crisis, readily blamed on the high cost of rentals and greedy landlords⁶.

There is an ongoing FBI investigation into public corruption involving cash bribes and escort/prostitution services at the Los Angeles City Hall.

II) The California judicial environment

The California judicial branch itself has not been spared by breaches of ethics, civil rights violations, mismanagement and scandals. Notably, the California

immunities and other privileges they are clothed with to get away with misconduct. The Commission was audited for the first time in its history as a result. The State Auditor report was severely critical of the Commission's reviews of complaints against judicial officers, experience of Kamal in connection with this case. See also the LASC misuse of public funds at the detriment of immigrant court participants such as Kamal, necessitating USDOJ intervention.

<https://www.courthousenews.com/california-auditor-calls-judicial-misconduct-probes-weak/>

⁵ <https://www.latimes.com/california/story/2019-09-19/former-deputies-la-county-lawsuit>

⁶ <https://www.latimes.com/california/story/2019-10-08/connected-taxpayers-got-breaks-with-l-a-county-assessors-office-whistleblowers-allege>

Court of Appeals Justice panel that systematically shot down all of Kamal's writs and appeals in the related California Superior Court Proceedings, as will be described below, was presided by Patricia Bigelow, who was far from a model of dignity and integrity on the bench. We say "was" because Bigelow tendered her resignation to the Governor of California on April 29, 2021, though she was reelected in 2019. *Finally* and fortunately for the People of California, Bigelow is no longer a member of the California judiciary. Kamal has suffered enormous injustices that Bigelow has inflicted upon him, and it is his determination that ended, at immeasurable cost to him, Bigelow's abuse of power.

Indeed, Kamal filed complaints in the United States District courts for Bigelow's serial and blatant and terrible violations of Kamal's rights. These complaints went nowhere on the convenient legal ground of "Article III standing".⁷ Twice in 2016 and once in 2017, Appellant filed complaints with the California Commission on Judicial Performance ("CJP") against Bigelow, putting forth evidence that she violated the Judicial Code of Ethics, notably by putting the California courts in severe disrepute on

⁷ Patricia Bigelow publicly stated to other judges and members of the judicial community at a reception outside the Court of Appeals that Kamal was crazy and that "he was banned from the Court of Appeals". A retired judge was so shocked by the statements that she informed Kamal of the threat for fear that Kamal might be hurt should he attempt to access the Court of Appeals. The USDC for the Central District dismissed Kamal's complaint for violation of his civil rights. Kamal v. Bigelow, Case No 18-04160. Again, the California judicial environment, including the United States District Court for the Central District of California, showed excessive leniency toward an abusive judge.

social media and unlawfully accepting financial benefits. The CJP, feeling extraordinarily magnanimous toward Bigelow, dismissed Kamal's complaints. Then a scandal emerged in December 19, 2020, implicating Bigelow in a monetized relationship with TV reality star Erica Jayne's husband, Attorney Tom Girardi. It is unacceptable that it took a scandal implicating public figures for Mr. Kamal to finally see a conclusion to Bigelow's reign as a prominent California Court of Appeals Justice.

Kamal filed, again, a complaint in February of 2021, putting forth evidence of the monetary gifts Bigelow extracted from Mr. Girardi whom she was happy to treat nicely in return. Two months later, the CJP dismissed, again, Kamal's complaint. However, Bigelow tendered her resignation from the bench on April 29, 2021.⁸

Bigelow's awful conduct finds its place in a larger context of judicial malfunction and abuse of the citizenry. Indeed, in February 2011, the Civil Rights Division of the United States Department of Justice (DOJ) initiated an investigation of the LASC and the Judicial Council of California. DOJ's investigation was prompted by a complaint filed by the Legal Aid Foundation of Los Angeles that alleged discrimination against Limited English Proficiency ("LEP")

⁸ While Kamal has done the public a favor by persisting on complaining against Patricia Bigelow, at immeasurable cost to him, Bigelow's resignation has defrauded Kamal of a just resolution. Patricia Bigelow was a corrupt justice who was prejudiced against Kamal because he was himself pursuing in the courts an action against corrupt institutions. All orders she presided over, and there are many, would be found void had she been disciplined and had the matter not been concluded with the political expedient of a resignation.

individuals on the basis of national origin. Specifically, the complainants alleged that the Los Angeles Superior Court fails to provide LEP litigants with meaningful access to its court services, including civil proceedings and court operations by denying LEPs interpreters' services.⁹

On May 22, 2013, the DOJ informed California Chief Justice that it found a pattern of discrimination against participants in the judicial process whose English abilities are limited. The DOJ also found that federal funds to provide LEP litigants meaningful access to courts were not applied as required by the terms of the contract between the DOJ and the Superior Court of California.

In September of 2016, the Superior Court of California and the DOJ reached an agreement whereby the Superior Court of California would take

⁹ The Civil Rights Division is responsible for investigating complaints against recipients of federal financial assistance under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d(c). Together, these statutes and their implementing regulations prohibit discrimination on the basis of race, color, national origin, sex, or religion by recipients of federal financial assistance. See 42 U.S.C. §§ 2000d, 3789d(c); 28 C.F.R. Part 42, Subparts C and D. LASC, the AOC, and the Judicial Council are subject to the requirements of Title VI and the Safe Streets Act because these entities are part of the unified state court system of California, which receives federal financial assistance, including from DOJ.

corrective measures to ensure LEP litigants meaningful access to the courts.

CONCLUSION

For these reasons, this Court should grant certiorari to review the Ninth Circuit's decision.

Dated: April 1, 2022
Respectfully submitted:

Kamal

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