No. 22-_____

In The

Supreme Court of the United States

JACK JORDAN,

Petitioner,

v.

KANSAS DISCIPLINARY ADMINISTRATOR,

Respondent.

On Petition For Writ Of Certiorari To The Kansas Supreme Court

PETITION FOR WRIT OF CERTIORARI

JACK JORDAN
Counsel of Record
3102 Howell Street
North Kansas City, Missouri 64116
jack.jordan@emobilawyer.com
(816) 853-1142

COCKLE LEGAL BRIEFS (800) 225-6964
WWW.COCKLELEGALBRIEFS.COM

QUESTIONS PRESENTED

A lawyer, in motions filed in federal court proceedings (requesting reconsideration of an order or disqualification of a judge) stated that one or more federal judges asserted knowing falsehoods (lies) and committed federal offenses (crimes) (in 18 U.S.C. 241, 242, 371, 1001, 1512(b), 1519).

1. Whether, under the foregoing circumstances, a court may disbar such lawyer for such speech and petitioning (exposing and opposing the lies and crimes of judges) before the court identified clear and convincing evidence of each fact material to establishing that such speech and petitioning stated or implied a factual falsehood asserted with actual malice.

2. Whether a court may disbar such lawyer for such speech and petitioning before the court identified clear and convincing evidence of each fact material to establishing that such speech and petitioning violated a rule of conduct.

3. Whether Kansas Supreme Court Rule 220 empowers Kansas Supreme Court justices to knowingly violate provisions of Kansas statutes and the Kansas and U.S. Constitutions governing findings of fact, evidence, testimony, testimonial privileges and proof.

RELATED PROCEEDINGS

Kansas Supreme Court:

In re Jordan, 518 P.3d 1203 (Kan. 2022) (Oct. 21, 2022).

The Kansas Supreme Court based its decision on contentions by federal judges in the following:

U.S. District Court (Western District of Missouri):

Ferissa Talley v. U.S. Dept. of Labor, No. 19-00493CV-W-ODS, Order of Chief Judge Phillips fining Petitioner $1,000 for criminal contempt (Mar. 4, 2020); Order of Judge Smith fining Petitioner $500 for criminal contempt (7/30/2020).

U.S. Court of Appeals (8th Cir.):

Ferissa Talley v. U.S. Dept. of Labor, No. 20-2439 (Jul. 30, 2021) (aff'g criminal contempt fines).

TABLE OF CONTENTS

TABLE OF CONTENTS—Continued

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

PETITION FOR WRIT OF CERTIORARI

Petitioner Jack Jordan respectfully petitions for a writ of certiorari to review disbarment by the Kansas Supreme Court.

DECISIONS BELOW

The Kansas Supreme Court disbarment order (App. 1-104) is reported at *In re Jordan*, 518 P.3d 1203 (Kan. 2022); available at 2022 Kan. LEXIS 111, 2022 WL 12128182.

JURISDICTION

The Kansas Supreme Court disbarment order was entered on October 21, 2022. This Court has jurisdiction pursuant to 28 U.S.C. 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. Art. VI, cl. 2:

> 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, any Thing in the Constitution or

> Laws of any State to the Contrary notwithstanding.
>
> U.S. Const. Amend. I:
>
> Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
>
> U.S. Const. Amend. XIV, §1:
>
> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.

STATEMENT OF THE CASE

Kansas justices "disbarred" Petitioner and ordered him to pay "costs of" such "proceedings." App. 103-104. The vast majority of the disbarment decision consisted of merely quoting hearing panel attorneys' Final Hearing Report (**FHR**). App. 3-81 (FHR ¶¶42-271).

Kansas attorneys and justices emphasized that Petitioner's only purported misconduct consisted of

speech and petitioning exposing and opposing the lies and crimes of judges. Petitioner "accused multiple federal judges of lying about [Powers'] e-mail's contents, lying about the law, and committing crimes including conspiring with others to conceal the document." App. 1.

"In around a dozen [federal court] filings" Petitioner "made serious derogatory allegations" about "Judge Smith, Chief Judge Phillips," and "Eighth Circuit" judges, including "allegations of criminal activity, lies, misrepresentations, [and criminal] conspiracy with" federal agency attorneys regarding "matters pending before" their "court[s], violations" of "judicial canons, and even treason to the Constitution. All of these allegations stem" from such "judges' rulings in" judicial "decisions." App. 62-63 (FHR ¶220).

No judge or attorney ever even contended that any Petitioner statement was false. Kansas justices merely contended all Petitioner's statements were "outlandish" and "abusive" and the "frequency" and "breadth of" Petitioner's "accusations, and their seemingly indiscriminate application," alone, "render them incredible." App. 99.

Kansas justices knew the hearing panel attorneys lied about "clear and convincing evidence that" Petitioner "repeatedly violated KRPC 8.2(a)." App. 64 FHR ¶225). Kansas justices knew the attorneys repeatedly lied about "evidence" that Petitioner "had not read an unredacted version of Powers' email" and even "evidence" of Petitioner's "knowledge that he lacked

evidence of what Powers' email actually said." App. 49 (FHR ¶181). *See also* App. 54-55, 63 (FHR ¶¶196, 222) ("evidence" Petitioner "had not read an unredacted version of Powers' email"); App. 17 (FHR ¶81) (Petitioner contended "Judge Smith misrepresented what was contained in Powers' email (which [Petitioner] had not read)").

Kansas justices emphasized Kansas attorneys' lie that Petitioner's "allegations that *any* judge lied about the privileged status of or what was contained" in "Powers' email" clearly were "made with reckless disregard for" their "truth or falsity." App. 63-64 (FHR ¶223) (emphasis added).

Kansas justices emphasized that Kansas attorneys "concluded" that Petitioner "violated KRPC 8.2(a)" only "because" Petitioner "had never read an unredacted version of the Powers e-mail." App. 100. Kansas justices pretended that Kansas attorneys' bare assertions and lies about such fact somehow constituted evidence that Petitioner's "assertions" that 'judges lied about Powers' email, concealed evidence, and committed crimes" clearly "had to have been made with reckless disregard to their truth or falsity." *Id*.

Kansas justices lied when they contended that "clear and convincing evidence establishes a KRPC 8.2(a) violation." *Id*. They lied when they contended that "clear and convincing evidence establishes" Petitioner's "violations of KRPC 3.1, 3.4(c), 8.2(a), and 8.4(d) and (g)." App. 2. They lied when they contended

that "clear and convincing evidence supports each rule violation the panel found." App. 95.

Kansas attorneys and justices failed to identify any evidence (or even state any finding of fact) that could support any conclusion that any Petitioner statement was false, frivolous, prejudiced any administration of justice in any way, or violated any Kansas rule of conduct. They relied almost entirely on conclusory contentions by federal judges who merely summarily fined Petitioner for criminal contempt during proceedings under the Freedom of Information Act (**FOIA**), 5 U.S.C. 552.

"Any discipline imposed here is premised on" Petitioner's purported "baseless assertion of frivolous factual issues while litigating his FOIA cases in federal court." App. 87. Kansas justices emphasized that "Judge Phillips" purportedly "found [Petitioner] made frivolous factual assertions with no reasonable basis in fact about Judge Smith." App. 93. "Judge Phillips' contempt order" purportedly "found" Petitioner "failed to establish a factual basis for" Petitioner's statements "or a likelihood that such basis could be developed" and that Petitioner's "accusations lacked a reasonable basis in fact. These" purported "findings" purportedly "established" that Petitioner's "contentions were frivolous," and Petitioner "failed to adduce evidence at the panel hearing to rebut" a "presumption" that the justices fabricated. App. 95.

"Judge Phillips' order" purportedly "establishes" a "presumption that" Petitioner "violated FRCP 11" and

"Judge Smith's July 20, 2020, order" purportedly "establishes" a "presumption" that Petitioner "repeated[ly] violat[ed]" court "Orders," and Petitioner "did not come forward at" the "hearing with evidence to rebut these presumptions." App. 96.

Kansas attorneys observed that "Judge Phillips" purportedly "found respondent violated Missouri rule 4-8.2," and they misrepresented that "so the burden shifted to" Petitioner "to disprove that" purported "finding under [Kansas Supreme Court] Rule 220." App. 100.

Kansas justices knowingly misrepresented that "the panel properly applied Rule 220." App. 94. More specifically, Kansas justices lied about having copies of federal court decisions merely "certified" somehow "establish[ed] that the federal courts" actually "made" some unidentified "factual findings." App. 93.

"Judge Phillips" fined Petitioner "$1,000.00, to be paid" to "the Clerk of the Court." App. 19, 40, 47 (FHR ¶¶87, 149, 172). "Judge Smith" fined Petitioner "$500.00." App. 26, 51 (FHR ¶¶108, 186). *See also* App. 65, 74 (FHR ¶¶229, 250).

The only support the Kansas attorneys and justices identified for criminal contempt (and for disbarment for purported "frivolous" statements) were a few conclusory contentions by Judges Smith and Phillips. *See* App. 19, 40 (FHR ¶¶86, 148 (emphasis added):

> Judge Phillips *concluded* that [Petitioner] demonstrate[d] his contempt for the Court'

> and that [Petitioner's] filing 'contains multiple statements and accusations that had no reasonable basis in fact.' Chief Judge Phillips *ruled* that [Petitioner's] 'conduct qualifies under [some unidentified] dictionary-definition of "contempt".'

See also App. 46-47 (FHR ¶170) for the same except that "ruled" was substituted for "concluded." "Judge Phillips" also merely *contended* that she "*found*" Petitioner's "defense of his actions" merely "unpersuasive" and she "*further ruled* that" Petitioner "presented no 'evidentiary support or the likelihood of evidentiary support for his accusations.'" App. 39-40 (FHR ¶147) (emphasis added).

Judge Smith merely vaguely alluded to unidentified "violations of" unidentified "Orders." App. 51 (FHR ¶186). When Judge Smith (and the Kansas attorneys and justices) pretended to show that Judge Smith ordered something, Judge Smith clearly merely "warns" Petitioner, *i.e.*, "[t]his" was only a "warning." App. 22, 52 (FHR ¶¶99, 191).

Kansas attorneys knowingly misrepresented that "Judge Phillips' March 4, 2020, order" is "evidence that" Petitioner violated "KRPC 3.4(c)" (App. 47-48 (FHR ¶173)) and violated "KRPC 8.2(a)" (App. 61-62 (FHR ¶215)).

Kansas justices clearly misrepresented that the hearing panel "admit[ted] certified court judgments" as "evidence" of Petitioner's "misconduct." App. 92. The

panel clearly did not do so. The panel emphasized that such judicial hearsay was evidence only of "what was stated in the documents," and it was "not [admitted] for the truth of the matter asserted within any of the statements contained in the documents." FHR ¶17.

The panel clearly emphasized that it "admitted" such records "to prove [only] the content of the record," and "the panel considers them only for that purpose." App. 80 (FHR ¶267). The panel repeatedly emphasized that Kan. Stat. Ann. 60-460(o) permitted admitting such records only "to prove the content" thereof and clearly precluded admitting any such record "to prove the truth" of any judge's hearsay therein. *See* App. 78-80 (FHR ¶¶263-267).

Kansas attorneys also lied about Petitioner being "disbarred for his misconduct" in "the Eighth Circuit Court of Appeals." App. 74 (FHR ¶250). That court did not in any way even attempt to justify its disbarment order or even label any Petitioner conduct "misconduct."

In Petitioner's briefing to the court he emphasized "due process, equal protection, and 'Kansas law' arguments" under the Fourteenth Amendment by asserting "that Rule 220 conflicts with K.S.A. 60-460(o)(1)" and that Kansas "deprived" Petitioner "of the opportunity to confront 'any witnesses against him.'" App. 93.

In briefing to the hearing panel (and the court), Petitioner also "assert[ed] that the First Amendment" and Fourteenth Amendment and U.S. "Supreme Court" precedent required Kansas to "prove that the

statements" Petitioner "made about judges in his filings were false." App. 56 (FHR ¶200) (noting Petitioner presented, *inter alia*, *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *Garrison v. Louisiana*, 379 U.S. 64 (1964); *Pickering v. Board of Ed.*, 391 U.S. 563 (1968); *N.A.A.C.P. v. Button*, 371 U.S. 415 (1963); *In re Primus*, 436 U.S. 412 (1978)).

Petitioner's briefing to the hearing panel "argu[ed] that" Kansas "was violating his rights under the First, Fifth, and Fourteenth Amendments." App. 76 (FHR ¶254). The "panel" purportedly "conclude[d] that" Petitioner's "rights under the Fifth and Fourteenth Amendments have not been violated." App. 77 (FHR ¶258).

Petitioner's "opening brief" to the court sought "to establish" that "imposing any discipline here violates his First Amendment rights as applied to the states through the Fourteenth Amendment." App. 86.

Petitioner's briefing to the court "challenges" Kansas's "restrictions on his right to petition" and "content-based regulations on speech imposed by the KRPC provisions at issue;" "contends discipline may not be imposed for [Petitioner's] statements because" Kansas "fail[ed] to demonstrate his assertions about judges lying and committing crimes were false;" "contends" that "the KRPC provisions" at issue "must withstand strict scrutiny because they are content-based regulations on speech as applied to him;" and "argues the falsity of [Petitioner's statements] must be shown to impose discipline." App. 86-87 (noting Petitioner

presented, *inter alia*, *Milkovich v. Lorain Journal Co*., 497 U.S. 1 (1990); *Garrison*; *New York Times*).

Petitioner "argue[d]" to the court that "applying Kansas Supreme Court Rule 220(b)" to "admit certified court judgments" as "evidence of" Petitioner's "misconduct" "violates 'Kansas law and the Due Process and Equal Protection Clauses of the Fourteenth Amendment' and the separation of powers. We disagree." App. 92.

Kansas attorneys and justices knew that Petitioner "argue[d]" that Kansas "failed to prove that" Petitioner "made any false statement" whatsoever. App. 56 (FHR ¶200). Kansas attorneys knowingly misrepresented that Petitioner's "arguments are not supported by United States Supreme Court and Kansas Supreme Court case law surrounding attorney discipline matters." *Id*. The Kansas attorneys and justices knew that *Primus*, *Button*, above, and *Pyle*, below, were such precedent and they conclusively supported Petitioner.

Petitioner "filed exceptions to the" FHR "and argues discipline cannot be imposed because the First Amendment" (and Fourteenth Amendment) "protects his statements" and "his assertions have not been proven false." App. 2.

Kansas attorneys and justices pretended to address the relevant parts of *Pyle*. *See* App. 57-59 (FHR ¶¶202-207). The attorneys lied about what the Kansas Supreme Court "held" in *Pyle*. App. 57 (FHR ¶203). Kansas justices merely contended that "[u]nlike" *Pyle*,

Petitioner "did not offer evidence tending to show any factual basis for his allegations." App. 100.

Kansas attorneys and justices ignored or summarily dismissed the parts of *Pyle* that Petitioner presented, including the following.

"Some judges are dishonest" and "their identification and removal is" a "high priority in order to promote a justified public confidence in the judicial system." *In re Pyle*, 156 P.3d 1231, 1247 (Kan. 2007). "Expressing honest [] opinions on such matters contributes to improving the administration of justice;" only "false statements by a lawyer can unfairly undermine public confidence in the administration of justice." *Id*. at 1243 quoting Comment to KRPC Rule 8.2(a).

So "Rule 8.2(a) enables" only "carefully circumscribed control over lawyer speech by prohibiting only false statements" and "only when the lawyer either knew them to be false or displayed reckless disregard for their truth or falsity." *Pyle* at 1243. Only "factual allegations that are false . . . can lead to sanction." *Id*.

The "panel" contended that it merely "disagrees with" Petitioner's "assertion that" Kansas "must prove that" Petitioner "made a false statement with actual malice." App. 60 (FHR ¶210). Kansas justices knowingly misrepresented that the "panel" attorneys somehow "determined" that Kansas "was not required to prove" any Petitioner "statements were false." App. 99.

Kansas justices, themselves, failed to even purport to determine any such thing.

Kansas attorneys and justices knew that Rule 8.2(a) prohibited only "statement[s] that" Petitioner "knows to be false" or asserted "with reckless disregard as to" their "falsity." App. 55, 60 (FHR ¶¶199, 209); App. 98.

Immediately thereafter, Kansas justices lied (twice) about the "plain language" of Rule 8.2(a) "prohibit[ing]" even a merely "false statement" or "one" merely "made with reckless disregard for the statement's truth." *Id*. They knew Rule 8.2(a) plainly required proof of falsity and of knowledge thereof, and *Pyle* (and this Court's precedent in *New York Times*, *Garrison* and *Pickering*) emphasized Rule 8.2(a) plainly (and necessarily) required proof of falsity and reckless disregard for falsity.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted for many compelling reasons.

The facts are clean and straightforward. The Kansas disbarment order did not (and Kansas cannot show that it did) include even one finding of fact or identify any evidence of even one fact material to proving, or identify any legal authority that would permit concluding, that any Petitioner speech violated any rule of conduct. Kansas did not and cannot do so.

Kansas Supreme Court justices purportedly decided multiple important federal questions in a way that clearly (and intentionally) conflicted with this Court's clear and clearly-controlling precedent. Kansas justices disbarred Petitioner, expecting many other state and federal judges to follow their lead and reciprocally disbar Petitioner while flouting this Court and copious precedent and knowingly violating the Constitution. Some federal judges have done so.

Reciprocally, the Second Circuit implicitly suspended Petitioner, two district courts explicitly suspended him, and the Tenth Circuit disbarred him. Three circuit courts, three district courts, and one state court have yet to take action openly against Petitioner.

The controlling legal authorities and issues are clear and compelling. But as shown by the conduct at issue here, some state and federal judges and attorneys knowingly violate the Constitution and flout this Court's precedent merely because they want to and think they can.

Kansas justices clearly and knowingly violated judges' duties and Petitioner's rights under many provisions of the U.S. and Kansas Constitutions and Kansas law. Such judges pretended to have the power to thwart, flout, violate and undermine their own court, this Court, federal law, Congress, Kansas law, the Kansas legislature and the U.S. and Kansas Constitutions.

I. Petitioner's Speech and Petitioning Were Part of Due Process of Law Vital to Our Systems of Justice and Government.

The state and federal judges and government attorneys attacking Petitioner for his speech starkly illustrate dangerous, extremist, rogue government employees' determination to be the last brutal bastion of deliberately, blatantly and outrageously illegal repression of Americans' freedom of speech and right to petition for redress of grievances against abusive officials.

Due process of law clearly includes Americans' right to discuss and seek to influence the creation or administration of law. Americans' "freedom of speech" and "press" and their "right" to "petition the Government" for "redress" clearly include exercising such rights and freedoms to expose and oppose judges abusing their positions to violate law or commit crime. U.S. Const. Amend. I. No court has any power to "abridg[e]" any such right or freedom. *Id*.

"No state" employee whatsoever may "make or enforce any law" that "abridge[s]" any "privileges or immunities" of American "citizens" or "deprive any person" of any "liberty" or "property, without due process of law; nor deny to any person" essentially "equal protection of the laws." Amend. XIV, § 1. The Constitution is categorical and comprehensive: no person, no privilege or immunity, no liberty or property, no state employee, any law.

Petitioner's right and freedom to speak, publish and petition as he did were secured by the First, Fifth and Fourteenth Amendments. Significantly, "it has always been widely understood that" the First Amendment (merely) "codified a *pre-existing* right." *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008). *Accord N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S.Ct. 2111, 2127 (2022).

"Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures" or "future judges think that scope too broad." *Heller* at 634-35. The plain text, purpose and processes pertaining to the Declaration of Independence, the Constitution and Bill of Rights are especially insightful and even essential to understanding American attorneys' freedom of speech.

Two aspects of the Declaration are especially relevant. First, many Founders responsible for the Declaration were lawyers (and legislators). The primary writers were four lawyers (Jefferson, John Adams, Robert Livingston, Roger Sherman) and a printer-turned-statesman (Franklin).

Second, they vehemently attacked the people and institutions responsible for creating and administering laws: Parliament, legislators, courts, judges, prosecutors. The Declaration was very largely lawyers (losing lawyers) harshly criticizing such officials for abusing laws and legal procedures to oppress and abuse the people. Such abuses were responsible for much harm,

including destructive war. *See* Declaration of Independence ¶¶1-3, 5-7, 10-12, 15, 17, 20-24, 30. For example, "the Declaration" vehemently "denounced" laws "passed by Parliament" and implemented by judges "protecting" abusive officials with "mock Trial[s]." *Gamble v. United States*, 139 S.Ct. 1960, 1965-66 (2019). That issue is highly relevant here. *See* pages 37-41, below.

Lawyer-legislator-Founders publicly excoriated and vilified their oppressors (the winners, as it were, for a while) and "pledge[d]" their "Lives," "Fortunes" and "sacred Honor" (Declaration ¶32) to "secure" our "rights" against public officials, including ensuring they "deriv[ed only] just powers" exclusively "from the consent of the governed" (*id*. ¶2).

"Our founding documents" clearly "rest on the premise that certain fundamental principles are both knowable and objectively true." *Gamble*, 139 S.Ct. at 1983, n.3 (Thomas, J., concurring). Lawyer-legislator-Founders emphasized "*We hold*" *for all courts and all time* (and they stated and proved) that one of the "truths" that was "self-evident" to them and this Nation was that (especially regarding self-government and the "Liberty" to speak publicly and truthfully about government) "*all* men are created equal" and equally "endowed" with "*unalienable* Rights." *Id*. quoting Declaration of Independence ¶2 (emphasis added).

They immediately emphasized that "all men" included all "Governments [that] are instituted among Men." Declaration ¶2. The original Constitution and

Bill of Rights robustly emphasized that all judicial power must be used solely to "establish Justice" and "secure the Blessings of Liberty" to "the People." U.S. Const. Preamble.

For hundreds of years, some of the best and brightest stars of this Court have emphasized that the Constitution was carefully crafted to accentuate not only the limited and separate powers and duties of the people in the three branches of government, but also the great privileges, powers and duties of the roots of government—the people, at large.

The clear and "enduring lesson" of many of this Court's "decisions" is "that the government may not prohibit expression simply because it disagrees with its message" regardless of "the particular mode in which" Petitioner chose "to express an idea." *Texas v. Johnson*, 491 U.S. 397, 416 (1989). Punishing "political expression" for its "content" always "must" be "subject" to "the most exacting scrutiny." *Id*. at 412. A "principal" and vital "function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction" or "even stirs people to anger." *Id*. at 408-09. If Petitioner's "opinion" somehow "gives offense, that" is "a reason for according it constitutional protection." *Id*. at 409.

Americans' freedom to speak freely about public issues "means that government has no power to restrict" Petitioner's "expression because of its message, its ideas, its subject matter, or its content." *Police Dep't*

of Chicago v. Mosley, 408 U.S. 92, 95 (1972). Judges' viewpoint discrimination against Petitioner's speech is especially repugnant to the Constitution. *See id.* at 94, 96, 98. Kansas justices clearly abridged Americans' freedom of speech and right to petition by punishing truthful criticism of judges because of its critical content and viewpoint.

Petitioner's "speech concerning public affairs" is "the essence of self-government." *Garrison*, 379 U.S. at 74-75. "Truth may not be the subject of" any type of "either civil or criminal" (or quasi-criminal) content-based "sanctions where discussion of public affairs is concerned." *Id.* at 74. The Constitution "absolutely prohibits" any type of content-based "punishment of truthful criticism" of any public official's official conduct. *Id.* at 78 (preluding punishing government attorney for criticizing eight judges).

All courts must protect Americans' "privilege for criticism of official conduct." *New York Times*, 376 U.S. at 282. All courts must "support" the "privilege for the citizen-critic of government" (*id*.) because "such a privilege is required by the First and Fourteenth Amendments" (*id*. at 283). Courts cannot "give public servants an unjustified preference over the public they serve" by affording "critics of official conduct" less than "a fair equivalent of the immunity granted to the officials themselves." *Id*. at 282-83.

The "constitutional guarantees" in the First, Fifth and Fourteenth Amendments "require" a nation-wide "rule that prohibits" any "public official from"

precluding, penalizing or punishing any criticism for content "relating to" any "official conduct" except a "falsehood" asserted with "actual malice" ("with knowledge that it was false or with reckless disregard" for its falsity, *i.e.*, a lie or reckless falsehood). *Id.* at 279-80. *Accord Pickering*, 391 U.S. at 574 (precluding discharge of government employee).

Regarding Petitioner's "protected speech," courts and legislatures are "constitutionally disqualified from dictating the subjects about which persons may speak and the speakers who may address" such "public issue[s]." *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 784-85 (1978). That applies to state-created corporations, and even more clearly and forcefully, to state-licensed lawyers.

The First Amendment "is the very product of an interest balancing by the people" and it clearly "elevates above all other interests the right of law-abiding, responsible citizens" to use speech and petitioning "for self-defense" against abusive public officials. *Bruen*, 142 S.Ct. at 2131 quoting *Heller*, 554 U.S. at 635. "It is this balance—struck by the traditions of the American people—that demands" the "unqualified deference" of all public servants. *Id*. The first and foremost duty of every judge is to support the Constitution. *See* U.S. Const. Art. VI; 5 U.S.C. 3331; 28 U.S.C. 453; Kan. Stat. Ann. 54-106.

"Those who won our independence believed" that "public discussion is a political duty; and that this should be a fundamental principle of the American

government." *New York Times*, 376 U.S. at 270 quoting *Whitney v. California*, 274 U.S. 357, 375-76 (1927) (Brandeis, J., concurring). "It is as much [the] duty" of "the citizen-critic of government" to "criticize as it is the official's duty to administer." *Id*. at 282. "It is as much" an attorney's "duty to criticize" judges' violations of law and the Constitution "as it is" judges' "duty to administer" the law and support the Constitution. *Id*. In this regard, "public men" are "public property" (*id*. at 269 quoting *Beauharnais v. Illinois*, 343 U.S. 250, 263, n.18 (1952)) and "discussion cannot be denied and the right" and "the duty, of criticism must not be stifled" (*id*. quoting *Beauharnais* at 264).

In exposing and opposing the lies and crimes of judges and government attorneys, Petitioner "restrain[ed] the exertion of baleful influences against the promptings of patriotic duty to the detriment of the welfare of" this "Nation," which clearly "is only to render a service to its people." *Gilbert v. Minnesota*, 254 U.S. 325, 331 (1920). *See also id*. at 337-38 (Brandeis, J., dissenting):

> The right of a citizen [] to take part, for his own or the country's benefit, in the making of federal laws and in the conduct of the Government, necessarily includes the right to speak or write about them; to endeavor to make his own opinion concerning laws existing or contemplated prevail; and, to [] teach the truth as he sees it. . . . Full and free exercise of this right by the citizen is ordinarily also his duty; for its exercise is [even] more important to the Nation than [to the person].

Kansas justices' (and their federal followers') putative "reading" of the Constitution would require the absurd assumption that "the same Founders who quite literally *revolted* against" (fought a desperate, almost decade-long war to free themselves from) oppressive and abusive tactics of legislators and judges (after having as harshly and publicly as possible vilified such officials for even longer) "would soon" after all the foregoing "give" the Nation they created "an Amendment" to the Constitution "allowing" extreme retaliation for far less harsh criticism. *Gamble*, 139 S.Ct. at 1966. "We doubt it," this Court wrote. *Id*. And so it should again.

In addition to all the foregoing, independent attorney support for the law and the Constitution is vital to our system of justice.

"[C]ourts depend" on an "independent bar" for "the proper performance of [courts'] duties and responsibilities. Restricting" conscientious, capable "attorneys" from "presenting arguments and analyses to the courts distorts the legal system by altering the traditional role of the attorneys." *Legal Services Corp. v. Velazquez*, 531 U.S. 533, 544 (2001). "An informed, independent judiciary" must have "an informed, independent bar." *Id*. at 545. Courts cannot "prohibit[] speech and expression upon which courts must depend for the proper exercise of the judicial power." *Id*. Judges cannot "exclude from litigation those arguments and theories" they deem "unacceptable but which by their nature are within the province of the courts to consider." *Id*. at 546

> [T]he important role that lawyers [ ] play in our society [makes it] imperative that they not be discriminated against with regard to the basic freedoms that are designed to protect the individual against the tyrannical exertion of governmental power. For [ ] one of the great purposes underlying [such] freedoms was to [afford] independence to those who must discharge important public responsibilities. [Lawyers], with responsibilities as great as those placed upon any group in our society, must have that independence.

Cohen v. Hurley, 366 U.S. 117, 137 (1961) (Black, Douglas, JJ., and Warren, C.J., dissenting).

II. Petitioner's Speech and Petitioning Were Protected by Vital Due Process of Law.

Courts may and should preclude or punish attorneys' and judges' contentions that are lies or frivolous and materially prejudice the administration of justice. A "lie" is "no essential part of any exposition of ideas." *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 340 (1974).

Lies can be express or implied. Any "statement of opinion" by Petitioner "relating to matters of public concern which does not contain a provably false factual connotation will receive full constitutional protection." *Milkovich*, 497 U.S. at 20. Each court must (but did not and cannot) prove that Petitioner's speech stated or "impl[ied] a false assertion of fact." *Id.* at 19.

Any purported "proof presented to show" each material fact must have "the convincing clarity which the constitutional standard demands." *New York Times*, 376 U.S. at 285-86. The "First Amendment mandates a 'clear and convincing' standard" of proof of each material fact. *Anderson v. Liberty Lobby, Inc*., 477 U.S. 242, 252 (1986).

Such "standard of proof" is "embodied in the Due Process Clause" to establish "the degree of confidence" each court must "have in the correctness" of its "factual conclusions." *Addington v. Texas*, 441 U.S. 418, 423 (1979). It "serves to allocate the risk of error" to the court punishing attorney speech, and "to indicate the" great "importance attached to the ultimate decision." *Id*. It "reflects the" great "value society places on individual liberty." *Id*. at 425.

The "clear" and "convincing" standard "reduce[s] the risk to" Petitioner "of having his reputation tarnished erroneously by increasing" each court's "burden of proof." *Id*. at 424. Such "level of certainty" is "necessary to preserve fundamental fairness" in "government-initiated proceedings that threaten" an "individual" with a "significant deprivation of liberty" or "stigma." *Santosky v. Kramer*, 455 U.S. 745, 756 (1982).

"It is imperative that, when the effective exercise of" First Amendment "rights is claimed to be abridged," all "courts should 'weigh the circumstances' and 'appraise the substantiality of the reasons advanced' in support of the challenged regulations" or

punishment. *Thornhill v. Alabama*, 310 U.S. 88, 96 (1940). "[W]hen it is claimed that" First Amendment "liberties have been abridged," even this Court "cannot allow a" mere "presumption of validity of the exercise of" another court's "power to interfere with" this Court's own "close examination of the substantive claim presented." *Wood v. Georgia*, 370 U.S. 375, 386 (1962).

Due process of law requires much more than the mere "enunciation of a constitutionally acceptable standard" by judges merely purportedly "describing the effect of" Petitioner's "conduct." *Id.* at 386. Any state or federal judge's mere conclusory contentions "may not preclude" or in any way diminish each court's "responsibility to examine" all relevant "evidence to see whether" the evidence "furnishes a rational basis for the characterization" that such judges "put on it." *Id*. at 386.

The First "Amendment's plain text covers" Petitioner's "conduct" so "the Constitution presumptively protects that conduct. To justify" any "regulation" (punishment) of Petitioner's speech, each court "must demonstrate" that its "regulation" (punishment) was "consistent with this Nation's historical tradition" of protecting such speech. *Bruen*, 142 S.Ct. at 2126. Each court "must affirmatively prove that" its putative "regulation" is within this Nation's long and strong "historical tradition" of protecting speech, assembly and petitioning within "the outer bounds" of such "right[s]." *Id*. at 2127. No judge or attorney did or can bear any

applicable burden of proof regarding even one Petitioner statement.

"Only if" a court proves that its "regulation" is "consistent with this Nation's historical tradition may" the "court conclude that" any Petitioner "conduct falls outside" the "unqualified command[s]" in the First Amendment. *Id.* at 2126 quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50, n.10 (1961) (emphasis added). The true "significance" of such rights must "be gathered" by "considering their origin and the line of their growth." *Konigsberg* at 50, n.10 (expressly pertaining to "freedom of speech" relevant to attorney discipline).

Courts "may not prohibit" any "modes of expression and association protected by the First and Fourteenth Amendments" by merely invoking the mere general "power to regulate the legal profession." *Button*, 371 U.S. at 428-29. "[I]t is no answer to the constitutional claims asserted" here "that the purpose of" any "regulations was merely to insure high professional standards." *Id*. at 438-39. Courts "may not, under the guise of prohibiting professional misconduct, ignore constitutional rights" of lawyers or litigants. *Id*. at 439.

Courts "cannot foreclose the exercise of constitutional rights by mere labels," regardless of whether the label is applied to the law, the oppressor or the oppressed. *Id*. at 429. No law, no "regulatory measures," no justification, "no matter how sophisticated," can "be employed in purpose or in effect to stifle, penalize, or curb" Petitioner's "exercise of First Amendment

rights." *Id*. at 439. *Accord New York Times*, 376 U.S. at 269 ("mere labels" under various "formulae for the repression of expression"). "The test is not the form in which [government] power has been applied but, whatever the form, whether such power has in fact been exercised" within constitutional limits. *Id*. at 265.

Judges punished Petitioner's "speech on the basis of its content and burden[ed] a category of speech that" is "at the core of our First Amendment freedoms," *i.e.*, "speech about the qualifications of [people holding or seeking] public office." *Republican Party v. White*, 536 U.S. 765, 774 (2002). Each court must prove it applied each relevant "restriction" with at least "strict scrutiny," *i.e*., "prove that" punishment under each rule was "narrowly tailored, to serve" a "compelling" court "interest." *Id*. at 774-775. Each court "must demonstrate that" it did not "unnecessarily circumscribe protected expression." *Id*. at 775. Clearly, no judge "carried" any "burden imposed" by the "strict-scrutiny test" regarding any material fact. *Id*. at 781. They "offered" mere "assertion and conjecture" and even obvious falsehoods. *Id*.

III. The Kansas Order Was Frivolous and Fraudulent.

The Kansas order was frivolous and Kansas justices defrauded Petitioner of his law license and the "costs" of defrauding him. *See* pages 2-12, above. *Cf*. 18 U.S.C. 1341, 1343, 1349.

The Kansas justices knew many of their contentions were false and their conduct was illegal. They clearly (and knowingly) violated virtually every one of the many provisions of Kansas Supreme Court rules, Kansas statutes and the Kansas and U.S. Constitutions presented herein. They knowingly violated Petitioner's rights secured by the Constitution to pretend to justify injuring Petitioner for exercising rights secured by the Constitution. *Cf.* 18 U.S.C. 241, 242. *Cf.* page 14, above, discussing U.S. Const. Amend. XIV, § 1.

Disciplinary proceedings "are adversary proceedings of a quasi-criminal nature." *In re Ruffalo*, 390 U.S. 544, 551 (1968). So courts cannot resort to any "procedural violation of due process" that "would never pass muster in any normal civil or criminal litigation." *Id*. "The sanctions threatened," *i.e*., "loss of professional status and livelihood, have been" and should be "equated to criminal penalties." *State v. Russell*, 610 P.2d 1122, 1130 (Kan. 1980) citing *Spevack v. Klein*, 385 U.S. 511 (1967).

"Lawyers are not excepted from the words 'No person' " in the Fifth Amendment (or "any person" in the Fourteenth Amendment), and courts "can imply no exception." *Spevack* at 516. Clearly, "lawyers also enjoy first-class citizenship." *Id*. Courts clearly cannot resort to "procedure" that "would deny" lawyers "all opportunity" to compel courts "to make a record" by proving each material fact by clear and convincing evidence. *Id.* at 518-19. *Accord id.* at 520 (Fortas, J., concurring):

> a lawyer [who] is not an employee of the State [] does not have the responsibility of an employee to account to the State for his actions because he does not perform them as agent of the State. . . . The special responsibilities that he assumes as licensee of the State and officer of the court do not carry with them a diminution, however limited, of his Fifth Amendment rights.

"The Fourteenth Amendment secures against state invasion the same privilege[s] that the Fifth Amendment guarantees against federal infringement." *Malloy v. Hogan*, 378 U.S. 1, 8 (1964).

The Kansas justices and attorneys knew that they must "consider[]" only admissible "evidence," and allegations of "misconduct must be established" by admissible "evidence" that was "clear and convincing." App. 83 citing Kan. Sup. Ct. R. 226(a)(1)(A) (App. 113).

"Clear and convincing evidence" is "evidence that causes" the Kansas attorneys and justices "to believe that" the "truth of the facts asserted is highly probable." *In re Lober*, 204 P.3d 610, 616 (Kan. 2009). The Kansas attorneys and justices knew that they must "believe" that admissible "evidence" proved not merely that "the facts asserted are true," but also that their truth is "highly probable." App. 84 quoting *In re Huffman*, 509 P.3d 1253 (Kan. 2022).

The only real potential witnesses against Petitioner were Judges Smith and Phillips. Their conclusory contentions were illegally treated as findings of

fact, and their hearsay was illegally treated as true (clear and convincing evidence that Petitioner's speech and petition violated Kansas rules of conduct). *See* pages 4-7, above.

A presiding federal judge "may not" purport to "assume the role of a witness," and "he may not either distort" any "evidence" or "add to it." *Quercia v. United States*, 289 U.S. 466, 470 (1933). Any federal judge who wished to say something against Petitioner in the Kansas proceedings was required to testify.

Testimony in open court "forces the witness to submit to cross-examination," which is the "greatest legal engine ever invented for the discovery of truth," and it "permits" everyone "to observe the demeanor of the witness in making" and explaining "his statement, thus aiding" in "assessing his credibility." *California v. Green*, 399 U.S. 149, 158 (1970). The "object" of "cross-examination" clearly is "to test" the "testimony," and the clear and fundamental "error of this deprivation could not be cured by having" any judge merely "examine" or purport to describe evidence. *Reilly v. Pinkus*, 338 U.S. 269, 276 (1949). "It certainly is illogical" and "unfair, to permit" judges' hearsay to be used to disbar Petitioner but "deprive" him of "all opportunity to interrogate" his accusers. *Id*. at 275. *See also Green*, 399 U.S. at 156-158, 162-164.

The Kansas justices knew they could not merely pretend that federal judges' hearsay was evidence or that such hearsay was true, including because

Petitioner was denied his statutory and constitutional rights to confront any witness against him.

Kansas was required to afford Petitioner a "hearing" that was "recorded" (Kan. Sup. Ct. R. 222(e)(3)) and "open to the public" (*id*. 222(a)), at which any "witness" would "testify" only "under oath" (*id*. 222(e)(2)) and whom Petitioner was "entitled" to "cross-examine" (*id*. 222(c)(3)). (App. 112-113). The "hearing" was required to be "governed by the Rules of Evidence, K.S.A. 60-401 et seq." *Id*. 222(e)(1) (App. 112). But the Kansas attorneys and justices ensured it was not.

Kansas attorneys and justices illegally and unconstitutionally used mischaracterizations and mere labels to pretend that conclusory contentions by judges were "found" or "findings" or that a purported "ruling" was evidence that it was true that Petitioner's speech or petitioning violated a rule of conduct. *See* pages 4-7, above. No such judicial contention was a "finding of fact," "evidence" or "proof" of anything adverse to Petitioner. *Cf.* Kan. Stat. Ann. 60-401(a)-(d), (h) (App. 107-108) (defining such terms). Kansas justices repeatedly lied about federal judges' conclusory contentions constituting statutorily-defined findings of fact, evidence and proof establishing that Petitioner's speech violated Kansas rules of conduct. *See* pages 4-7, above.

Moreover, the Kansas attorneys and justices knew that no hearsay whatsoever was admissible against Petitioner unless the "person who" made the "statement" was both "present at the hearing" and "available for cross-examination" regarding "the statement and

its subject matter." Kan. Stat. Ann. 60-460(a) (App. 110).

Any "witness' testimony must be taken in open court." Kan. Stat. Ann. 60-243(a) (App. 106). Any "witness may be contradicted and impeached by" Petitioner and "may be cross-examined" on any "subject matter of the witness' direct examination." *Id*. 60-243(b) (App. 107).

For the crucial "purpose of impairing" the "credibility of" a judge as "witness," Petitioner must be permitted to "examine the witness and introduce extrinsic evidence concerning any conduct by him or her and any other matter relevant upon the issues of credibility." Kan. Stat. Ann. 60-420 (App. 109). "As a prerequisite for the testimony of" any judge as "a witness on a relevant or material matter, there must be evidence that he or she has personal knowledge thereof." Kan. Stat. Ann. 60-419 (App. 109).

Judges Smith and Phillips were not present and did not testify at the hearing. Kansas "called" only Petitioner and "investigator" Stratton "as witnesses." App. 2. So Kansas justices lied about federal judges' contentions being entitled to a presumption they were true (clear and convincing evidence) and a legal consequence attached to Petitioner's failure to rebut such fictitious "presumptions." *See* pages 5-6, above.

The Kansas justices clearly (and knowingly) violated the Kansas Constitution. The people and Constitution of Kansas specifically created the Kansas "supreme court" and delegated to it "general

administrative authority over all courts in this state." Kan. Const. Art. 3, § 1 (App. 106). But they did so only after emphasizing that only the Kansas legislature possesses the "legislative power of this state." Kan. Const. Art. 2, § 1 (App. 105).

The Kansas Supreme Court had no power to make or use Rule 220 (or any other rule or ruling) to purport to contradict, change or violate any Kansas statute at issue. "All laws of a general nature shall have a uniform operation throughout the state." Kan. Const. Art. 2, § 17 (App. 105). Kansas statutes governing findings of fact, evidence, proof, testimony and hearsay clearly are laws of a general nature.

Moreover, the Kansas Supreme Court had no power use Rule 220 (or any other rule or ruling) to create or modify any testimonial privilege for judges. "No special privileges" for judges ever "shall be exercised by" any "tribunal" except to the extent such a privilege has been "granted by the" Kansas "legislature." Kan. Const. B. of R. § 2.

IV. Attorneys Must Be Allowed to Assist More in Remedying State and Federal Judges' Deliberate, Determined Violations of this Court's Precedent.

The primary points here are too important to be merely implied. They are too easily overlooked or ignored. Certain misconduct should be exposed and opposed by everyone who truly respects, believes in and cares to support the truly amazing systems of justice

and government the Founders and millions thereafter did and sacrificed so very much to create and protect.

State and federal governments were constituted with written constitutions to ensure that all Americans always enjoy all "Privileges and Immunities" of citizenship (U.S. Const. Art. IV, § 2; *accord* Amend. XIV, § 1 ("privileges or immunities of citizens")) and to "guarantee" to all citizens a "Republican Form of government" (Art. IV, § 4). Great sacrifices and struggles were devoted to ensuring that truly all citizens truly are protected. *See* Amends. XIII, XIV, XIX.

Allowing disbarment of attorneys for the purpose of silencing opposition to judges' constitutional violations "would subvert the very foundation of" the Constitution. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 178 (1803) (Marshall, C.J.). "It would declare, that" judges may "do what is expressly forbidden" by the Constitution, giving them "a practical and real omnipotence." *Id*. at 178. Such conduct "reduces to nothing what we have deemed the greatest improvement on political institutions—a written constitution." *Id*.

The primary point of much of the plain language of the Constitution is that even all three branches of government—even acting together—have no power to authorize any public servant to rob the people of the protections secured by the Constitution. No judge can knowingly allow any public official to violate any person's constitutional rights. The primary point of much of the Declaration of Independence was that even the King and Parliament had no such powers.

The clear meaning and clear purpose of much of the plain language of the Constitution is that the "very essence of judicial duty" is to support the Constitution, *i.e.*, "decide" every matter "conformably to the constitution." *Id*. "It is emphatically" judges' "duty" to "say what the law is," not lie about or knowingly violate the law. *Id*. at 177. When applying any "rule," judges "must" expressly "expound and interpret that rule," not merely judicial falsehoods about such rule (or about lawyers or litigants). *Id*.

All judges must expressly state the controlling legal authority and then apply and comply with it. "It is the duty of" every judge "to conform to the law" because each is "an officer" who is "bound to obey the laws." *Id*. at 158. Whenever any judge "acts," it is only "under the authority of law." *Id*. When a judge is "directed" by the Constitution "to perform certain acts; when the rights of individuals are dependent on the performance of those acts," the judge is an "officer of the law" and "is amenable to the laws for his conduct." *Id*. at 167.

Clearly, "the constitution" must "rule" the "government of [all] *courts*." *Id*. at 179-80. Every litigant "has a right to resort to the laws of his country for a remedy." *Id*. "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection." *Id.* at 163. Federal and state judges "cannot" pretend to have the "discretion" to "sport away" any lawyer's or litigant's "vested rights," as the Kansas

justices and federal judges did and too commonly do. *Id.* at 166.

Today, judges are frighteningly far from the least dangerous branch. Judges, themselves, too often *are* the "clear and present danger" that government must "prevent." *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 633 (1943).

It "is hard to imagine a more violent breach of" a judge's duties "than" knowingly "applying a [purported] rule of primary conduct" that "is in fact different from the rule or standard formally announced." *Allentown Mack Sales and Service, Inc. v. NLRB*, 522 U.S. 359, 374 (1998). It is "evil" for judges to knowingly "appl[y] a standard other than the one" that the law, the Constitution and this Court's precedent "enunciates." *Id*. at 375. But such violent breaches and evil are commonplace in some areas of litigation.

In Petitioner's experience, every tribunal and agency below this Court views its precedent as merely advisory when it suits them and they think they can. Daily, they emphasize that in their eyes this Court is far from "final" or "infallible." *Brown v. Allen*, 344 U.S. 443, 540 (1953) (Jackson, J., concurring).

State and federal judges and government attorneys openly flout this Court's careful, conscientious precedent. They do so precisely to insidiously attack and undermine crucial support for the Constitution. Such conduct is, perhaps, most prevalent in FOIA and Administrative Procedure Act (APA) litigation.

FOIA was carefully designed and repeatedly amended to fortify the APA, which was painstakingly designed and amended to fortify the Constitution. *See*, *e.g.*, *Wong Yang Sung v. McGrath*, 339 U.S. 33, 37-41 (1950); 92 Cong. Rec. 2149 (Statement of Sen. McCarran).

Today, however, federal judges commonly, knowingly and openly violate and undermine FOIA, the APA, federal rules, the Constitution and this Court's precedent to deny Americans access to the information they need and to which they are entitled to effectively govern themselves. This problem is pervasive.

Judges *routinely* knowingly and egregiously violate Fed.R.Civ.P. 56 and this Court's precedent, specifically and deliberately, to violate "the right of the people" to "petition" (U.S. Const. Amend. I), the concomitant right to access government information, and the right to "due process of law." (Amend. V).

In FOIA litigation, the agency virtually never "bears" any "responsibility" for "identifying those portions of" the record that "demonstrate the absence of a genuine [dispute regarding each] material fact." *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Although Fed.R.Civ.P. 56 "by no means authorizes trial on affidavits" and judgment based on even "determinations" (much less fictitious presumptions) of agency employee "[c]redibility" or "the weighing of the evidence" favoring the agency, that is exactly what judges do. *Anderson*, 477 U.S. at 255. Each "judge must" address "whether a fair-minded jury could return a

verdict for the plaintiff on the evidence presented," but they just do not do it. *Id*. at 252.

This Court, alone, clearly cannot cope with circuit and district court "systems" determined and designed to violate this Court's precedent. More democratic measures are necessary and appropriate. Judges must not be allowed to arbitrarily and viciously "punish" attorneys for exposing and opposing judges' violations or misrepresentations of law. Attorneys must be allowed to help prevent the problems, below, and remedy them much more quickly and quietly.

The following indicate how extreme and pervasive the problem is. "Crime is contagious. [When] the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy." *Miranda v. Arizona*, 384 U.S. 436, 479-480 (1966) quoting *Olmstead v. United States*, 277 U.S. 438, 485 (1928) (Brandeis, J., dissenting).

Judges Smith and Phillips (Mo. W.D.) were the complaining witnesses who initiated the Kansas proceedings. The primary reason they expressly and repeatedly sought to have only state judges disbar Petitioner (the primary reason they continue to fail to even attempt to have their own court disbar Petitioner for any purported misconduct) is that they are abusing criminal fines and disbarment to silence opposition to judges' lies and crimes, to cull and kill the messenger, as it were. Petitioner was subjected to fines and disbarment, specifically, to knowingly intimidate him into abandoning petitions and to cause him to refrain from

petitioning to obtain such evidence, and to knowingly injure him for such petitioning. *Cf.* 18 U.S.C. 241, 242, 371, 1001.

No state or federal judge or attorney ever even has disputed or attempted to refute anything Petitioner has presented to show that state or federal judges committed crimes by lying about or concealing material facts or evidence and knowingly violating (and knowingly injuring Petitioner for exercising) Petitioner's rights secured by federal law and the Constitution. *Cf. id.*; 18 U.S.C. 1341, 1343, 1349, 1512(b), 1519.

Judges Smith and Phillips fraudulently fined Petitioner $1,500, which Eighth Circuit judges fraudulently affirmed. They all knew that such fines were imposed solely to injure and intimidate Petitioner for speech and petitioning (exposing and opposing the lies and crimes of judges) that they all knew were protected by the Constitution and federal law. *Cf.* U.S. Const. Amends. I, V; 18 U.S.C. 241, 242, 371; pages 14-26, above.

They all knowingly violated copious federal law and the Constitution and flouted copious precedent (which were presented to such judges) emphasizing due process of law in criminal contempt proceedings. *Cf., e.g.*, U.S. Const. Amends. I, V; 18 U.S.C. 401; Fed.R.Crim.Proc. 1, 16, 42; Fed.R.Evid. 101, 602, 605, 802, 806, 1002, 1101.

They all knew that criminal fines could not be imposed in mere proceedings under FOIA and the Federal Rules of Civil Procedure (**Fed.R.Civ.P.**). *Cf., Int'l*

Union, United Mine Workers of Am. v. Bagwell, 512 U.S. 821, 831 (1994); *Hicks v. Feiock*, 485 U.S. 624, 631-632 (1988); *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 798-799 (1987); *In re Michael*, 326 U.S. 224, 227 (1945); *In re Christensen Eng'g Co.*, 194 U.S. 458, 461 (1904).

While they fined or affirmed fining Petitioner, such judges (and Judge Contreras (D.D.C.)) concealed or helped conceal evidence that Judges Smith and Contreras lied about the content and purpose of Powers' email. *Cf.* Fed.R.Crim.Proc. 16(a)(1)(E), 18 U.S.C. 1519; *Brady v. Maryland*, 373 U.S. 83, 87-88 (1963); *Harris v. United States*, 382 U.S. 162, 166, n.4 (1965); *Cooke v. United States*, 267 U.S. 517, 537 (1925) (Taft, C.J.).

"Based on the vagueness and implausibility of" various judges' "stories" about Powers' email, below, everyone should infer they all "were lying." *District of Columbia v. Wesby*, 138 S.Ct. 577, 587 (2018).

Judge Contreras published his examples for others to follow. *See Jordan v. U.S. Dept. of Labor*, 273 F. Supp. 3d 214, 224 (D.D.C. 8/4/2017) ("***Jordan I***"); 308 F. Supp. 3d 24, 30 (D.D.C. 3/30/2018) ("***Jordan II***"); 331 F.R.D. 444 (D.D.C. 7/1/2019) ("***Jordan III***").

Judge Contreras knew that agency attorneys' lies about Powers' email by were egregiously inadequate, so Judge Contreras added his own lie: "Powers email contains an express request for legal advice" (*id.* at 232), "Powers email contained an express request for legal advice" (*Jordan II* at 30), "Powers email" "contained an explicit request for legal advice" (*Jordan III*

at 448). Judge Contreras even lied about the D.C. Circuit ("found" that "Powers email contains an explicit request for legal advice"). *Id*. at 450.

Judge Contreras also knew agency attorneys lied about a privilege notation on Powers' email ("Subject to Attorney Client Privilege"). *Id*. at 221, 231, 232, 236, 237; *Jordan II* at 29. Judge Contreras repeatedly emphasized that someone (later) added a markedly different notation ("subject to attorney-client privilege") to Powers' email. *Jordan I* at 232; *Jordan II* at 30; *Jordan III* at 448.

Any express request for advice, input or review must include words such as "please advise regarding" or "please review and provide input." Each such phrase and any purported privilege notation is a "**Key Phrase**."

Subsequently, the D.C. Circuit and Judge Contreras contended that all Key Phrases were merely "disjointed words" having "*minimal or no information content*." *Jordan v. U.S. Dept. of Justice*, 17-cv-02702, 2019 WL 2028399 at *4 (D.D.C. 5/8/2019) (emphasis by Judge Contreras). *Accord id*. at *5 and n.4 (repeatedly stating same, including by quoting *Jordan v. U.S. Dept. of Labor*, 18-5128, 2018 WL 5819393 at *1 (D.C. Cir. 10/19/2018)).

Judge Contreras even emphasized that any words in any Key Phrase were "meaningless words," and he even threatened "sanctions" for seeking evidence thereof. *Id*. at *5, n.5.

To thwart another FOIA requester seeking Powers' email, Judge Smith and agency attorneys (including in a declaration) insisted that all information redacted from Powers' email was the personal private information of Petitioner (Campo's counsel). They insisted that Powers' email was in Petitioner's "personnel" or "medical" or "similar files" and it included only Petitioner's personal, private information (so it necessarily belonged to Petitioner). *Campo v. U.S. Dept. of Justice*, 19-cv-00905, 2020 U.S. Dist. LEXIS 122429 at *25-26 (W.D. Mo. 7/13/2020) invoking FOIA Exemption 6 (5 U.S.C. 552(b)(6)).

Regarding each of Judge Smith's factual contentions, implications and inferences, above, Eighth Circuit judges insisted that "no genuine issue of material fact" even "remained for trial." *Campo v. U.S. Dept. of Justice*, 854 Fed. Appx. 768, 769 (8th Cir. 2021).

Realizing that their own lies and those of Judges Smith and Contreras, above, were blatant, irrational and even absurd, Eighth Circuit judges disbarred Petitioner without any reason stated. The Kansas Supreme Court disbarred Petitioner expressly to help Judges Smith and Phillips and Eighth Circuit judges retaliate against and silence Petitioner for exposing and opposing the lies and crimes of such judges. *Cf.* App. 10-44, 46-55, 61-71.

V. This Court Must Address Related Matters.

Petitioner, a "member of" this Court's "Bar," was "disbarred" and "suspended" by "court[s] of record," so this Court must "enter an appropriate order." U.S. Sup. Ct. R. 8.1. This Court must afford Petitioner "a hearing if material facts are in dispute." *Id*. R. 8.2. An appropriate order would address issues herein, so this Court should support and enforce its prior precedent with additional precedent.

CONCLUSION

A significant number of judges make or enforce falsehoods as so-called findings, rulings or conclusions to repress critics and petitions under the First Amendment and FOIA. They repeatedly prove that, in their alternate reality, judicial power is virtually supreme (this Court, the Constitution, and the People are virtually irrelevant). Such judges are dangerously incompetent or dangerously deceitful.

This Court should support and protect people trying to remedy such grave dangers responsibly and conscientiously within the justice system. For the foregoing reasons, *certiorari* should be granted.

Respectfully submitted,

JACK JORDAN
Counsel of Record
3102 Howell Street
North Kansas City, Missouri 64116
jack.jordan@emobilawyer.com
(816) 853-1142