No. 23-1035

In the Supreme Court of the United States

IN RE: ANGELA W. DEBOSE, PETITIONER

On Petition For A Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR REHEARING

ANGELA W. DEBOSE
Petitioner Pro Se
1107 W. KIRBY STREET
Tampa, FL 33604

ELIZABETH B. PRELOGAR
Respondent Counsel of Record
U.S. Dept. of Justice 950
Pennsylvania Avenue, NW
Washington, DC 20530-0001

June 7, 2024

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PETITION FOR REHEARING

Petitioner Angela DeBose respectfully petitions for rehearing of this Court's May 13, 2024 Order denying her petition for a writ of certiorari.

REASONS FOR GRANTING REHEARING

Rule 44.2 authorizes a petition for rehearing based on "intervening circumstances of a substantial... effect." Ms. DeBose's petition explained why this Court's review was warranted in the first instance—namely, when a judge's affirmative duty to disqualify is activated because of actual or potential conflicts of interest (or the appearance of same) but the judge fails to disqualify *sua sponte* or by motion. In the *People of the State of New York v. Donald J. Trump*, judicial disqualification of Justice Juan M. Merchan, the judge overseeing the criminal trial in Manhattan, was sought for alleged bias and/or conflicts of interest and denied twice. On May 30, 2024, several days after Ms. DeBose's petition was denied certiorari, in the *People of the State of New York v. Donald J. Trump*, a jury returned a verdict finding the former President of the United States guilty of 34 counts of falsifying business records. That decision constitutes an "intervening circumstance[] of a substantial . . . effect," because it provides an additional and independent justification for this Court's review.

Motions to disqualify a federal judge can be brought under 28 U.S.C. § 455 and/or 28 U.S.C. § 144. The party bringing the disqualification motion always bears the burden of establishing the disqualifying judicial interest. 28 U.S.C. § 144 only applies to motions filed in federal district court (and not sua sponte self-disqualification by the judge). The grounds for disqualification under 28 U.S.C. § 144 mirror those of 28 U.S.C. § 455(b)(1), covering situations where the district court judge "has a personal bias or prejudice" against a party. The formal judicial disqualification motion and

its timing to a final disposition takes on far greater importance in the decision than the *failure* of judges to affirmatively recuse or disqualify by voluntarily removing themselves from a case as provided for in 28 U.S.C. Sec. 455 which states in part: Any justice, judge, or magistrate, of the United States shall disqualify himself/herself in any proceeding in which his/her impartiality might reasonably be questioned.

In Ms. DeBose's case, compelling investigative and police evidence was presented showing that a *trespasser* judge used unconventional or unauthorized means to access the court system and assign himself to Ms. DeBose's cases. The trespasser judge entered dismissal orders with prejudice and final judgments only in Ms. DeBose's cases. In the independent action before the U.S. District Judge, the trespasser judge was a named defendant. It was known by the defendants and the U.S. District Judge but unknown by Ms. DeBose that the trespasser judge was a dual employee of the defendant state university and defendant state court. Evidence was discovered and presented to show the U.S. District Judge hired the defendant trespasser judge as a paid mediator multiple times in his federal court cases during relevant times when the case was underway. An investigation revealed that the U.S. District Judge may have recommended and served as a reference for the trespasser judge for a position with the U.S. Middle District of Florida; however, the trespasser judge falsified his application, asserting that he had not been disciplined before—when in fact he was previously censured by the Florida Supreme Court for interfering or trespassing in another case involving the state university. The facts and the evidence triggered 28 U.S. Code § 455(a) and (b) & § 144. In *Virginia Elec. and Power Co. v. Sun Building and Dry Dock Co.,* 539 F.2d 357 (4th Cir. 1976), the assigned judge was a customer of the utility defendant and, if the utility prevailed, could receive a $100 refund. The district judge recused

himself because $100 is "however small" under section 455. The U.S. District Judge failed to recuse or disqualify when these newly discovered facts and financial interests were presented post-judgment in a judicial motion for disqualification. The U.S. District Judge had prior knowledge of the trespasser judge's action at issue in the case and that Ms. DeBose's cases were *dismissed involuntarily without an adjudication on the merits*. The U.S. District Judge knew or understood that even if the orders entered without a hearing by the trespasser judge were on the merits, the dismissal orders were void/voidable under Fla. R. Civ. P. 1.540(b)(3), (4), & (5) and/or under Fed. R. Rule 60(b)(3), (4), & (5). The U.S. District Judge knew or had reason to know that these cases did not satisfy the Florida Vexatious Litigant Statute because they were not "finally and adversely" determined against Ms. DeBose by a court of competent jurisdiction but rather by a trespasser judge with whom the U.S. District Judge had undisclosed conflicts of interest, and bias in favor of the defendants, as articulated by Ms. DeBose in her Certificate of Interested Persons, expressing fear that she would not receive a fair trial or hearing by the U.S. District Judge. Ms. DeBose's fears were justified because she did not receive any hearing before the U.S. District Judge. The Supreme Court has held a preliminary injunction does not *decide* the *merits* of the *case* unless (1) a hearing is specially set for that purpose, (2) the parties have had a full opportunity to present their *cases, University of Texas v. Camenisch*, 451 U.S. 390, 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981).

The Constitution sets standards which may require a judge's disqualification. The due process clauses of the fifth and fourteenth amendments require a "fair trial in a fair tribunal." *In re Murchison*, 349 U.S. 133, 136 (1955). The Supreme Court has said, moreover, that "to perform its high function in the best way 'justice must satisfy the appearance of justice.'" *Id.* (*quoting Offutt v.*

United States, 348 U.S. 11, 14 (1954)). In *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 859-60 n. 8 (1988), the Court found that "§ 455(b)(4) requires disqualification no matter how insubstantial the financial interest and regardless of whether or not the interest actually creates an appearance of impropriety." Thus, any "financial interest" as defined in § 455 requires disqualification. In *Wu v. Thomas*, 996 F.2d 271, 275 (11th Cir. 1993), cert. denied, 511 U.S. 1033, the Eleventh Circuit implied or left open the question that a judge who receives an adjunct professor's salary would indeed be disqualified under section 455(b) (bright line rule for income "however small"). The appellate court emphasized that the district court judge who served as an adjunct professor *received no salary*. Here, the trespasser judge was a paid employee of the defendant university and was an appointed paid mediator by the U.S. District Judge. The financial and/or non-financial interests of the U.S. District Judge would have been more or less directly affected by the outcome of proceeding—thus requiring disqualification. A bird's eye view of the case shows it as one that could only be adjudicated by a disinterested judge, as Congress directed, because 28 U.S.C. § 455 provides essential checks and balances for Art. III judges to ensure procedural due process.

The Supreme Court has never reversed a federal judge on due process grounds for failure to disqualify himself—although Due Process Clause requires recusal when a judge has a "direct, personal, substantial pecuniary interest" in a case. Cf. *Tumey v. Ohio*, 273 U.S. 510 (1927) (holding that the trial of the defendant by the local mayor who was to be compensated for his judicial services only if the defendant were convicted, violated due process). However, the federal courts have applied due process to the problem of disqualification upon review of state court cases, see, e.g., *Ward v. Village of Monroeville*, 409 U.S. 57 (1972); *Mayberry v.*

Pennsylvania, 400 U.S. 455 (1971). The Supreme Court's history in this regard may be favorable to President Trump should a petition for certiorari review be filed because his case is a state court case. While Ms. DeBose's case is a federal case, it concerned three separate and distinct state court cases and only one federal case that was dismissed *without* prejudice. The Court may have applied its historical federal lens concerning disqualification in reviewing Ms. DeBose's case. Rehearing is necessary to review the case with an eye towards the state court cases and the undisclosed conflicted and/or biased relationship the U.S. District Judge had with the defendant trespasser judge that Ms. DeBose discovered post-judgment, which should have been sufficient to disqualify and vacate the order(s).

There are other intervening circumstances of a substantial effect. The U.S. District Judge contacted the Office of Lawyer Regulation of Ms. DeBose's state bar. Although Ms. DeBose's status is "good standing" and during all relevant times nonpracticing, OLR inquired if Ms. DeBose would agree to a public reprimand based on the conflicted judge's injunction order. A decision has been requested by June 30, 2024. The order contains false statements of material fact. Ms. DeBose was the unanimous verdict winner, prevailing over her former state university employer following a two-week jury trial in her federal Title VII case. Ms. DeBose prevailed in other federal cases and entered a joint stipulation with Ellucian. The Eleventh Circuit held the district judge erred in mass excluding all of Ms. DeBose's summary judgment evidence but found the error "harmless". Ms. DeBose has prevailed in motions to compel and motions for disqualification. Ms. DeBose has requested dissolution of the injunction order, which was issued without notice or a hearing. Ms. DeBose has been deprived of a dissolution hearing unless requested by an "independent member of the Florida Bar." In recent years, the defendant state university interfered

with Ms. DeBose's employment with another state university, entering into a formal contract paid for using state funds, to oust Ms. DeBose from her job. Because of the unlawful conduct and the lockout, Ms. DeBose did not have an available forum and had to file her Civil Rights action in another venue. All of these consequences resulted from the outcome of the proceeding that required the U.S. District Judge's disqualification. In *Liljeberg*, this Court stated that "in determining whether a judgment should be vacated for a violation of § 455(a), it is appropriate to consider [i] the risk of injustice to the parties in the particular case, [ii] the risk that the denial of relief will produce injustice in other cases, and [iii] the risk of undermining the public's confidence in the judicial process." 486 U.S. 864. All three factors counsel strongly in favor of rehearing.

The Court should thus grant Ms. DeBose's petition for rehearing. The Court could also hold review pending the petition or decision of *Donald J. Trump* concerning Justice Juan M. Merchan and then grant Ms. DeBose's petition. In all seriousness, there are those who allege that Ms. DeBose and former President Trump got "*black justice*," which is no justice at all. Trump was allegedly tried on "trumped up charges" as has Ms. DeBose been falsely accused of vexation. An impartial judicial system is the gold standard and what Congress intended.

CONCLUSION

For the foregoing reasons, and those stated in the petition for a writ of certiorari, the Court should grant rehearing, hold the petition pending the Court's decision in *Donald J. Trump*, and then grant the petition and review the judgment below.

Respectfully submitted.

Angela Washington DeBose,
Petitioner Pro Se

CERTIFICATE OF COUNSEL

Pursuant to Rule 44.2, I, Angela W. DeBose, Petitioner, hereby certifies that the petition for rehearing is restricted to the grounds specified in Rule 44.2. I further certify that the petition for rehearing is presented in good faith and not for delay.

June 7, 2024

/s/ Angela W. DeBose
Angela W. DeBose

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ANGELA W. DEBOSE
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1107 W. KIRBY STREET
Tampa, FL 33604

June 7, 2024

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this **7th** day of June 2024, the above-referenced Petition for Rehearing to the Supreme Court of the United States has been served on:

ELIZABETH B. PRELOGAR
Respondent Counsel of Record
U.S. Dept. of Justice 950
Pennsylvania Avenue, NW
Washington, DC 20530-0001

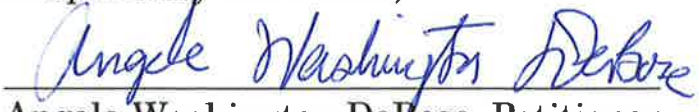
Lacy R. Harwell, Jr.
US Attorney's Office – FLM;
Suite 3200
400 N Tampa St
Tampa, FL 33602-4798
randy.harwell@usdoj.gov

Ivy Pereira Rollins
Attorney General
Civil Litigation
Concourse Center IV
3507 E. Frontage Road, Ste 150
Tampa, FL 33607
ivy.rollins@myfloridalegal.com

Anisha P. Patel
Joshua C. Webb
Dennis Parker Waggoner
Hill Ward Henderson, PA
101 E Kennedy Blvd, Ste 3700
Tampa, FL 33602-5195
anisha.patel@hwhlaw.com
jwebb@hwhlaw.com
dennis.waggoner@hwhlaw.com

DATED 06/07/2024.

Respectfully submitted,



Angela Washington DeBose, Petitioner