No. 23-1006

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★★★★★★★★★★ — IN THE — ★★★★★★★★★★

Supreme Court of the United States

In Re Christopher Gary Baylor,

Petitioner,

v.

THE FLORIDA KU KLUX KLAN, et al.,

Respondents.

PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATE FOR WRIT OF PROHIBITION

Christopher Gary Baylor
AAFA Advocate, Civ. Rgts. Div.
3206 South Hopkins Avenue
Suite 43
Titusville, Florida 32780-5667
Telephone: (484) 682-2605
Facsimile: (972) 466-9473
Email: cbaylor@aafa-law.org
Email: edo_delight@comcast.net
Counsel of Record for Petitioner

R.14(1)(a) QUESTIONS PRESENTED

Does relief become impliedly denied upon the expiration of time to grant or deny, and if no, when does absence of any judgment, ruling, decision, decree, or Order more than 550 days begin to trigger an appeal or review?

Does the district court when it refuses to enter for more than 550 days, any judgment, decision, ruling, decision, decree or Order chill speech or violate rights to appeal, petition or review?

Does district court chill speech or violate the right to be heard when without cause stays or holds in abeyance a case absent any Notice, ruling, decision, Order, judgment or decree?

Does the district court usurp Section 1657 of U.S. Code, 28, when it refuses to exercise its inherent authority to expedite in civil cases, requests for immediate injunctive relief?

Does an appellate court violate Amendment 5 when it first permits a response, then denies that right when it then dismisses without first allowing opportunity to first be heard on all arguments prior to the dismissal of an appeal?

Might this Court then "*stand in the shoes of the Court of Appeals,*" pursuant to 28 U.S.C. § 1292(e), and § 2072(a) if the Eleventh Circuit would decline review pursuant to § 1292(a) or exercise mandamus jurisdiction?

R.14(b)(i) PARTIES TO THE PROCEEDING

Petitioner, Native African American homeless military veteran, and Civil Rights advocate in this Court (Plaintiff in District court and Appellant in the Court of Appeals) is:

- Christopher Gary Baylor

The Respondents in this Court (Defendants in District court and Appellees in the Court of Appeals) in their individual capacities are:

— For the Florida Supreme Court

- Brian D. Lambert, Hon.
- Charles T. Canady, Hon.
- Jamie R. Grosshans, Hon.
- John D. Couriel, Hon.
- Jorge Labarga, Hon.
- John A. Tomasino, as Clerk
- Mark Clayton, as Clerk
- Ricky Polston, Hon.

— For the Florida Fifth District Appeals Court

- Eric J. Eisnaugle, J.
- F. Rand Wallis, J.
- James A. Edwards, J.
- John M. Harris, J.
- Sandra B. Williams, as Clerk

— For the Florida Second District Appeals Court

- Anthony K. Black, J.
- Craig C. Villanti, J.
- Daniel H. Sleet, J.
- Mary Beth Kuenzel, as Clerk
- Patricia J. Kelly, J.
- Robert J. Morris Jr., J.
- Suzanne Y. Labrit, J.

— For the Florida Eighteenth Judicial Circuit

- Curtis Jacobus, J.

R.14(b)(ii) CORPORATE DISCLOSURE STATEMENT

The undersigned further states pursuant to Rule 29.6, no parent corporations or publicly held company that owns 10% or more of a corporation's stock has an interest in the outcome of this case.

R.14(b)(iii) LIST OF ALL RELATED CASES

Christopher Baylor vs. Mullins, Tyler & Jeremy, 2023-CA-042998, Fla. 18th Jud. Cir.; Kennedy Court LLC v. Christopher Baylor, 2021-CC-10813, Fla. 18th Cnty. Ct.; Christopher Gary Baylor v. DHB Dev., LLC, et al, 2020-CA-51191, Fla. 18th Jud. Cir. Ct.; Christopher Gary Baylor v. Ayano Eto et al., 2021-CA-56712, Fla. 18th Jud. Cir.; Jester, v. Nobelman, 2022-CA-20287, Fla. 18th Jud. Cir. Ct.; Christopher Gary Baylor v. John A. Tomasino, 2022-CA-1391, Fla. 2nd. Cir. Ct; Christopher Gary Baylor v. DHB Dev., LLC, et al., 5D20-2704, Fla. 5th DCA; Christopher Gary Baylor v. Kennedy Court LLC, 5D21-1345, Fla. 5th DCA; Christopher Gary Baylor v. Kennedy Court LLC, 5D21-1345, Fla. 5th DCA; Christopher Gary Baylor v. Kennedy Court LLC, 5D21-871, Fla. 5th DCA; Kennedy Court LLC v. Christopher Gary Baylor, 2D22-3056, Fla. 2nd DCA; Christopher Gary Baylor v. Ayano Eto et al., 2D22-3565, Fla. 2nd DCA; Christopher Gary Baylor v. Kennedy Court LLC, SC21-1266, Fla. Supr. Ct.; Christopher Gary Baylor v. Ayano Eto, SC22-628, Fla. Supr. Ct.; Christopher Gary Baylor v. Ayano Eto, SC22-820, Fla. Supr. Ct.; Christopher Gary Baylor v. Kennedy Court LLC, SC22-1054; Fla. Supr. Ct.; Christopher Gary Baylor v. Kennedy Court LLC, SC22-1272, Fla. Supr. Ct.; Christopher Gary Baylor v. John A. Tomasino, 6:22-cv-1356-CEM-RMN, M.D. Fla.; Christopher Gary Baylor v. The Florida Ku Klux Klan, 6:23-cv-748-CEM-EJK, M.D. Fla., Christopher Gary Baylor v. John A. Tomasino, 23-10983, 11th Cir; Christopher Gary Baylor v. The Florida Ku Klux Klan, 23-13250, 11th Cir.

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R.14(d) CITATIONS OF OPINIONS AND ORDERS

The Eleventh Circuit Opinion in Baylor v. The Fla. Klu Klux Klan for the Traditionalist Ams., 23-13250 (11th Cir. Jan. 16, 2024) is unpublished and is reproduced at Pet. App. 1a. The Order of Dismissal (11th Cir. Nov. 14, 2023) in this case is unpublished and reproduced at Pet. App. 2a. The Order Granting Reinstatement (11th Cir. Dec. 26, 2023) in the same case above is unpublished and is reproduced at Pet. App. 3a.

R.14(e) BASIS FOR JURISDICTION

The United States Eleventh Circuit Court of Appeals entered a final Opinion on January 16, 2024. *See* Pet. App. 1a., dismissing Petitioner's appeal. The Petitioner filed an Emergency Motion for Rehearing and Reinstatement in the same court on January 18, 2024, which remains unopposed and unanswered.

The courts of appeals are recognized to have an inherent power to recall their mandates, subject to review for abuse of discretion. Calderon v. Thompson, 523 U.S. 538, 549-50 (1998).

Petitioner filed a Motion to Hold in Abeyance in the same court January 28, 2024, which also remains unopposed and unanswered.

"The case is of such imperative public importance as to justify deviation from normal appellate practice and require[s] an immediate determination in this Court," because short of extrajudicial self-help, for more than 302 & 550 days in the District court, the Petitioner has been without: (1) any other means to **speak** or **be heard** on deprivations that implicate First, Fifth and Ninth Amendment rights; (2) any expedited consideration in a civil action for injunctive relief, contrary to 28 U.S. Code § 1657(a)."Courts of equity must be governed by rules and precedents no less than the courts of law." Lonchar v. Thomas, 517 U.S. 314,116 S. Ct. 1293 (1996).

R.14(e)(iv) STATUTORY PROVISIONS BELIEVED TO CONFER JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1651 and 28 U.S.C. § 1292(e).

R.14(f) CONSTITUTIONAL PROVISIONS, TREATIES AND STATUTES INVOVLED IN THIS CASE

28 U.S.C § 1292(e), provides: "The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d)."

28 U.S.C. § 1651, provides: "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law. An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction."

28 U.S.C § 1657(a) - "Priority of civil Actions", cited as set forth by Rule 14(f) "[i]f the provisions involved are lengthy."

Article II, of The American Declaration of the Rights and Duties of Man provides: "All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor." OEA/Ser L V/II.82 Doc 6 Rev 1 at 17 (1992).

Article V, of The American Declaration of the Rights and Duties of Man provides: "Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and

his private and family life." OEA/Ser L V/II.82 Doc 6 Rev 1 at 17 (1992).

Article XXIV, of The American Declaration of the Rights and Duties of Man provides: Every person has the right to submit respectful petitions to any competent authority, for reasons of either general or private interest, and the right to obtain a prompt decision thereon." OEA/Ser L V/II.82 Doc 6 Rev 1 at 17 (1992).

U.S. Const. amend. I., provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or 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. V., cited as set forth by Rule 14(f) "[i]f the provisions involved are lengthy."

R.14(g) STATEMENT OF THE CASE

It is Hornbook law that the First Amendment protects the right to freedom of speech and to petition against government interference. There is a dearth of case precedent endowering this subject. There are no greater protections afforded other than by those founded by the American States under the American Declaration of the Rights and Duties of Man.

Here however, Black Petitioner, in more than 75 cases has proven beyond a shadow of a doubt that there is no equality in enforcement of Constitutional provisions in the State of Florida for Blacks, at any level, whether it be in the State's municipal, county, circuit, appellate or supreme court, *inter alia*, federal District and Appellate courts.

Now it appears that the flow of time in Black Petitioner's cases has reversed, because District court has withheld relief without any record activity for more than 550 days, then decided to render an *ad hoc* ruling contemporaneously with Petitioner's filing of Notice of Appeal to this Court.

This same biased and retaliatory conduct that is Complained of on filing, is commensurate with the State courts. On appeal, the Eleventh Circuit Court of Appeal has likewise repeatedly declined to hear or resolve any issues before it, which are pending before two courts that refuse to decide these matters.

Petitioner has brought in the District court of Florida, an imperfect but indispensable strategy of social change in an action in the form of a public interest litigation, to have declared the effectiveness of the constitution(s), its capacities and constraints. Where also the issues are complex, a matter of first impression and non-frivolous in nature, which touch on substantially important fundamental rights.

A. Controversy at the Forefront

In the capacity that it holds, Florida Middle District Court had more than 550 days in Petitioner's companion case, Christopher Gary Baylor v. John A. Tomasino, 6:22-cv-1356, M.D. Fla. (Docketed July 31, 2022)("*Baylor I*"), and has more than 302 days in Petitioner's instant case Christopher Gary Baylor v. The Florida Ku Klux Klan, 6:23-cv-748, M.D. Fla. (Dkt'd August 1, 2023)("*Baylor II*"), refused to render any judgments, decisions, rulings, Orders or decrees, which violates Petitioner's elusive right to speech, *inter alia*, Due Process this Court has professed are guaranteed under the First and Fifth Amendments to the United States Constitution, albeit, Petitioner has proven in more than 75 proceedings, that no such rights exist for Blacks and that the Constitution applies to Whites only. Writ of Mandamus should lie, and another judge should be assigned to Petitioner's cases.

B. Second Controversy in Tow

While the Petitioner's federal cases have been forestalled without just cause, there remains a live controversy between both parties, most notably, in Christopher Gary Baylor v. DHB Dev., LLC, et al, 2020-CA-51191, Fla. 18th Jud. Cir. (Dkt'd Nov. 23, 2020)("*Baylor III*)," where relief in this case has been pending since before July 25, 2021.

The Petitioner moved to disqualify the present judge, although the Motion was unlawfully denied. Here, the same White judge who presided over four of Petitioner's unrelated cases, now presently presides over three of Petitioner's pending cases. While this case was dismissed on September 9, 2023 without consideration of Petitioner's pre-trial Motion for Stay,

the court retains jurisdiction upon Petitioner's timely submission of a Motion to Vacate pursuant to Fla. R. Civ. P. 1.540(b), filed October 23, 2023. However, no Order, decision, ruling, decree or judgment has been made on the Petitioner's Motion, which is contrary to law.[1] *See* Cir. Ct. Reg. of Actions. at Pet. App. 4a.

C. **Third Controversy Akin to the Second**

The same issue remains persistent in another unrelated State court action, in Christopher Gary Baylor v. Ayano Eto et al., 2021-CA-56712, Fla. 18th Jud. Cir. (Docketed December 20, 2021)("*Baylor IV*"), where the same White judge has declined to enter any Order, decision, ruling, decree or judgment since Petitioner renewed a Motion for Vacatur of an Order entered on July 13, 2022, which lacks any findings of fact or conclusions of law.

Same as in the case above, Petitioner moved to Disqualify when the judge again played the role as attorney, counsel, law advisor and advocate for the Defendant in relation to the business at hand, by presenting newly raised defenses for the first time in a final Order *sua sponte*, in place of the adverse party which did not raise any of the court's own defenses,

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[1]Kanecke v. Lennar Homes, Inc., 543 So.2d 784, 785 (Fla. 3d DCA 1989)(holding where appellant does not receive notice of entry of order until after time for appeal expired, trial court as matter of law must grant rule 1.540(b) relief request to vacate and reenter it to restart time for appeal); Woldarsky v. Woldarsky, 243 So.2d 629 (Fla. 1st DCA 1971); Spanish Oaks Condominium Assoc., Inc. v. Compson of Florida, Inc., 453 So.2d 838 (Fla. 4th DCA 1984); Gibson v. Buice, 381 So.2d 349 (Fla. 5th DCA 1980); Town of Hialeah Gardens v. Hendry, 376 So. 2d 1162 (Fla. 1979). When White State judges refuse to adhere to its own case precedent written in stone, and Black Petitioner exhausted all avenues to no avail, then what rights do exist?

but were entered and decided without a subsequent hearing or any opportunity to be heard.

As with Petitioner's instant cases before the federal courts, no Order, decision, ruling or judgment has been made on Petitioner's Motion, which remains forever held in a state of limbo. Petitioner's Motion to Disqualify was also unlawfully denied.

D. Fourth Controversy at Large

In another unrelated case, Christopher Baylor vs. Mullins, Tyler & Jeremy, 2023-CA-042998, Fla. 18th Jud. Cir. Ct (Docketed August 14, 2023)("*Baylor V*"), the Petitioner has now discovered that the same White judge who presides over the cases mentioned above, has once more appeared in the present case. While Petitioner is represented by counsel, this is however subject to change at a hearing scheduled for August 13, 2024 in the 18th Cir. Ct.

Due to the risk of infringing upon attorney-client' privileged information, what might be said in this case with respect to the issue currently pending before it, is that, the Petitioner may be left without counsel in the upcoming weeks, and is subject to the same unlawful conduct evinced in other cases on the face of the record by the same White judge.

While Florida courts explicitly state that trial judges are randomly assigned from a pool of judges, the same White judge, more specifically, Respondent judge Curtis Jacobus, has once more put itself at the leading edge of Black Petitioner's case in order to repeatedly and intentionally cause more irreparable harm and substantial prejudice, as it has previously done in all aspects of Petitioner's cases.

Black Petitioner is once more at imminent and grave risk of being forced to appear before a White

judge that has no intention of respecting or enforcing State of federal constitutional law, let alone statutory State laws or case precedent in every literal case.

Amongst other things, the unlawful conduct in this case including government interference, remains at issue and live controversy, given that the conduct is capable of repeating yet evading review.

The only relief available to Petitioner in this case is an extension of time, for which would merely allow the federal courts to act on Petitioner's pending Motions to enjoin unconstitutional conduct in order to preserve the *status quo*. As it stands, no court can claim the Petitioner would have a fair or meaningful hearing before a biased judge or biased court. Florida courts have already refused to address any of these fundamental errors, even though State case doctrine, statutes, rules and constitution demands it. Thus the Petitioner has no other just remedy-at-law anywhere.

E. **Petitioner's Action**

Petitioner, who is the Plaintiff and Appellant below, is a Native African American military veteran who is homeless, and Civil Rights advocate who has brought in the Middle District Court of Florida, a *"public interest litigation"* (PIL) in hopes the federal court would hear issues premised on federal rights guaranteed not only to Blacks, Whites or Floridians, rather to all citizens, which the State Respondents, District court and Eleventh Circuit Court of Appeals have declined to hear, surely thus far.

Petitioner named the disappointed putative members of the "Klan": composed of clerks and other judges, because the named representatives of that organization have intentionally withheld final Orders necessary to aid Petitioner in pursuing any review in

the State cases. Aside from the issues shown herein, namely and primarily to the point on issue before the District court, is the Respondents repeated refusal to provide any copies of court papers and their requisite Notice[2] of docket activity in appellate cases.

As a result, the Petitioner recently suffered irrevocable harm when an appellate case transferred from the Florida 5th District court of appeals to the 4th District court of appeals by the Florida Supreme Court Chief Justice, Ordered in 1 of 3 Orders, *see* Pet. App. 5a. -7a., was improvidently dismissed for lack of prosecution by a mere court clerk in lieu of an actual judge, *See* Pet. App. 2a. It would show that without a copy of any final opinion, the Petitioner is, and was unable able to appeal from that opinion to the State's highest court, this Court, or brief those issues in the transferred proceeding, due to its absence.

Here lies one example of an appeal commenced from Kennedy Court LLC v. Christopher Baylor, 21-CC-10813, Fla. 18th Cnty. Ct., where the Petitioner in the county court filed a Motion to Stay Execution of Judgment pending appeal, however, court entered a misconstrued Order denying Petitioner the right to "stay" or rather "reside" at the subject property, thus

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[2]"[T]he clerk must furnish certified copies of such opinions and decisions to any person who makes such a request." Fla. Sta. §35.22(4). "[A]ll orders and decisions shall be transmitted, in the manner set forth for service in rule 9.420(c), by the clerk of the court to all parties at the time of entry of the order or decision." Fla. R. App. P. 9.420; "The clerk shall notify the attorneys of record of the issuance of any mandate or the rendition of any final judgment." Fla. R. Gen. Prac. Jud. Admin. 2.205(b). "The clerk shall furnish without charge to all attorneys of record in any cause a copy of any order or written opinion rendered in such action." Fla. R. Jud. Admin. 2.210(b)(4). All laws pertain to functions of the Florida Appellate Court of Appeals.

not only was the Order beyond the authority of the court, was contrary to the actual relief sought.

Even though the Petitioner had a clear right to appeal fundamental errors infringing upon housing rights, neither the Fifth, Fourth nor Second Florida court of appeals wanted to hear the issues.

As explained in the Petitioner's Complaint, the matter of Respondents continually declining to issue relief by overturning clear errors, or provide Notice of opinions, became more apparent after the Petitioner moved to disqualify 6 appellate judges, which was unlawfully denied December 2021.

Since that time, Respondents have refused to provide any Notice or copies of court papers in the Petitioner's appellate cases. Respondents, likewise forestalled Petitioner's appeal for more than 1-year without any opinion, which is also contrary to law.[3]

While the Petitioner's Complaint is somewhat lengthily, it recounts the circumstances under which Petitioner has been repeatedly deprived of the most basic Constitutional right, which is Notice, notwithstanding the right to a meaningful appeal. While the issues may seem inextricably intertwined by nature, Petitioner does not seek review nor rejection or the overturning of any State court judgments. The basis for Petitioner's relief relies on correcting misconduct, the federal courts have historically enjoined in other

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[3] Supreme Court and District Courts of Appeal Time Standards: Rendering a decision - "within 180 days of either oral argument or the submission of the case to the court panel for a decision without oral argument, except in juvenile dependency or termination of parental rights cases, in which a decision should be rendered within 60 days of either oral argument or submission of the case to the court panel for a decision without oral argument." Fla. Rule 2.250(2) - TIME STANDARDS FOR TRIAL AND APPELLATE

cases, and challenging an unconstitutional statute.

Black Petitioner has asked White Respondents under several routinely or historically approved, and also unconventional asks, that it respectfully Order the Respondents to perform its ministerial function and non-discretionary duty of issuing a copy of its final opinion, required by law.

However, White Respondents have declined to provide Black Petitioner with the most basic form of relief, hence the commencement of the District court action, which cannot be said, frivolity would be the proper basis for dismissal, lest any other defense.

Regardless, State Respondents have moved for dismissal on 17 separate and some identical grounds, whereby Petitioner equally provided 17 responses. Arguendo, Respondents' Motion to dismiss mirrors the precise number of claims Petitioner raised in an unrelated *public interest litigation* ("PIL") premised on 17 counts complained of in a different State, in Christopher Gary Baylor v. Unknown Officers, et. al., 5:23-cv-00257-J, W.D. Okla. (Dkt'd Mar. 21, 2023).

In the years leading up to this litigation, the Petitioner has never witnessed any State-attorney moving for dismissal based on 17 reasons. Whether the State-attorneys in both States have conspired to move against Petitioner, is of no real importance.

The gravamen of the matter here and reason for its inclusion evinces the stark contrast between a fair court, and a biased one.

In the Oklahoma PIL case, where Petitioner challenges the State's statute severely detrimental to Oklahomans, while the District court in the State of Florida has declined to move on similar issues and has held Petitioner's case captive for months, the District court in Oklahoma has scheduled Petitioner's

case for trial November 2024.

Restated, much like in the case above, this is litigation in the public's interest based on two parts. (1) It is the only vital means for any public spirited person or civil society to challenge abusive behavior by government bodies, and (2) *e.g.* "litigants who are being chilled from engaging in constitutional activity suffer a discrete harm independent of enforcement, and that harm creates the basis for our jurisdiction." Speech First, Inc. v. Cartwright, 32 F.4th 1110 (11th Cir. 2022).

If both cases were treated similarly mandamus relief in this case should issue as a matter of public importance, and Petitioner should not be left without other adequate, effective, meaningful, secure, plain, just, speedy equitable or lawful relief or remedy in Florida State and federal court, including declaratory relief.

F. Instant Proceeding in District Court

The current case of Christopher Gary Baylor v. The Florida Ku Klux Klan, 6:23-cv-748-CEM-EJK, M.D. Fla. was commenced April 24, 2023. Execution and return of service on all parties was completed by May 19, 2023. Respondents moved to dismiss May 30, 2023 on 17 grounds consisting of:

> (1) pro se appearance, (2) subject matter jurisdiction, (3) abstention, (4) not a suable entity, (5) absolute judicial immunity bar, (6), litigation privilege bar, (7) Article III jurisdiction, (8) lack of standing, (9) failure to state a claim, (10) failure to state a claim § 1983, (11) failure to state a claim - amend. 14, (12) no chapter 760 claim, (13) not entitled

> to declaratory relief, (14) not entitled to injunctive relief, (15) sovereign bar immunity, (16) futility and, (17) motion to strike.

And as a contingency, Respondents also moved to dismiss pursuant to Rule 11.

Petitioner filed an opposition to every defense.

Petitioner later filed an unopposed Motion for Emergency Injunctive Relief on September 20, 2023 when it became clear that Respondent Jacobus, after waiting one year following no record inactivity in the Petitioner's State court case, became reanimated by this action and Ordered the Petitioner to appear, in person, in the State court case it now presides over, but with intent to dismiss for erroneous reasons.

With respect to Petitioner's Emergency Motion for Injunctive Relief filed in District court to enjoin the retaliatory and unconstitutional conduct, District court refused to act on the specified relief requested by Petitioner and has taken no action henceforth.

Commensurate with moving for said relief, the Petitioner learned in a contemporaneous proceeding, in Rembert v. Dunmar Estates, 6:22-cv-544-CEM (M.D. Fla. Jul. 24, 2023), that the same District court judge who now currently presides over the instant case, specifically Judge Carlos Mendoza, threatened Black Florida attorney, Roderick Ford ("Mr. Ford") with sanctions *sua sponte*, for his advocacy against prejudices experienced in federal courts.

When the Petitioner became aware that judge Mendoza harbored certain prejudices against Black Civil Rights advocates who openly express discontent with bias in the courts, Petitioner moved September 26, 2023 to disqualify District court Judge Mendoza for Due Process and First Amendment deprivations,

including the objective reasoning found in the Third Circuit case of United States v. Thompson, 3 Cir. 1973, 483 F.2d 527, cert. denied, 415 U.S. 911, 94 S. Ct. 1456, 39 L.Ed.2d 496 (1974), where that court was "satisfied that the facts show that the allegations of bias was personal in the sense that it was directed against appellant as a member of a class. . . . Neither was it an allegation of judicial bias based upon legal rulings by the judge."

That court reversed and remanded the case for assignment to a different judge.

Prior to moving for disqualification, Petitioner studied a relative number of cases decided by Judge Mendoza, and found relief in those cases unequally distributed between Whites and Blacks. In addition, District court's sanction Order against Mr. Ford was so overreaching that it moreso focused in a vacuum, on a Black attorney's speech against infirmities and improprieties of White judges, and disparities seen in certain cases.

District court went above and beyond the mere means of curtailing whatever bounds it believed Mr. Ford overstepped in the current case, by drafting a 22-page exposé admonishing and recounting a Black attorney's entire litigation history, including in other states. District court's act was certainly avoidable to achieve its goal of weighing or deciding whatever particular sanction against Ford, for any infractions in the case currently before it.

In a similar way, the District court's *sua motu* Order's to Show Cause in these Black cases, received no treatment subsequent to timely responses, in both Petitioner's case for nearly 2-years, and in Mr. Ford's case for more than 1-year, where no decision on the OSC has been made, to date, in a Black case.

Such acts are consistent with Thompson *supra*, where the District court judge would sentence White violators to thirty (30) months in prison, but sentence Black militants to four and one-half (4-1/2) years.

Since the filing of Petitioner's other Motions, including Emergency Injunctive Relief against White officials, District court has taken no action on any Motions filed by Black Petitioner. However, District court has taken positive action on Motions filed by White Respondents.

Those Orders were made without giving Notice to Petitioner, which undoubtedly violates the right to Due Process.

District court has also historically acted with haste and expeditiously granted or adjudicated White cases. Thus this vastly different approach disparately impacts Black Civil Rights advocates and cases.

G. **Proceeding in the Court of Appeals**

Petitioner filed a Notice of Appeal on October 02, 2023 from the impliedly denied Injunctive Relief and Disqualification Motions still pending before the District court. Respondents first moved for dismissal of the appeal October 11, 2023. Petitioner moved for Emergency Injunctive Relief October 18, 2023, which was also unopposed, yet summarily denied as a non-emergency October 19, 2023. *See* Pet. App. 8a.

Following denial, Petitioner then perfected a Motion for Rehearing and Rehearing En Banc of the denial November 14, 2023. On the very same day the Eleventh Circuit Court of Appeals ("11th. Cir.") then dismissed Petitioner's appeal for allegedly "fail[ing] to prosecute." *See* Pet. App. 2a.

Arguendo, Petitioner's appeal was dismissed under the colorful guise of failure to prosecute in

order to avoid hearing the case, erroneously premised on the failure to comply with Rules tailored to apply to attorneys only, with respect to Web-based CIP's.

Taken from a purely legal perspective, where appeals might be dismissed for an attorney's failure to comply with local Rules, the Petitioner challenged the dismissal and promptly moved for reinstatement of the appeal on that basis November 23, 2023.

The 11th. Cir. reinstated Petitioner's appeal on December 26, 2023. *See* Pet. App. 3a., but only after Petitioner filed a Notice to Appeal. Nevertheless, the Order directed both parties to renew their Motions, and gave 14-days to reply to each renewed Motion. Respondents objected to the court's Order extending the parties time from 10-days to 14-days to reply. No Order was entered on Respondents' objections.

Respondents gave Notice to renew January 4, 2024, and Petitioner gave Notice to renew January 9, 2024. Responses were due 14-days from the parties' renewal dates.

Prior to Petitioner having the opportunity to file an opposition or be heard on Respondents Motion, 11th Cir. dismissed Petitioner's appeal January 16, 2024, *See* Pet. App. 1a., but before the expiration period to reply had elapsed on January 18, 2024.

The Petitioner nonetheless filed a response to Respondents' Motion on January 17, 2024, which was followed by the 11th Cir. entry of Notice of no Action the same day. *See* Pet. App. 9a.

The very next day on January 18, 2024, the Petitioner filed an Emergency Motion for Rehearing and Reinstatement by January 19, 2024. Thus far, 11th Cir.'s declination constitutes in impliedly denied ruling upon the expiration of the date for when relief should have been granted.

Because 11th Cir. is shown be an incompetent court that refuses to fairly decide issues, Petitioner filed Notice of Appeal to the United States Supreme Court on January 23, 2024, and a Motion to Hold in Abeyance in the 11th Cir. on January 28, 2024.

The 11th. Cir. has declined to opine on either of Petitioner's aforementioned Motions at the time of this filing. More noteworthy, the 11th Cir. previously denied Petitioner's first Motion for Emergency relief at the outset. Now, the 11th Cir. has decided not to issue any decision on the matter at all. Given the circumstances, Petitioner finds that no other relief may be obtained anywhere else.

H. **Proceeding on Remand**

Shortly following Petitioner's Notice of Appeal on October 02, 2023, District court administratively closed Petitioner's case October 6, 2023.

The first time 11th Cir. dismissed Petitioner's appeal November 14, 2023, on remand, District court lifted the administrative stay November 16, 2023.

Upon entry of the 11th. Cir.'s reinstatement of Petitioner's appeal and entry of the Order December 26, 2023, the District court again administratively closed Petitioner's case December 28, 2023.

However, the second time 11th Cir. dismissed Petitioner's appeal January 16, 2024, on remand, the District court has taken no action in Petitioner's case with respect to re-opening. At the time of this filing, Petitioner's case remains closed.

I. **Companion Proceeding in District Court**

In Petitioner's first pending case, District court took no action in Christopher Gary Baylor v. John A. Tomasino, 6:22-cv-1356 ("*Baylor I*"), and declined to

enter any Order, decision, decree, Ruling or judgment for more than 550 days. Based on experience, belief and knowledge, Petitioner is of the opinion that this same inordinate undue delay to the right to speak or be heard will occur in *Baylor II*, 6:23-cv-748.

During Petitioner's preparation of this petition and subsequent to filing of a Notice of Appeal to the U.S. Supreme Court on January 23, 2024, following 2-years of record inactivity, District court entered a flagrant Order of dismissal in this case February 1, 2024, misrepresenting the law and facts of the case.

Petitioner intends to move for rehearing under Fed. R. Civ. P. 59 & 60. The Motion is not being filed to cause further delay or to harass the court or the Respondents, but as a matter of course and provided by law, and to allow District court to correct its final Order as a matter of record.

Also, procedurally, District court would make a case against Petitioner, and for Respondents within the Throckmorton Rule in *Baylor II*, given how the court has historically acted as defense attorney, law advisor and advocate for opposing parties by filing Show Cause Orders own its own behalf, intentionally causing unnecessary delay in Black cases in order to render whatever relief might be available to Blacks, moot or inaccessible at the time.

Nonetheless, what remains at issue here is the fact that Petitioner commenced this case August 01, 2022, and Respondent was personally served August 10, 2022 at 10:24AM. Respondents did not move to Dismiss nor have filed an answer.

Suo motu, District court entered an Order to Show Cause against Petitioner August 9, 2022.

Petitioner responded on August 22, 2022 to the District court's *suo* go-to defense against uncounseled

parties, which expectedly fell into one of two general categories for dismissing *pro se* litigant cases under "*Younger*," or the notorious "*Rooker-Feldman.*"

Despite the odious opinion, 92% of the District court's final Order is comprised of legal conclusions, conclusory and boilerplate statements with little to no factual evidence supporting dismissal with respect to actual claims or issues raised on Complaint.

In finality, this Court is asked to consider 10% of the realm of issues currently before it, and to determine if or when mandamus relief, if any, might be sought in a literal case or circumstance when a judge must be compelled to perform its lawful duties reasonably, within a practical timeframe, of not more than 1-year, but encroaching upon 2-years of docket inactivity when the duty is axiomatic under 28 U.S. Code § 1657; and without forcing parties to resort to costly avenues that would surely disturb a judge's impartiality and decision-making.

As one court astutely put it, e.g. "the burden [is] on the judge to rule immediately and the litigant should not be required to nudge the judge. Nor is it right to require a party to file a writ of mandamus." G.C. v. Dep't of Children and Families, 804 So.2d 525, 526 (Fla. 5th DCA 2002).

For the very reason the District court slapped together a quick disposition of dismissal in the face of ensuing litigation in a higher Court, overshadows the subject of the matter and actual relief sought in the Complaint, the U.S. Constitution is relied upon to protect.

Courts should not be free to escape prejudicial, pervasive, ethnic or judicial bias claims against it by mere entry of an erroneous Order purported to be the truth by the same biased judge a party seeks relief

against. Mandamus should issue in the Petitioner's cases so that another judge may be assigned before rehearing, but prior to entry of final judgment.

REASONS FOR GRANTING THE PETITION

For decades, Congress and Judicial Conference of the United States set general limits on the extent to which any and every federal judge's impartiality might reasonably be questioned. Recalling the Code's advisory nature, the revised section is applicable to *all* justices and judges of the United States. Codified in Section 455 of title 28 of the United States Code, for the purpose of this Petition, the Statute states in relevant part:

> "(a) '*Any*'. . judge. . . of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

Presumably, the drafters intended to establish a clear and uniform litmus test for federal courts to apply in determining the partiality of judges.

However, in the years following the passage of the Statute's revision, to the same degree for decades White judges have repeatedly moved the goal posts so far out of bounds, the playing fields are no longer recognizable to Black crowds of constitutionalists and advocates for Civil Rights who wish to invoke the Statute. Courts that have wrestled with the implicit reconstruction of the Statute, not only have promoted judicial incompetence, but also created far reaching implications due to inapplicability in cases, primarily in Black cases where the Statute loses all face.

While § 455 provides general guidelines for the

behavior of federal judges, Congress also codified the spirit of Canon 3(C) in 1974 when it broadened and clarified the test for disqualifying federal judges for prejudice or bias, in Section 144 of title 28 of the United States Code, which provides:

> "Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding."

Be as it may, Courts have gone a long way in admitting that the primary framework established by Congress is of no real import.

In the wake of significantly narrowing the broad scope which § 455 or § 144 would apply, White judges must now no longer carefully maneuver down an uncharted path. Courts have willingly perverted the judicial gatekeeping role by adopting a specific set of common rules extrajudicial and divorced from what Congress intended, that largely insulate White judges from liability under the standard, even in the event impropriety and bias violates the tenants of the Constitution.

Thus any adherence to Congress's strict set of provisions that *should*, but never operates to remove judges, is no longer preserved. Its ineffectiveness or even failure creates a controversial marriage between the judge and litigant, and the general reproach is to penalize the moving party for exercising the remedy to a fair judge. The adversarial system's integrity is

nothing more than a past prologue to the Civil Rights era where newly established rights almost mattered in the context of satisfying the illusion of justice.

Section 455 has been relegated to matters that only touch on the provision's subsection (b), making subsection (a) nothing more than a worthless preface instead of general practice.

It is worth mentioning that there are no cases worth citing that would support mandamus relief in Black cases, but a dearth of case law opposing it. The implicitly proposed modifications to § 455 and § 144 are naturally accepted by a healthy undertaking of explicitly supportive, superfluous and superseding authoritative mishaps dubbed as common law, dedicated to winnowing down the Code's provisional armor which Congress never approved.

There should be some unsettled debate this Court should consider differently to test or determine whether judicial disqualification by mandamus relief for violating Constitutional provisions or statutory law is appropriate in particular cases, such as here.

There should be no doubt, causing undue delay in Black cases in excess of 1-2 years based on court's own action that chills speech, denies equal protection and a panoply of rights under Due Process.

White attorneys and White parties are largely shielded from the everyday adverse effects of racial or ethnic bias before a White judicial gatekeeper. At the heart of this "gatekeeping" role stands United States Supreme Court proponents to the general acceptance theory all White judges, in particular, are never biased in cases of White on Black prejudices.

At the outset of this belief is, United States Supreme Court Justice Alito's jurisprudence of White racial innocence copiously supplied in a string of

opinions bristling at the idea that systemic racism is widely superficial and acceptable, in Black cases.

Conversely, inevitably there is an unlikelihood and rarity a White party or attorney would encounter the very same bias, then exhibit the issues on record when the adjudicator is from a divergent spectrum of a different class, group or member of a non-White race or similar ilk.

However, the extent to which every day Blacks are confronted with varying degrees of bias before a White judge — cannot apply the Statutory medicine to cure a disease that has become a matter of great public importance and uncertainty.

By the numbers, there were more than 656 mass shootings in the year 2023.[4] Affirmative action supporters and counter protesters clashed on Capitol Hill following the decision effectively striking down affirmative action in higher education. And Abortion-related protests in the aftermath of the overturning of *Roe v. Wade* followed the track of public unrest. Protests for *George Floyd* became world-wide.

The public's health and welfare is generally of major importance when judicial acts as egregious as those witnessed in Petitioner's cases are "too high to be constitutionally tolerable," and deplorable in cases where an individual's housing, employment, religious and familial rights are all denied without a single iota of lawful or equitable relief, remedy or redress

[4]"The increasing frequency of mass shootings poses 'a real risk' of encouraging public acceptance and apathy toward gun violence, a major threat to the country, says Steven Dettelbach, director of the Bureau of Alcohol, Tobacco, Firearms and Explosives." https://news.harvard.edu/gazette/story/2023/10/u-s-hurtles-toward-new-record-for-mass-shootings-says-atf-director/https://news.harvard.edu/gazette/story/2023/10/u-s-hurtles-toward-new-record-for-mass-shootings-says-atf-director/

for more than 5-years, in 75 proceedings, and the subject of 176 Constitutional violations. The public would surely be apathetic to any act against such an egregious plight.

In light of non-competing unethical judicial forces limiting § 455 and 144's reach, the integrity of both Statutes is no longer preserved in the context of the adversarial process. Often, when Black litigants raise claims of judicial, prejudicial, pervasive, ethnic or racial bias, the case then becomes a suit between the White judge and the Black litigant, if that was not already the situation in the beginning.

A biased judge then becomes the adjudicator, jury, accuser, defense attorney, law advisor and advocate in his own matter against the moving party in conjunction and relation to the business in hand. Such is the circumstance in Petitioner and Mr. Ford's case, where District court issued Show Cause Orders without any prompting from the opposing party, and both cases were upended in excess of 1 year without any decision or docket activity.

Thus, as a matter of First Amendment law the assignment of its meaning is a central question here in the context of free speech, in a case where this Court is inexorably drawn into this petition to decide how such meaning is to be ascertained with respect to retaliation for free speech in certain cases, and the limitation on such criticizing communication between a Black party or attorney, and a White judge, under the given circumstances, deserving non-retaliation.

For example, this Court noted that, "the Free Speech Clause of the First Amendment" is "[t]he public interest in having free and unhindered debate on matters of public importance." Pickering v. Board of Education, 391 U.S. 573, 88 S.Ct. 1731, 20 L.Ed.2d

811 (1968). This Court also said, "[i]t is well settled that criticism of governmental bureaucracy, at any level, is a form of speech protected by the First Amendment. *See*, e.g., New York Times Co. v. Sullivan, 376 U.S. 254, 276 (1964). Therefore, any [r]estraint imposed upon criticism of government and public officials, is inconsistent with the First Amendment." *Id.*

Judges are "government officials." *See* Screws v. United States, 325 U.S. 91, 97, 65 S. Ct. 1031, 1033, 89 L. Ed. 1495 (1945)(referring to police, prosecutors, legislators, and judges as government officials); Pulliam v. Allen, 466 U.S. 522, 539, 104 S. Ct. 1970, 1979, 80 L. Ed. 2d 565 (1984).

To the Petitioner's knowledge, discovery and belief, no law exists to prohibit judges from being the subject of criticism. "Official reprisal for protected speech offends the Constitution because it threatens to inhibit exercise of the protected right, and the law is settled as a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions. . . for speaking out. [G]overnment may not punish a person or deprive him of a benefit on the basis of his constitutionally protected speech." Hartman v. Moore, 547 U.S. 250, 126 S. Ct. 1695, 164 L. Ed. 2d 441 (2006).

In addition, "the threat of sanctions may deter First Amendment rights exercise almost as potently as the actual application of sanctions." N.A.A.C.P. v. Button, 371 U.S. 415, 433, 83 S. Ct. 328, 338, 9 L.Ed.2d 405 (1963). Florida ignores this reality, and the majority is blind to it. *accord.* Jones v. Governor of Fla., 975 F.3d 1016 (11th Cir. 2020).

"That is why freedom of speech, though not absolute is nevertheless protected against censorship

or *punishment*, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest. There is no room under our Constitution for a more restrictive view." Terminiello v. Chicago, 337 U.S. 1, 69 S. Ct. 894 (1949).

In such cases, where a judge would hinder the orderly progress of a proceeding by issuing a Show Cause Order, then abetting the practice by waiting for nearly two years in Petitioner's, including Mr. Ford's case, to finally then decide to let the case go forward, "First Amendment freedoms need . . . to survive." NAACP v. Button, 371 U.S. 415, 433 (1963). [G]overnmental action [is] subject to constitutional challenge even though it has only an indirect effect on the exercise of First Amendment rights." NAACP v. Alabama, 357 U.S. 449, 462, 78 S. Ct. 1163, 2 L.Ed.2d 1488 (1958).

"In such case[s] to force the plaintiff who has commenced a federal action to suffer the delay of state-court proceedings might itself effect the impermissible chilling of the very constitutional right he seeks to protect." Zwickler v. Koota, 389 U.S. 241, 252 (1967). And with every passing hour, the irreparability increases because "the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir.2012)(quoting Elrod v. Burns, 427 U.S. 347, 373 (1976)). This applies "no matter how brief the violation". Baird v. Bonta, 81 F.4th 1036, 1040 (9th Cir. 2023).

First Amendment speech is not unprotected under the Constitution just because it is critical, even when criticism is bluntly worded and directed at specific governmental officials.

I. PETITIONERS' RIGHT TO ISSUANCE OF A WRIT IS CLEAR

Petitioner is entitled to a writ directing the 11th. Cir. to reinstate Petitioner's appeal as a matter of law[5], or relinquish jurisdiction over the appeal and remand it to District court with further instructions consistent with this Court's opinion, if any, to assign another judge because said relief sought before both courts has been fully resolved by this Court.

Because the 11th Cir. extended the time for which both parties might respond to their renewed Motions, but the 11th. Cir. dismissed Petitioner's appeal prior to allowing the opportunity to speak or be heard, implicates the Free speech and Due Process clause. Due to the reason courts continually dismiss or delay Petitioner's cases for clearly capricious, erroneous, fanciful, arbitrary, artificial, artful, irrational, bad-faith, discriminatory or any unconstitutional reasons under color of law, a clear right to mandamus exists under any unfathomable context.

The step-by-step measures, or lack thereof, taken by both courts, harms the Petitioner's right to speech and any action taken so far is too small to ameliorate the irreparable harm caused, which requires this Court to directly advance Petitioner's relief.

> 28 U.S.C § 1657(a) mandates that:
> "[E]ach court of the United States shall determine the order in which civil actions are heard and determined,

[5]"The response must be filed within 10 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8, 9, 18, or 41 may be granted before the 10-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner." FRAP 27(a)(3)(A).

> except that the court *shall* expedite the consideration of any . . . action for temporary or preliminary injunctive relief."

It is axiomatic District court act accordingly.

This right is non-discretionary, and Petitioner is entitled not to excessive delay, but prompt decisions in the cases without further chilling of speech by an impartial judge, which implicates Due Process under the analytical springboard of Constitutional law.

Due process guarantees the right to a neutral, detached judiciary in order to convey to the individual a feeling that the government has dealt with him fairly." Carey v. Piphus, 435 U.S. 247, 262 (1978).

Unadulterated, Congress has unequivocally called for relief in these circumstances under 28 U.S.C. § 455(a), whereby any judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. In addition, Congress provided additional means under 28 U.S. Code § 144, which demands that:

> "Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding."

As explained in Petitioner's Petition to Disqualify in the District court, bias occurs across a spectrum. It lives within individuals and between them, within

institutions and across society. Race and racism is learned from extra-judicial sources by nature, by the very sponges (movie, radio, books, billboards, photos, music, art etc.) in an individual's social environment. While a vast majority of courts have said these same prejudices are almost impossible to prove unless the act is overt, enough can be determined by how other people are treated. There is no point of going into a lengthily dissertation about cultural bias, because it is never well received by courts.

However, such arbitrary acts by the District court cannot fairly be characterized as equally enforcing "equal protection" or "right of access to court", but the fatalness to their underinclusiveness here should be animated, at least in this instance, together with the "right to freedom of speech," instead of threading only First Amendment rights through a very fine needle's eye of the Court's precedential blockadage.

Petitioner asks that this writ be considered on the slipperiness of the Constitution's interpretivism and expansionism that would afford Whites the same relief under the First and Fifth Amendment, and § 455 and § 144 statutory textualism.

In tandem with Due Process, "access to the courts is clearly a constitutional right, grounded in the First Amendment, Article IV Privileges and Immunities Clause, [and] the Fifth Amendment." Christopher v. Harbury, 536 U.S. 403, 415 n. 12, 122 S. Ct. 2179, 153 L.Ed.2d 413 (2002).

II. WRIT OF MANDAMUS IS WARRANTED GIVEN THE URGENT CIRCUMSTANCES OF THIS CASE

Given the clarity of Petitioner's disposition in this

case, particularly District court's colorful motivation to defeat the validity of Petitioner's claims and cases by forestalling them for nearly 2-years, it is patently unreasonable and questionable partiality on part of the District court judge.

Those acts speaks for itself. It is the clearly artful and less than an impartial manifestation of hostility towards critical speech against White government officials, Black Petitioner, including Black attorneys are forbidden to exercise as Civil Rights advocates.

Having witnessed such acts in the instant case and others, is conduct that avails itself and invokes the operation of 28 U.S.C § 455(a) and §144, which requires either recusal or disqualification for all the wrongs committed.

In the present case, the Petitioner has evinced a substantial degree of ongoing irreparable harm and prejudice in State and federal cases, that can only be quelled by immediate issuance of a mandamus or its prohibition adjunct, simply because there is no other remedy-at-law that can prospectively advance the orderly judicial process in a just fashion, or prevent the hardship imposed by judicial impropriety in this exceptional, special, rare and extraordinary case.

The same deprivation happening in Petitioner's State court cases is indicative of the current trend occurring in Petitioner's federal court cases. These cases not only reflect the fundamental dichotomy in Constitutional rights between Blacks and Whites, but also the gross binary between State and federal courts. The right to appeal is anti-supercharged in both forums.

Absent any decisions by either court, maintains a closed channel to other constitutional domains. The "All Writs Act" affords this Court the authority to

"issue all writs necessary or appropriate in aid of [its] respective jurisdiction[n] and agreeable to the usages and principles of law." 28 U.S. Code § 161.

This also holds true since 11th Cir. has already made its intentions clear, that it is inclined to decline jurisdiction over the Petitioner's attempted-appeal for lack of an Order, although it may historically and alternatively exercise its mandamus jurisdiction. "Undoubtedly, therefore, Circuit Court of Appeals had 'jurisdiction,' in the sense that it had the power, to issue the writ as an incident to the appeal then pending before it." Adams v. U.S. ex Rel. McCann, 317 U.S. 269, 63 S. Ct. 236 (1942).

This Court has also said, courts should "fashion appropriate modes of procedure, by analogy to existing rules or otherwise in conformity with *judicial usage*." Harris v. Nelson, 394 U.S. 286, 299 (1969).

The only other improvised procedure to appeal in the 11th Cir., is by way of 28 U.S.C. § 1292(e), which provides:

> "The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for appeal of an interlocutory decision to the courts of appeals that is not otherwise provided."

Court has held that the All Writs Act "should be broadly construed," "to achieve the ends of justice entrusted to it." Adams at 273, such as the right to a fair and impartial tribunal, petition government for grievances or appeal from decisions that currently elude this Court and the Petitioner.

III.NO OTHER ADEQUATE MEANS TO OBTAIN RELIEF EXISTS

Petitioner has already shown, no other means of recourse in any case whether in the State or federal court, is unavailable.

And here, Petitioner has already filed a Notice to Appeal in the 11th Cir. to bring into question the legitimacy of District court's actions, or lack thereof, particularly in non-written decisions that displace legislative Statues, which call for civil actions bedded in injunctive relief to be heard and determined on an expedited basis, *See* 28 U.S.C § 1657(a), excluding other types of actions that must show *good cause.*

When District court's acts are ill or false a judicial edict is not redeeming by its good consequences, such as the District court's *ad hoc* dismissal in *Baylor I,* entered two years later, and subsequent to Petitioner filing Notice of Appeal to the United States Supreme Court on these same issues.

The reality that District court is exercising here is what would be called, "raw judicial power" to settle a morally charged debate over a divisive social issue, but in a way that it and White party are personally favored for sake of judicial molestation.

Yet, the depicted acts are reasonably construed as judicial activism in defiance of the Constitution by refusing to act on Statutory provisions, an infamous blow to Constitutional rights and individual freedom.

The District court's maintenance of a regime of systematic racial inequality is the object, point, and goal that Due Process is alleged to protect. The truth, of course, is that District court is substituting its own *laissez-faire* practice to cause the Petitioner's cases to feticide in the dungeons of the court, while throwing

away the key, which is contrary to what the elected representatives in the Legislature have written in § 1657. Thus, Petitioner's Petition to Disqualify goes abusively unanswered and remains pending.

A step-up, is 11th Cir.'s multi-level predisposition against allowing Petitioner to continue on appeal on the very same issues to any degree, including under the court's historically tested and applied mandamus jurisdiction in appellate cases.

Twice has 11th Cir. deposited Petitioner's case in the waste bin for beguiled reasons short of satisfying free speech, Due Process, or even the elusive illusion of justice in Black cases.

Thrice has the 11th. Cir. declined to grant relief sought to enjoin the conduct of any State or federal judge, which brings us to the justification in the text, logic, structure, or original understanding, Petitioner has no adequate, effective, meaningful, secure, plain, just, speedy equitable or lawful relief or remedy.

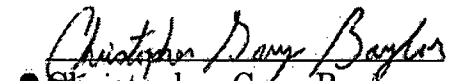
At every step and stage of every proceeding, the courts have declined to issue any relief, and this has empathically been the case in more than 75 non-criminal proceedings over 5-years, with more than 176 deprivations of constitutional, statutory and Civil rights, without a single iota of *requested* relief.

Eventually, the question becomes: When a Black individual, housing, employment, religious, familial, marital, speech, privacy, equality, reputation, honor, physical, mental and right to life becomes divested by the prophylactic laws of Whites, is death an easier alternative than seeking justice that will never come?

CONCLUSION

For the above reasons, Petitioner respectfully seeks a writ of mandamus directing the Eleventh Circuit Court of Appeals to reinstate the Petitioner's appeal to seek review of the District court's conduct for delaying injunctive relief for 2-years, because there is no other method to seek review without Orders, or in the alternate, issue a writ of mandamus directing the District court to reassign Petitioner's case to another judge, other than Judge Carlos Mendoza, in Christopher Gary Baylor v. The Florida Ku Klux Klan, 6:23-cv-748-CEM-EJK, M.D. Fla., and Christopher Gary Baylor v. John A. Tomasino, 6:22-cv-1356-CEM-RMN, M.D. Fla., so that Petitioner's case may go forward uninterrupted, promptly and in an orderly fashion on fundamental matters of substantial Constitutional significance of imperative public importance.

Absent relief, Petitioner is unable to appeal or seek review without any judgment, ruling, decision, decree, or Order in the case, necessary or appropriate to aid jurisdiction over cases expressly authorized by Act of Congress, e.g. 28 U.S. Code § 2101(b),(c),(e),(f); 28 U.S. Code § 1292(a),(c),(e); 28 U.S. Code § 1291. etc. Also, absent relief, the lower courts would simply construe rejection tantamount to a merits decision, even though this Court has repeatedly "emphasize[d] the fact that "denial . . . is not a ruling on the merits of any issue raised by the petition." At the same time, lower courts still, generally deny relief based on Supreme Court denial despite its holdings. Thus, Petitioner would be extremely prejudiced in the absence of any relief.



Christopher Gary Baylor
AAFA Advocate, Civ. Rgts. Div.
3206 South Hopkins Avenue
Suite 43
Titusville, Florida 32780-5667
Telephone: (484) 682-2605
Facsimile: (972) 466-9473
Email: cbaylor@aafa-law.org
Email: edo_delight@comcast.net
Counsel of Record for Petitioner