

22-7298

No. _____

ORIGINAL

FILED	7	1963
OFFICE		

IN THE

SUPREME COURT OF THE UNITED STATES

In Re Gabriel Desmond Yankey Jr — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

Gabriel Desmond Yankey Jr
(Your Name)

1645 S. Woodlawn
(Address)

Wichita, KS, 67218
(City, State, Zip Code)

770-568-4896
(Phone Number)

QUESTION(S) PRESENTED

- Is the petitioner Gabriel Desmond Yankey Jr's current confinement in violation of the United States Constitution?
- Is the State of Kansas in violation of the United States Constitution by or from the Judges in the eighteenth Judicial District court failing to recuse themselves in regard to the petitioners state criminal matters?
- If a party has a suit against a whole court, are the judges in that court required by the U.S. Constitution and the due process of law clause to recuse themselves to avoid an appearance of impartiality or possible bias?

LIST OF PARTIES

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

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Tyler Roush - Eighteenth Judicial District Judge
Kevin O'Connor - Judge - Eighteenth Judicial District Court
Faith Maughan - Judge - Eighteenth Judicial District Court

RELATED CASES

In the eighteenth Judicial District Court For Sedgwick County

Gabriel Desmond Yankey Jr v. Sedgwick County Jail,
petition for writ of habeas corpus case No. 2022-CV-1844 et al., responder

In the United States District Court For the
District of Kansas

Gabriel Desmond Yankey Jr v Jeff Easter
petition for writ of habeas corpus case No-22-3277-JWB

In the United States Court of Appeals For the Tenth Circuit

Gabriel Desmond Yankey Jr v Jeff Easter
petition for writ of habeas corpus case No-23-3036

In the Supreme Court For the State of Kansas

Gabriel Desmond Yankey Jr v Sedgwick County Jail
petition for writ of habeas corpus case No. 2022-CV-1844 et al., respondent

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- Rippe v. Baker, U.S. Sup. Ct 2017

STATUTES AND RULES

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28 U.S.C. 2241 & 2242

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- Due Process clause of the fourteenth Amendment of the United States Constitution.
- Bouvier Law Dictionary

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of mandamus issue.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the Eighteenth Judicial District Court court appears at Appendix D to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 3/14/88

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Due Process of Law clauses of the Fourteenth Amendment to the United States Constitution

- The Judicial power of the states is limited by the full faith and credit clause of the U.S. Constitution: full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. "It is further limited by the due process clause of the fourteenth amendment which states: "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."

28 U.S.C. 2254

28 U.S.C. 2241

28 U.S.C. 2242

**STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT**

Gabriel Desmond Yankey Jr has a federal lawsuit against the state of Kansas in the United States District Court For the District of Kansas. (Gabriel Desmond Yankey Jr v. Eighteenth Judicial District court - case # 6:22-cv-01031-HLT-TJJ)

Due process requires a judge to "recuse" him-or-herself when the court on which the judge sits is asked to rule on the merits of a petition by a defendant whom the judge had helped to prosecute before becoming a judge. (Williams v. Pennsylvania, U.S. Sup. Ct 2016). Even if they cant prove actual bias, defendants are entitled to have judges recuse themselves when circumstances suggest that the probability that a judge is actually biased is too high to be constitutionally tolerable. (Rippo v. Baker, U.S. Sup. Ct. 20)

"A recusation is not a plea to the jurisdiction of the court, but simply - to the person of the judge. It may, however, extend to all judges, as when the party has a suit against the whole court." - Bouvier Law Dictionary, 1853, Recusation Civ. Law.

The petitioner filed a petition for writ of habeas corpus in the eighteenth judicial district court. That petition was denied. Ironically that petition was denied by a judge whom is one of many named defendants in the petitioners civil suits in federal court. According to the due process clause of the fourteenth amendment of the U.S. constitution, ALL of the judges in the eighteenth judicial district are required to recuse themselves (which they have failed to do), because there is a reasonable basis for a finding of an appearance of partiality under the facts and circumstances of the case. Petitioner also filed a petition for writ of habeas corpus in The Supreme Court of the State of Kansas. That state court never responded or replied to the petition for writ of habeas, however the court did file the petition (case - 2022-cv-1844). There are exceptions, circumstances that warrant the exercise of this Court's discretionary powers, and adequate relief cannot be obtained in any other form or from any other court.

REASONS FOR GRANTING THE PETITION

The State of Kansas Eighteenth Judicial District court is in violation of the petitioner Gabriel Desmond Yankee Jr's Fourteenth Amendment Due process of law clause guaranteed right by the United States constitution. The petitioners current confinement in the Sedgwick county jail is unlawful under the U.S. constitution.

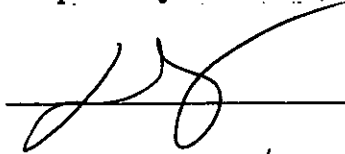
The judges of the eighteenth judicial district court ALL have failed to recuse themselves from judicial proceedings in regard to the petitioner. The due process clause of the U.S. Constitution requires them to do so. Specifically the Rippo v. Baker, U.S. Sup. Ct. 2017 case states: "Even if they can't prove actual bias, defendants are entitled to have judges recuse themselves when circumstances suggest that the probability that a judge is actually biased is too high to be constitutionally tolerable."

If all of these factors apply to the petitioners case, then the state of Kansas is in direct violation of federal law and the U.S. Constitution specifically the due process clause of the fourteenth amendment. Petitioners federal suit against the state of Kansas establishes a circumstance where a reasonable observer could question the partiality of judges, which alone, is constitutionally intolerable. There is a constitutional right to a fair and impartial judge, and if a judge or administrator whose interest in the case or potential to favor one party or another is apparent to a reasonable observer, then a failure to recuse may violate the due process clauses of the constitution. - Bouvier Law Dictionary, 1853, Recusation Civ. Law. There are exceptional circumstances in this case that warrant the exercise of this courts discretionary powers, and adequate relief cannot be obtained in any other form or from any other court.

CONCLUSION

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of stylized initials and a surname, is written over a horizontal line.

Date: 3/30/23