No. ___

In the Supreme Court of the United States

JACK JORDAN,
Petitioner,

v.

KANSAS DISCIPLINARY ADMINISTRATOR,
Respondent.

APPLICATION TO THE HONORABLE NEIL GORSUCH FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR WRIT OF CERTIORARI TO THE KANSAS SUPREME COURT

Jack Jordan
Counsel of Record and *Petitioner*
3102 Howell Street
North Kansas City, Missouri 64116
jack.jordan@emobilawyer.com
816-853-1142

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To the Honorable Neil M. Gorsuch, Associate Justice, as Circuit Justice for the United States Court of Appeals for the Tenth Circuit:

Pursuant to this Court's Rules 13.5, 21, 22, 30.2 and 30.3, Applicant Jack Jordan respectfully requests that the time to file his impending petition for writ of certiorari be extended 60 days, up to and including March 20, 2023.

The judgment of the Kansas Supreme Court sought to be reviewed was entered on October 21, 2022. *See* App. 1-76. Kansas rules do not address a motion to reconsider a disciplinary order, but such a motion was filed and summarily denied the same day, November 4, 2022.

Absent an extension of time, Applicant's petition for writ of certiorari will be due on January 19, 2023. Petitioner filed this Application more than 10 days before such date. This Court will have jurisdiction over the judgment under 28 U.S.C. § 1257(a). Respondent declined to state that it would not oppose Applicant's request for a 60-day extension.

BACKGROUND

Kansas justices disbarred Applicant solely for his statements exposing and opposing the lies and crimes of judges and government attorneys. They did so without anyone even stating any finding of fact or anyone proving any fact that had even the potential to establish that any statement by Applicant violated any rule of

conduct. No one (including any judge) ever even contended that any statement by Applicant about the lies and crimes of judges was false.

Instead of ensuring that Kansas attorneys bore their burden of proof, the Kansas justices, themselves, lied repeatedly. They lied about the law and then they lied about the facts and evidence that purportedly fit their lies about legal authorities. They knew (and violated) all the following when they retaliated against Applicant.

"Each conclusion of law" purportedly justifying any discipline "must be set forth separately." Kan. Sup. Ct. Rule 226(a)(1)(B). Each conclusion must be supported by adequate findings of fact. "Each finding of fact must be established" by "evidence" and such "evidence" must be "clear and convincing." Kan. Sup. Ct. Rule 226(a)(1)(A). "Clear and convincing evidence" means "evidence that causes the factfinder to *believe* that" the "*truth* of the *facts* asserted is *highly* probable." *In re Lober*, 288 Kan. 498, 505, 204 P.3d 610, 616 (2009) (emphasis added).

The "hearing" was required to be "governed by the Rules of Evidence, K.S.A. 60-401 et seq." Kan. Sup. Ct. R. 222(e)(1). And the Kansas legislature defined crucial terms used in the rules above. *See* Kan. Stat. Ann. § 60-401:

> (a) "Evidence" is the means from which inferences may be drawn as a basis of proof . . . .

> (b) "Relevant evidence" means evidence having any tendency in reason to prove any material fact.
>
> (c) "Proof" is all of the evidence before the trier of the fact relevant to a fact in issue which tends to prove the existence or non-existence of such fact. . . .
>
> (h) "Finding of fact" means the determination from proof or judicial notice of the existence of a fact as a basis for a ruling on evidence.

Only the Kansas legislature had the power to modify any of the foregoing concepts or create or modify any testimonial privilege. Only the Kansas legislature possesses the "legislative power of this state." Kan. Const. Art. 2, § 1. "All laws of a general nature" (including governing findings of fact, evidence, testimony or testimonial privileges) "shall have a uniform operation throughout the state." *Id*. § 17. "No special" testimonial "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. But the Kansas justices pretended that they had the power to fabricate special privileges that would permit judges' conclusory hearsay to be used against Applicant without any judge even testifying.

The Kansas justices repeatedly lied about conclusory contentions of federal judges being findings of fact. They deceitfully pretended they had the power to disbar Applicant based on mere inadmissible hearsay in conclusory contentions in written opinions by federal district court judges. "*Any* discipline imposed here is premised" only "on Jordan's" purportedly "*baseless* assertion of" purportedly

"frivolous *factual* issues." App. 63 (emphasis added). The justices emphasized that their story was that "Judge Phillips" purportedly "*found* Jordan made frivolous *factual* assertions with no reasonable *basis in fact* about Judge Smith." App. 68. *See also* App. 68 (emphasis added) ("Jordan" purportedly "asserted frivolous *factual* claims"). But Judges Smith and Phillips failed to find any *fact* that could even indicate that anything Applicant stated was false or violated any rule.

Judges Smith and Phillips were not present and did not testify at the hearing. So the Kansas justices lied about the existence of some "presumption" that they fabricated based on vague allusions to "Judge Phillips' order," as well as "Judge Smith's" vague "order" alluding to purported "repeated violations of" unidentified purported "Orders." App. 70. The Kansas justices deceitfully pretended that they could rely on their contention that "Jordan did not come forward at the panel hearing with evidence to rebut these" fictitious "presumptions." App. 69. The Kansas justices knew the Kansas Supreme Court had no power to fabricate any presumption to pretend to dispense with the state's burden of proof.

Kansas justices knew the Hearing Panel attorneys had merely stated that Applicant "presented no evidence during the formal hearing to disprove" purported "findings in" purported "rulings" by Judges Smith or Phillips. App. 30, 36, 38 46 (Final Hearing Report (**FHR**) ¶¶151, 175, 188, 217). But not even one finding of

fact even was stated by any state or federal judge or government attorney that had the potential to show that any statement by Applicant violated any rule.

Moreover, the Kansas justices *knew* that Judges Smith and Phillips (Mo. W.D.) *knowingly* violated Applicant's rights secured by federal law and *knowingly* "deprived" Applicant of "liberty" and "property, without due process of law." U.S. Const. Amend. V. The Kansas justices sought to leverage the criminal misconduct of Judges Smith and Phillips to criminally disbar Applicant and defraud him of "costs of" the Kansas "proceedings." App. 76. Every state and federal judge involved committed multiple federal offenses. *Cf., e.g.*, 18 U.S.C. §§ 241, 242, 371, 1343, 1349.

"Judge Phillips" fraudulently fined Applicant "$1,000.00, to be paid" to "the Clerk of the Court." App. 15, 30, 35 (FHR ¶¶87, 149, 172). "Judge Smith" fraudulently fined Applicant "$500.00." App. 19, 38 (FHR ¶¶108, 186). Jordan was fined "$1,000.00 by Chief Judge Phillips" and fined "$500.00 by Judge Smith." App. 48, 54 (FHR ¶¶229, 250).

It is well known that judges' "contempt power" is "uniquely" (especially) dangerously "liable to abuse." *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994). Some judges abuse contempt to punish or attack attorney conduct that "often strikes at the most vulnerable and human

qualities of a judge's temperament." *Id*. So perceived or purported "judicial powers" to punish for contempt historically "summons forth" the "prospect of" the "most tyrannical licentiousness." *Id*.

As a result, Congress restricted federal courts' "power to punish by fine" to contempts enumerated by Congress "and none other." 18 U.S.C. § 401. Applicant could be fined for violating an "order" or "command" only if it was "lawful." *Id*. § 401(3). But no government attorney or judge even contended (or even attempted to prove) that any order by any judge regarding Applicant was *lawful* or that FRCP Rule 11 *lawfully* could be applied to impose a *criminal* fine on Applicant.

Each "fine payable to the United States" was "clearly punitive" and "as such, it dominates the proceeding, and fixes its character." *In re Christensen Eng'g Co*., 194 U.S. 458, 461 (1904). *Accord Hicks v. Feiock*, 485 U.S. 624, 631-32 (1988). Any "labels affixed either to the proceeding or to the relief imposed," *e.g.*, invoking Rule 11, are "not controlling and will not be allowed to defeat the applicable protections of federal constitutional law." *Hicks* at 631. Clearly, "criminal penalties may not be imposed on" Applicant without "the protections that the Constitution requires of such criminal proceedings." *Id*. at 632.

"These rules *govern* the procedure in *all* criminal proceedings in" federal "district courts" and "courts of appeals." FED.R.CRIM.PROC. 1 (emphasis

added). Applicant was entitled to a "trial" (FED.R.CRIM.PROC. 42(a)(1)(A)) and a "prosecution" (*id*. at 42(a)) "by an attorney" (*id*. at 42(a)(2)). Upon" Applicant's "request" (of which there were *many*), "the government" (including every DOJ office and federal court with a copy of Powers' email) "must permit" Applicant "to inspect and to copy" Powers' email because it is "material to preparing the defense" and because it "belongs to the defendant." FED.R.CRIM.PROC. 16(a)(1)(E). *Cf*. App. 85-95, 103-105 (Mot. re: Powers' email).

If Applicant was afforded any kind of trial, it was merely a secret trial in the minds of Judges Smith and Phillips. But in America there is a "universal rule against secret trials." *In re Oliver*, 333 U.S. 257, 266 (1948). "Summary trials for alleged misconduct called contempt of court" cannot be "regarded as an exception to this universal rule against secret trials." *Id*. Kansas justices leveraging the criminal abuses of criminal contempt by Judges Smith and Phillips to justify taking any action against Applicant was criminal.

The only support the Hearing Panel (and Kansas justices) identified for criminal contempt (and for disbarment for Applicant's purportedly "frivolous" statements) were a few very vague conclusory contentions by Judges Smith and Phillips. *See* App. 30 (FHR ¶148) (emphasis added):

> Judge Phillips *concluded* that [Jordan] demonstrate[d] his contempt for the Court' and that [Jordan's] filing 'contains multiple statements

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

See also App. 35 (FHR ¶170) for the same except that "ruled" was used where "concluded" was used in FHR ¶148. "Judge Phillips" also merely *contended* that she "*found*" Applicant's "defense of his actions" merely "unpersuasive" and she "*further ruled* that" Applicant "presented no 'evidentiary support or the likelihood of evidentiary support for his accusations.'" App. 30 (FHR ¶147) (emphasis added). Clearly, Judge Phillips unconstitutionally pretended that she could shift the government's burden of proof onto Applicant.

Judge Smith did not bother at all with any proof or evidence or due process of law. He merely very vaguely alluded to purported unidentified "violations of" purported unidentified "Court's Orders." App. 38 (FHR ¶186). When Judge Smith (and the Hearing Panel and the Kansas justices) pretended to *show* that Judge Smith *ordered* Applicant to refrain from something, Judge Smith clearly merely "warns" Applicant, and he reiterated that "[t]his" was only a "warning." App. 16 (FHR ¶99); App. 39 (FHR ¶191) (both quoting Judge Smith). No one showed that Judge Smith ordered Applicant to do anything that Applicant did not do or ordered Applicant to refrain from doing anything that Applicant did do. No

one even contended that any Judge Smith order was lawful, and no one even attempted to prove anything Judge Smith (or Judge Phillips) did was lawful.

Applicant is a veteran, a former U.S. Army Airborne Ranger, who represents veterans and other injured workers in federal agency and federal court proceedings. Such proceedings, *de jure*, are governed by the Administrative Procedure Act (**APA**), the Freedom of Information Act (**FOIA**), federal rules of procedure and evidence, the Constitution and copious Supreme Court precedent. But, *de facto*, such proceedings (such as those before Judges Smith and Phillips (Mo. W.D.) and Judge Contreras (D.D.C.)) commonly are *governed* by no legal authority.

For many years, Applicant, his brothers-in-arms, and his clients supported and defended our country and Constitution by risking (and some gave) life and limb and their health and happiness in war zones around the world. But nowhere and never has Applicant seen the Constitution so in need of support and defense as it is in federal agency and federal court proceedings ostensibly governed by the APA or FOIA. As a result of the foregoing, Applicant is profoundly personally and professionally committed to supporting and defending the Constitution and those who support it.

It is material to this Application (and to Applicant's impending petition) that Applicant was disbarred solely for exercising Americans' freedom of speech and

right to petition for redress of grievances against federal agency employees and judges who repeatedly knowingly misrepresented (lied about) facts and evidence, knowingly violated many provisions of federal law and the Constitution, and flouted copious U.S. Supreme Court precedent.

Kansas and federal judges have fined or disbarred Applicant, specifically, to retaliate for Applicant's speech exposing and opposing the lies and crimes of judges and to abridge Americans' right to petition for redress of grievances against federal judges and federal agency employees who lied and committed crimes to conceal evidence of lies about material facts and relevant evidence in federal agency and court proceedings.

REASONS TO GRANT THE EXTENSION

The time within which Applicant may file his Petition for Writ of Certiorari should be extended by 60 days for the following reasons. First, no prejudice to Kansas or anyone in Kansas could flow from granting the extension.

Second, Kansas justices disbarred Applicant solely because he exposed and opposed the lies and crimes of federal judges and government attorneys who knowingly misrepresented the content and purpose of Powers' email. Two appeals are on-going in two federal circuit courts (Second and D.C. Circuits). Both pertain specifically to Powers' email, and one or both may be resolved by March 20, 2023.

On November 16, 2022, Applicant filed a motion in the D.C. Circuit. *See* App. 77-106. A similar motion was filed a week earlier in the Second Circuit.

To date, no one ever (including agency attorneys and district or circuit court judges) even attempted to dispute or refute any fact or controlling legal authority that Applicant presented in either motion. So each appeal has the potential to result in the federal government finally ceasing to illegally conceal evidence most clearly and convincingly proving the truth of Applicant's statements about the lies and crimes of federal judges and attorneys pertaining to Powers' email.

Third, at the time Applicant was disbarred by the Kansas Supreme Court, he was an officer of 10 federal courts (including this Court and the 2nd, 5th, 9th, 10th and D.C. Circuits). Each such court must review the record of the Kansas proceedings, and such review may be completed by March 20, 2023.

The review by this Court appears to have been completed or has progressed sufficiently to cause this Court to refrain from enforcing its own rule requiring Applicant's immediate suspension. *Cf.* U.S. Sup. Ct. R. 8.1. This Court has refrained from suspending Applicant after he was disbarred by the Eighth Circuit in November 2021 (without any potential justification) and by the Kansas Supreme Court in October 2022. Even so, to lead by example, this Court should expressly address Applicant's status as an officer of this Court before this matter proceeds.

Fourth, the conduct of the Kansas justices and prior federal judges amply illustrates that far too many state and federal judges and government attorneys see themselves as the last bastion of deliberately illegal repression of Americans' freedom of speech and press and right to petition for redress of grievances for egregious abuses of power.

Kansas justices and federal judges conspiring against the U.S. and Applicant had absolutely no doubt about the illegality, unconstitutionality and even the criminality of their misconduct. *Cf.*, *e.g.*, 18 U.S.C. §§ 241, 242, 371. But they *expected* this Court to take no action to oppose them. And they *expected* lower federal court judges to follow *their* lead, not the lead of this Court. The Kansas justices should be permitted and compelled to reflect on their extreme attacks on and outrageous disrespect for this Court and the Constitution for another 60 days. They should be permitted ample opportunity to correct themselves before this Court compels them to do so.

This Court often has acknowledged the dark reality of the arrogance of lower federal court and state court judges defying this Court and violating the Constitution even after they have been corrected. This Court repeatedly has emphasized that "if the same judgment would be rendered by" another "court after" this Court had already "corrected" erroneous "views of federal laws" or the

Constitution, then this Court's "review could amount to nothing more than an advisory opinion." *Coleman v. Thompson*, 501 U.S. 722, 729 (1991).

In truth, very many judges of "inferior courts" treat the decisions of this "one supreme Court" as merely advisory. U.S. Const. Art. III, § 1. Very many judges of federal courts, state courts and even federal administrative agency judges and attorneys (especially including the U.S. Department of Justice) treat this Court's opinions as mere advisory opinions to be ignored and flouted at will. Such judges and attorneys do not fear or respect this Court or the Constitution. They clearly do fear, however, what they know they cannot control: the power of the people to expose and oppose their abuses of power with censure that can be immediate and harsh.

For hundreds of years, 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 concomitant duties of the people in the three branches of government, but also the great privileges, powers and duties of the very roots of government—the people, at large.

As Applicant informed the Kansas justices, this Court very recently strongly emphasized the unconstitutionality of the misconduct of the Kansas attorneys and justices (and prior federal judges) toward Applicant. *See N.Y. State Rifle & Pistol*

Ass'n v. Bruen, 142 S. Ct. 2111 (June 23, 2022). Here, a constitutional "Amendment's plain text covers an individual's conduct," so "the Constitution presumptively protects that conduct. To justify" any "regulation" (including punishment) of such conduct, "the government *must demonstrate*" that "the regulation" is "consistent with this *Nation's* historical tradition" of "regulation" of such conduct. *Id*. at 2126 (emphasis added).

Each "government must affirmatively prove that its" purported "regulation" is "part of the" *nation's* "historical tradition that delimits the outer bounds of" an express "right" in the Constitution. *Id*. at 2127. Each "government must affirmatively prove that" each statement or action by Applicant was outside "the outer bounds" of the *nation's* "historical tradition" of freedom of speech, the right to petition and due process of law. *Id*. No such proof was or can be presented to or by any court.

Regarding Applicant'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 "a public issue." *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 784-85 (1978). 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" Applicant "chooses to express an idea." *Texas v. Johnson*, 491 U.S. 397, 416 (1989).

Americans' "constitutionally guaranteed freedom to be intellectually diverse or even contrary, and the right to differ as to things that touch" even the very "heart of the existing order, encompass the freedom to express publicly one's opinions about" even our most cherished national symbols (including our flag, veterans' cemeteries and funerals, and courts and judges), "including those opinions which are defiant or contemptuous." *Id*. at 414 (cleaned up). It "is a bedrock principle underlying the First Amendment" that "government may not prohibit the expression of an idea simply because society finds the idea" merely "offensive or disagreeable." *Id*. (collecting cases).

It is a "fixed star in our constitutional constellation" that "no official" can "prescribe what shall be orthodox in" any "matters of opinion." *Id*. at 415 quoting *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943). Any "censorship or suppression of expression of opinion is tolerated by our Constitution only when the expression presents" a "danger" that has been *proved* to be both "clear and present" of "*action* of a kind the" government was "empowered to prevent and punish." *Barnette* at 633 (emphasis added). No one

even attempted to prove that any of Applicant's speech or petitioning constituted any such action, *i.e.*, actually violated any rule of conduct.

Kansas and federal judges purported to punish "political expression" by Applicant "because of the content of" his "message," so courts "must" always "subject" any "asserted [government] interest" to "the most exacting scrutiny." *Johnson*, 491 U.S. at 412. The relevant scrutiny was stated in, *e.g.*, *Bellotti*, *Reed*, *Thornhill*, *New York Times*, *Garrison* and *Wood*, below.

"The constitutionality of" any "prohibition" or punishment of any "exposition of ideas" always "turns on whether" the prohibition or punishment "can survive the exacting scrutiny necessitated by" any "state-imposed restriction of freedom of speech. Especially where, as here, a prohibition is directed at speech itself" and "the speech is intimately related to the process of governing," a court may punish attorney speech "only" after "showing" that such punishment protected a government "interest which is compelling." *Bellotti*, 435 U.S. at 786. Clearly, "the burden is on the government to show the existence of such an interest." *Id*. (emphasis added). "Even" after having proved the foregoing point, each court "must" prove that its measures were "closely drawn to avoid unnecessary abridgment" of the freedom of speech and press and the right to petition. *Id*.

"Content-based laws" (or court rules or rulings) are "presumptively unconstitutional." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). The application to Applicant of each rule at issue can "be justified only if the government proves that" each such rule was applied in a manner that was "narrowly tailored to serve" government "interests" that are "compelling." *Id*. Clearly, "it is the" government's "burden to demonstrate that" any "differentiation between" Applicant's and other attorneys' or judges' speech and petitioning "furthers a compelling governmental interest and is narrowly tailored to that end." *Id*. at 171. In other words, each application of any rule or ruling "must" at least "satisfy strict scrutiny." *Id*. at 163-64.

Any purported "proof presented to show" each material fact must have "the convincing clarity which the constitutional standard demands." *New York Times Co. v. Sullivan*, 376 U.S. 254, 285-86 (1964). The "First Amendment mandates a 'clear and convincing' standard" of proof regarding each material fact. *Anderson v. Liberty Lobby, Inc*., 477 U.S. 242, 252 (1986).

"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 the U.S. Supreme 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" Applicant's "conduct." *Id.* at 386. Kansas justices' or attorneys' or federal judges' mere conclusory contentions definitely "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 or attorneys "put on it." *Id.* at 386.

Here, all government interests align with Applicant and his speech. "Preserving the integrity of" a "process" by which the *people* inform the conduct of *public servants* and "[sustaining] the active, alert responsibility of the individual citizen in a democracy for the wise conduct of government" are "interests of the highest importance." *Bellotti*, 435 U.S. at 788-89. "Preservation of the individual citizen's confidence" that checks on "government" ensure that government is *good* "is equally important." *Id.* at 789.

Americans should be able to have confidence that judges will not lie about facts, evidence and controlling legal authority or knowingly violate any provision of a state or federal constitution just to fix the fight for one side in a courtroom battle. The people have no need for con men in black who play on their confidence while viciously violating it, and the people are entitled to information about purported public servants who actually are con men.

"Government is forbidden to assume the task of ultimate judgment, lest the people lose their ability to govern themselves." *Id*. at 791, n.31 citing *Thornhill*, 310 U.S. at 95. "[T]he people in our democracy are entrusted with the responsibility for judging and evaluating the relative merits of conflicting arguments," and "the concept that government may restrict the speech of some elements of our society" (attorneys) merely "to enhance the relative voice of others" (judges) regarding the merits of attorneys' or judges' statements "is wholly foreign to the First Amendment." *Id*. at 790-91.

The "constitutional guarantees" in the First, Fifth, Tenth and Fourteenth Amendments and Articles III and VI "require" a universal "federal rule that prohibits" any "public official from" punishing or precluding any criticism (because it purportedly was, *e.g.*, false, frivolous, baseless, meritless, unfounded, defamatory, offensive or scurrilous) "relating to" any "official conduct" except a

"falsehood" that "was made with 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false." *New York Times*, 376 U.S. at 279-80. Only a lie or reckless falsehood could be prohibited or punished based on content criticizing public officials' official conduct.

"The interest of the public here outweighs the interest" of "any" public official or "other individual. The protection of the public requires not merely discussion, but information." *Id*. at 272 (emphasis added). *See also id.* at 272-73 (cleaned up) (emphasis added):

> Where judicial officers are involved [ ] concern for the dignity and reputation of the courts does not justify [any] punishment [ ] of criticism of the judge or his decision [even if the criticism] contains half-truths and misinformation. Such repression can be justified, if at all, *only* by [clear and convincing evidence proving] a *clear* and *present danger* of [tangible and material] *obstruction* of *justice*. [Any j]udges are to be treated as men of fortitude, able to thrive in a hardy climate.... Criticism of their official conduct does not lose its *constitutional protection* merely because it is effective criticism and hence diminishes their official reputations. [Clearly,] *neither factual error nor defamatory* content suffices to *remove the constitutional shield* from criticism of official conduct, [and even] the combination of the two elements is no less inadequate.

"The public-official rule" in *New York Times* "protects the *paramount* public interest in a *free flow* of *information* to the people concerning public officials, their *servants*. To this end, anything which" even "might touch on an official's fitness for office is relevant. Few personal attributes are more germane to fitness for

office than dishonesty, malfeasance, or improper motivation." *Garrison v. Louisiana*, 379 U.S. 64, 77 (1964) (pertaining specifically to criticism of judges) (emphasis added).

"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." *Garrison*, 379 U.S. at 74. All courts must apply "the *New York Times* rule, which absolutely prohibits" any type of content-based "punishment of truthful criticism" of any public official's official conduct. *Id.* at 78.

Clearly, "*only* those *false statements* made with the high degree of awareness of their probable falsity demanded by *New York Times* may be the subject of either civil or criminal [or quasi-criminal] sanctions. For speech concerning public affairs" is "the *essence* of *self-government*. The First and Fourteenth Amendments embody" our "*profound national commitment* to the principle that debate on *public* issues *should* be uninhibited, robust, and wide-open, and that it" irrefutably "may well include vehement, caustic," and "unpleasantly sharp attacks on government and public officials," including, specifically, judges. *Id.* at 74-75 quoting *New York Times*, 376 U.S. at 270 (emphasis added).

Clearly, even a "judge may not" punish any critic who "ventures to publish anything that [merely] tends to make [a judge] unpopular or to belittle him" even

by using "strong language, intemperate language" or even "unfair criticism." *Craig v. Harney*, 331 U.S. 367, 376 (1947).

The primary points of the plain language of the Constitution, below, and *Marbury v. Madison* included that nobody—not even the President, Congress and the U.S. Supreme Court *all together*—have the power to authorize any *public servant* to violate the protections for the people secured by the Constitution, and 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 not even the King and Parliament had such powers. Most, if not all pronouncements in *Marbury* that apply to executive or legislative branch members clearly and irrefutably apply with equal force to federal and state judges and court clerks. None have any power to retaliate against Applicant or attack or undermine the Constitution and this Court as they clearly have done.

The clear meaning and clear purpose of the plain language of the Constitution, below, is that the "very essence of judicial duty" is to support the Constitution, *i.e.*, "decide" every matter "conformably to the constitution." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 178 (1803) (Marshall, C.J.). Regarding the laws at issue in this matter, "[i]t 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. *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 a controlling rule or statute or the U.S. or Kansas 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 [U.S.] 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 litigant's "vested rights," as the Kansas justices and federal judges did and commonly do. *Id.* at 166.

"[T]he People" did "ordain and establish" the "Constitution" to "establish Justice, insure domestic Tranquility" and "promote the general Welfare, and secure the Blessings of Liberty." U.S. Const. Preamble. The Supremacy Clause clearly excluded judges, but Article VI repeatedly included judges, specifically to emphasize (with text and structure) that all judges (state and federal) are bound by the U.S. Constitution and federal law.

Relevant to this matter, the "Constitution" and federal "Laws" are "the supreme Law of the Land," and all "Judges in every State shall be bound thereby." Art. VI. Moreover, "all [federal and state] executive and judicial Officers" in all official conduct "shall be bound" to "*support* this Constitution." *Id*. (emphasis added). *Accord* 5 U.S.C. § 3331 ("support and defend the Constitution" against "all enemies," including "domestic"); Kan. Stat. Ann. § 54-106 ("support the [U.S.] constitution"). The first and foremost duty of every judge is to support the U.S. Constitution, which clearly means opposing domestic enemies (including judges and government lawyers attacking and undermining the Constitution).

Our state and federal governments were constituted in *written* constitutions to ensure that American citizens 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). In "Republican Government" the "censorial power is in the people over the Government, and not in the Government over the people." *New York Times*, 376 U.S. at 275 quoting Congressman James Madison in 1794, about five years after he (to a very great extent) wrote and caused to be ratified the First, Fifth and Tenth Amendments.

No court or judge has any "powers" that were "not delegated to the United States by the Constitution." U.S. Amend. X. No "judicial Power" whatsoever "shall extend" any further than authorized "under this Constitution" and federal "Laws." Art. III, § 2. In all proceedings regarding Americans' right to assemble and petition under FOIA or regarding their freedom of speech, the "Constitution" and federal "Laws" are "the supreme Law of the Land," and all "Judges" are "bound thereby," and "all executive and judicial Officers" are "bound" to "support this Constitution." Art. VI. "No person" may "be deprived" by any federal judge or court clerk of any "liberty" or "property, without due process of law." Amend. V. *Accord* Amend. XIV § 2 (restricting state judges and court clerks even more).

Due process of *law* includes "the freedom of speech" and "the right of the people peaceably to assemble" and "to petition the Government" to "redress" any "grievances" against judges violating law or committing crime. Amend. I. No

state or federal court, judge or court clerk could possibly have any power to "abridg[e]" any such right or freedom. *Id*.

"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*. Simply put, 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 judges' lies and crimes, Applicant did nothing more than "restrain the exertion of baleful influences against the promptings of patriotic duty to the detriment of the welfare of the Nation and State," 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 of the United States 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 this end, to teach the truth as he sees it. . . . Full and free exercise of this right [is] ordinarily also [a citizen's] duty; for its exercise is more important to the Nation than it is to himself.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests the support of this Court in Applicant's efforts to support this Court and the Constitution, including by extending the time to file Applicant's petition to and including March 20, 2023.

DATED: January 5, 2023

Respectfully submitted,
s/ Jack Jordan
Jack Jordan
3102 Howell Street
North Kansas City, Missouri 64116
jack.jordan@emobilawyer.com
816-746-1955
Counsel of Record and *Petitioner*