No. 22-684

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

SUPPLEMENTAL BRIEF FOR PETITIONER

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TABLE OF CONTENTS

SUPPLEMENTAL APPENDIX

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES – Continued

TABLE OF AUTHORITIES – Continued

Page

OTHER AUTHORITIES

Petitioner Jack Jordan respectfully submits that the writ should be granted to compel Kansas to justify the extreme violence it (with its federal followers) are inflicting on the Constitution's core, as evidenced, in part, by their post-petition decisions.

SUPPLEMENTAL FACTS

On January 19, the petition was submitted to this Court, emailed to Kansas, and emailed to U.S. District Court judges for Missouri's Western District (because Judges Smith and Chief Judge Phillips of such court asserted falsehoods that Kansas justices pretended supported their own falsehoods about Petitioner's filings (with Judges Smith and Phillips) purportedly violating rules of conduct (*see* Pet. at 5-8)).

On January 27, Kansas rushed to refuse to even attempt to justify its conduct with any fact or legal authority. *See* waiver of opposition.

Meanwhile, Chief Judge Holmes and Judges Kelly and Phillips (with four Tenth Circuit decisions) repeatedly failed and refused to attempt to justify their own conduct with any fact or legal authority. Even after Petitioner's petition was forwarded to them, they flouted this Court's precedent and followed Kansas justices persecuting Petitioner for speech/petitions exposing and opposing the lies and crimes of Judges Smith and Phillips.

On January 3, Tenth Circuit judges summarily "disbarred" Petitioner. Supp.App. 3. They flouted this

Court's precedent requiring "proof of misconduct" and copious precedent emphasizing "grave reason" that disbarment was "unjust." Supp.App. 2 citing *Selling v. Radford*, 243 U.S. 46, 50 (1917). Kansas justices clearly had violated the Constitution, flouted copious precedent of this Court, and lied about seeing "clear and convincing evidence" of each fact material to establishing that Petitioner's speech/petitions violated rules of conduct. *Cf*. Pet. at 4-5. Tenth Circuit judges did the same and worse, failing to even acknowledge this Court's precedent requiring clear and convincing evidence. *Cf*. Pet. at 23.

Tenth Circuit judges knowingly misrepresented that Kansas's "disbarment order" expressly "set forth" (unidentified) "evidence" of facts establishing that Petitioner's speech/petitions constituted (unidentified) "misconduct." Supp.App. 2. They knowingly misrepresented that (something) "revealed" (unidentified) "proof" that Petitioner's speech/petitions constituted (unidentified) "misconduct." Supp.App. 3.

"After careful consideration" (of the Constitution and this Court's precedent), on January 20, Tenth Circuit judges summarily "denied" Petitioner's "*Motion to Reconsider and Vacate*" and "construe[d]" it as "a petition for rehearing" (to preclude rehearing *en banc*). Supp.App. 6.

On January 25, Tenth Circuit judges summarily denied Petitioner's "*Motion for Published Reasoned Opinion,*" refusing to provide any "reasoning" supporting "disbarment." Supp.App. 7. To preclude rehearing

en banc, they added, "No further filings will be accepted." *Id*.

On February 6, Tenth Circuit judges summarily denied Petitioner's "*Motion to* [*Allow*] *Petition for Rehearing en Banc*." Supp.App. 8. On January 30, such petition was received by the clerk, but not filed. *See* Supp.App. 9. The Panel prevented Tenth Circuit judges from reviewing their falsehoods and unconstitutional conduct. Instead, they rushed to cause/urge this Court, four circuit courts, five district courts and New York to follow them by disbarring Petitioner. *See* Supp.App. 4-5.

To date, no judge or attorney in any proceeding even contended that anything Petitioner stated about any judge's lies or crimes was false. None even attempted to refute or dispute any fact, evidence or legal authority Petitioner presented. None even attempted to show that any judge did not knowingly and willfully contravene any federal or state rule, statute or Constitution or precedent of this Court that Petitioner presented.

RELATED ARGUMENT

I. The Kansas and Tenth Circuit Decisions Strongly Support this Petition.

Kansas's "opposition" to "the petition" was required to "address any perceived misstatement of fact or law" therein bearing "on what issues properly would be before the Court." U.S. Sup. Ct. R. 15.2. Moreover, Kansas's "[c]ounsel" had "an obligation to" this "Court to point out in" their "opposition" every "perceived misstatement" in "the petition." *Id*.

Kansas's waiver and Tenth Circuit decisions, above, confirmed that the facts are pristinely clean, and punishing Petitioner's speech/petitions cannot serve any possible legitimate government interest (compelling or otherwise).

"Kansas justices lied" about seeing "clear and convincing evidence" of all facts material to establishing that Petitioner's speech violated "each rule" at issue. Pet. at 4-5. "Kansas" (and Tenth Circuit judges) "did not" and "cannot" state or identify "even one finding of fact" or "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" (and Tenth Circuit judges) "did not and cannot do so." *Id*. at 12.

II. This Court Should Not Allow Judges to Eviscerate Our Constitution.

Judges' weapons are words and documents. A shocking number and variety are using theirs to insidiously attack the most precious of ours. Decisions regarding Petitioner's disbarment are (merely) illustrative. Some judges seek to use courts as bastions against the Constitution and this Court. Their words, "silence" and "[c]onduct" are "most persuasive" (and clear) "evidence" against them. *United States ex rel. Bilokumsky v. Tod*, 263 U.S. 149, 153-54 (1923).

Such judges are eviscerating the Constitution and America's constitution. They attacked and undermined not only one individual and his speech and petitions, but also our very form of republican government, this Nation's foundation.

The people who wrote the Constitution (including Amendments) understood it never perfectly described, or necessarily defined, America's constitution. *See*, *e.g.*, U.S. Const. Art. V; Amend. IX, X. So generations of this Nation's best and brightest have struggled mightily to undo pernicious 1700's misperceptions of supremacy. *Cf.*, *e.g.*, Declaration of Independence; U.S. Const. Preamble, Art. VI, Amend. I, X, XIII-XV, XIX, XXIV, XXVI. Judges cannot be allowed to rip apart the fabric of this Nation by perpetuating 1700's misperceptions of judicial supremacy. Judges cannot make judges lords over the People. "No Title of Nobility" may "be granted by the United States" (Art. I, §9) or by any "State" (*id.*, §10).

All "Citizens" are equally "entitled to all Privileges and Immunities of Citizens." Art. IV, §2. Federal courts considering Kansas's conduct must fulfill the "guarantee" of "a Republican Form of Government" for all Americans. *Id*., §4. "No state" can be helped by federal judges to "make or enforce any law" to "abridge" any "privileges or immunities of citizens" or "deprive" Petitioner of any "liberty" or "property, without due process of law" or "deny" Petitioner "equal protection of the laws." Amend. XIV, § 1. *Cf*. Amend. V.

"Constitutional rights" (including the foregoing) "are enshrined with the scope they were understood to have *when the people* [*enshrined*] *them*." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S.Ct. 2111, 2136 (2022). This Court should remind judges of what was enshrined by whom and how and why.

The sublime text of the Declaration of Independence and the Constitution addressed herein was enshrined with repeated writings and multiple wars. Such texts and sacrifices are sacred (to many who gave much for this Nation). Judges must honor their oaths (to support and defend our Constitution and constitution) to honor those who sacrificed tremendously to do the same.

All Americans always should respect and honor the great courage and great sacrifices of the "Representatives of the united States of America" in "Congress" who personally "declare[d]" outright "War" on "Great Britain" and Europe's mightiest military. Declaration of Independence of 1776 ¶32. Most were

lawyers, legislators or judges; all courageously signed their names. They openly "pledge[d]" and risked their own and their families' "Fortunes," "sacred Honor" and "Lives." *Id*. Many actually sacrificed their fortunes or lives to constitute the United States.

They spoke and acted as "Congress" of "the united States of America" (*id*.) to enforce their judgment stating America's bold new political constitution: "We hold" that Americans are "endowed" with "unalienable Rights," including "the Right of the People to alter" or "abolish" any aspect or even "any Form of Government" to secure their "Life, Liberty" and "pursuit of Happiness"; moreover, when government "abuses and usurpations" evidence "absolute Despotism, it is" not only "their right" but "their duty, to throw off such Government" (*id*. ¶2).

"[T]he People" constituted this Nation and "establish[ed]" its "Constitution" emphatically and specifically to "establish Justice" and "secure the Blessings of Liberty." U.S. Const. Preamble. The sublime words above highlight daily duties of judges (as people representing the People). *Accord* Art. III, VI. They highlight how the 1776 Declaration and the Constitution (including Amendments) demonstrated Americans' "freedom of speech," "press," and "religion" (thought and conscience). Amend. I. They highlight that extremely strenuous exercise of such freedoms secured the "Privileges and Immunities of Citizens" by creating and "guarantee[ing]" a "Republican Form of Government." Art. IV.

The 1776 Declaration thoroughly demonstrated and even described lawyers' (Americans') right and duty to think critically about and criticize all public officials. "We have warned them," "reminded them," "conjured them" and "appealed to their native justice and magnanimity," but they were "deaf to the voice of justice and consanguinity." *Ibid*. ¶31.

In July 1774, Jefferson showed that lawyers (Americans) may "say" that even "kings are the servants, not the proprietors of the people," and even to the actual King (and all his governors and judges), Americans may speak with "freedom of language" befitting "free people claiming their rights" under "the laws of nature." Thomas Jefferson, *A Summary View of the Rights of British America* (1774) ¶21 at https://avalon.law.yale.edu/18th_century/jeffsumm.asp. That August, George Washington acclaimed such summary of rights "Mr. Jefferson's Bill of Rights." Jon Meacham, *Thomas Jefferson: The Art of Power* (2013) at 75.

In mid-October 1774, Congress, itself (including Washington, Patrick Henry, Samuel Adams, John Adams, John Jay, John Dickinson), issued America's first bill of rights. When "Congress issued its 'Declaration of Rights and Grievances' in 1774," it invoked the title, form, tone and "precedent of the English Declaration of Rights of 1689, which was later enacted by Parliament as the Bill of Rights." Gerard N. Magliocca, *The Bill of Rights as a Term of Art*, 92 Notre Dame L. Rev. 231, 240-41 (2016).

In 1774, the "people" of America "elected" their own "Congress," which declared Americans' rights and America's constitution. Declaration of Rights and Grievances of 1774 ¶5. Congress "claim[ed], demand[ed], and insist[ed] on" Americans' "indubitable rights and liberties; which cannot be legally taken from them" or "altered or abridged by any power whatever, without their own consent." *Id*. ¶17. Congress declared some measures were "indispensably necessary to good government" and others were "unconstitutional, dangerous, and destructive to the freedom of" Americans and "American legislation" (constitution). *Id*. ¶16.

America's constitution comprised "Rights" arising under "the principles of the English constitution" and "several charters or compacts." *Id*. ¶7. *Accord id*. ¶16 ("essential" to "the English constitution"). Americans were "entitled to all the rights, liberties, and immunities of free" Englishmen. *Id*. ¶8. Americans also were "entitled to all the immunities and privileges granted and confirmed" by "royal charters" or "secured" by "provincial laws." *Id*. ¶13.

Congress declared America's constitution. "[T]he foundation" of "liberty" and "free government" is the "right" of "the people to participate in" government, including creating law. *Id*. ¶10. Not only "law" but also the people (with "the great and inestimable privilege" of juries) constrain judges. *Id*. ¶11. Congress declared the People's "right peaceably to assemble," discuss "grievances, and petition" and "all prosecutions, prohibit[ions]" and "commitments for the same, are illegal." *Id*. ¶14.

The 1774 Declaration clearly engendered the 1776 Declaration of Americans' rights and duties regarding self-government (America's constitution). Paragraphs ¶¶8, 11-13, 17 clearly engendered the 1787 Privileges and Immunities and Supremacy Clauses and the First and Fifth Amendments.

In October 1774, Congress also issued a letter (echoing Jefferson's *Summary*) emphasizing that "the [unstated] freedom of the press" was one of America's "great rights" because it serves "diffusion of liberal sentiments on the administration of Government" precisely so that "oppressive officers" (including judges) "are ashamed or intimidated, into more honourable and just modes of conducting [public] affairs." *Thornhill v. Alabama*, 310 U.S. 88, 102 (1940).

Nearly all the most influential people behind our founding texts were serious students of serious law. Blackstone taught them that Britain's and America's legal and political constitutions must be inferred from multiple texts, and no one text needed to be (or was) perfect or perfectly complete. So they declared America's constitution several times with several texts, including in 1774 and 1776. In the 1776 Declaration, Congress declared rights and a new American constitution far more radical than, and implicit in, the 1787 Constitution.

The 1774 and 1776 writings of Jefferson and Congress informed the creation and construction of the 1787 Constitution and 1789 Amendments. The 1776 Declaration language quoted above was understood to

undergird the 1787 Constitution (rendering the 1789 Amendments superfluous in the minds of many). The 1787 Constitution was understood not to be the first declaration of America's constitution.

The People "deliberate[d]" upon another "new Constitution" precisely because the power "to decide" America's "political constitutions" was "reserved to the people" in 1776. The Federalist No. 1 at 3 (Alexander Hamilton) (Bantam Classic ed. 2003). *People*, "by their conduct and example," decide "the important question" of how to establish "good government." *Id*. Then as now, "the most formidable" opposition to "the new Constitution" came from men who "resist all change" that would diminish "the power" or "consequence" of their "offices" or motivated by "perverted ambition." *Id*. at 4. The judges here are not sacrificing Caesar to save the Republic. They are eviscerating the Republic's constitution to protect tyrants.

As the 1776 Declaration (constitution) required, the People's right and duty to speak for themselves and each other permeates the 1787 Constitution. The sovereign People vote for presidents, senators and representatives. U.S. Const. Art. I, II; Amend. XII, XVII. They enjoy the concomitant "freedom of speech" and "press" to criticize (including "the right" to "petition" to "redress" any "grievances" against) all public servants, which no public servant may "abridg[e]." Amend. I.

Senators and Representatives must "make all Laws" that are "necessary and proper" to effect any "Powers vested by this Constitution in the [federal]

Government." Art. I, §8. Their "Speech or Debate" serving the People is protected (except from their peers and the People as voters or critics). *Id*. §6.

Judges must issue decisions, *inter alia*, in "all Cases, in Law and Equity, arising under this Constitution" or federal "Laws" and "Controversies to which" federal government is "a Party." Art. III, §2. Judges speaking for the People are protected. *See id*., §1 ("hold their Offices during good Behaviour;" "Compensation" may "not be diminished"). But judicial conduct is constrained by counsel, juries and witnesses. *See id*., §2; Amend. V-VII. And all the People are free to criticize judicial conduct as Petitioner did.

III. The Founders Understood Our Constitution Protected Truthful Criticism of Public Servants.

"[The Sedition Act of 1798" sharply focused "national" attention on "the central meaning of" not merely "the First Amendment," but also America's political constitution. *New York Times Co. v. Sullivan*, 376 U.S. 254, 273 (1964). The Act punished federal officials' critics "inten[ding]" to "defame" or "bring them" into "contempt or disrepute" or "to excite against them" the "hatred of" the "people." *Id*. at 274.

Everyone understood the Constitution and America's constitution precluded punishing truthful criticism of public officials' official conduct. So the Sedition Act required the government to bear the burden of proving that criticism was both "false" and "malicious."

Id. at 273. It also "allowed" the "defense of truth," and (of profound historical importance regarding so-called seditious libel) "the jury were" the "judges both of the law and the facts." *Id*. at 274.

Even so, Jefferson and Madison very vigorously opposed the Act. *See*, *e.g*., *id*. at 273-76. Madison insisted Americans enjoy full "freedom in canvassing the merits and measures of *public men*, of *every description*," and he emphasized that such freedom "has not been confined" by "the common law." *Id*. (emphasis added). "On this" sturdy "foundation" the "freedom of the press" has "stood" and still "stands." *Id*.

In 1794, Madison had emphasized that in "Republican Government" the "censorial power is in the people over the Government, and not in the Government over the people." *Id*. at 275. Earlier, in Madison's proposed First Amendment, he emphasized why: the People's "right to speak," "write," and "publish" and "the freedom of the press" were "the great bulwarks of liberty." 1 Annals of Cong. 434 (1789).

Even earlier, Jefferson emphasized such rights are "the only safeguard of the public liberty" because "[t]he people are" the "censors of their governors" and public criticism "will tend to keep" public servants "to the true principles of their institution." Letter from Jefferson to Carrington (Jan. 16, 1787) (https://press-pubs.uchicago.edu/founders/tocs/amendI_speech.htm). So "full information" about public "affairs" must be given to "the people. The basis of our governments being the opinion of the people, the very first object should be

to keep that right." *Id*. Jefferson understood the Constitution protected "anything but false facts affecting injuriously the life, liberty or reputation of others." Letter from Jefferson to Madison (Aug. 28, 1789) (https://founders.archives.gov/documents/Jefferson/01-15-02-0354).

No judge could rationally believe (after honest, disciplined consideration of American history and legal authorities) that any judge has any power to retaliate against any person (including lawyers, litigants, juries or witnesses) for Petitioner's truthful speech/petitions exposing and opposing judges attacking and undermining the Constitution.

Petitioner's persecution is devoid of merit. Congress even has impeached judges for such persecutions. *See*, *e.g.*, *Bowsher v. Synar*, 478 U.S. 714, 738 n.1 (1986) (Stevens, Marshall, JJ., concurring) (Supreme Court Justice Samuel Chase's "impeachment" for not "respect[ing] the law" (the Sedition Act) when persecuting government critics); *Cammer v. United States*, 350 U.S. 399, 406 (1956) (federal Judge Peck's "impeachment" for jailing lawyer and suspending "right to practice" law for mere "published criticism of" judge's "opinion").

Ours was "emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if" American courts, themselves, "furnish no remedy for" judges' malicious "violation[s] of" Petitioner's "vested legal right[s]." *Marbury v.*

Madison, 5 U.S. (1 Cranch) 137, 163 (1803) (Marshall, C.J.).

CONCLUSION

Too many judges expect this Court to acquiesce in their violence to crucial legal concepts (findings of fact, evidence, proof, burden of proof) and attacks on the Constitution and this Court's leadership. This Court should vigorously defend our Constitution against such threats.

Respectfully submitted,

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