

No. 23-1266

1/16/2024

In the
SUPREME COURT of the UNITED STATES

TONYA PARKS,

Petitioner

Vs.

AFFILATED BANK, AFFILATED BANK FSB,
AFFILIATED BANK, FSB. INC.,
BANCAFFILATED, JOSHUA CAMPBELL AND
KATHERINE CAMPBELL,
Respondents

On Petition for Writ of Certiorari to the
Supreme Court of Texas

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED:

1. Does the Texas judicial system's approach to recusal, in conjunction with judges' collaborative fundraising and expenditure activities, as viewed under the due process requirements established in *Williams v. Pennsylvania* and *Caperton v. A.T. Massey Coal Co.*, violate the Fourteenth Amendment's due process guarantees? This inquiry examines whether these practices, along with failures of lower courts to ensure impartial tribunals and systemic judicial misconduct, demand a Supreme Court review to affirm constitutional principles of fairness, impartiality, and freedom from bias in the judiciary, especially in light of potential conflicts of interest arising from judges' joint campaign activities or shared financial resources.
2. In the context of the principles established in *Williams v. Pennsylvania* and *Caperton v. A.T. Massey Coal Co.*, does the Texas system's handling of judicial recusal and disclosure rules sufficiently protect parties' due process rights? This question probes whether the Texas framework for judicial recusal, particularly when judges are involved in collective fundraising and expenditure matters, aligns with Supreme Court precedent to ensure that parties and judges can make informed decisions about potential conflicts of interest. It explores whether the state's approach effectively safeguards against judicial bias and conflicts of interest, especially in cases where a judge serves in both trial and

appellate roles, or where judges campaign together, thereby necessitating Supreme Court intervention to uphold the integrity of the legal process and to establish guidelines for addressing systemic deficiencies in the judiciary and find remedy.

3. Does the imposition of excessive court costs, attorney fees, and judgments on civil litigants, resulting from judicial bias, procedural irregularities, and failure of justices to recuse themselves, violate the Eighth Amendment's prohibitions against excessive fines and cruel and unusual punishment, necessitating Supreme Court intervention to ensure the application of Eighth Amendment protections in the civil context?
4. Considering the extensive financial burdens, procedural hurdles, and the prevalence of judicial misconduct, including judges' delayed recusals in instances of bias, political or personal connections, lack of legal competence, or undisclosed conflicts of interest, does this pattern infringe upon the Fourteenth Amendment and other constitutional provisions ensuring due process, access to courts, and equal protection, thus necessitating a Supreme Court review to affirm the principles of fairness, integrity, and equitable access in the judicial process for all, regardless of financial capacity?

LIST OF PARTIES:

All parties appear in the caption of this case on the cover.

STATEMENT OF RELATED CASES:

This case arises from the following two proceeding:

Bill of Review (filed due to fraud, official mistake and misconduct in the original underlying case in 2016)

- *Parks v. Affiliated Bank*, No. 05-21-00411-CV (Tex. App. Oct. 21, 2022)

Original underlying case filed in 2016

- *Parks v. Affiliated Bank*, No. 05-16-00784-CV (Tex. App. May 3, 2018)

There are no other proceedings in the state of federal trial or appellate courts, or in this Court, directly related to this case with the meaning of the Court's Rule 14.1(b)(iii)

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PETITION FOR WRIT OF CERTIORARI

Petitioner Tonya Parks respectfully requests a writ of certiorari to review the judgments and decisions of the Court of Appeals Fifth District of Texas at Dallas. This includes the October 21, 2022, Memorandum Opinion/Judgment which denied Ms. Parks the chance to file an appellate brief, the December 20, 2022, refusal of her Motion to Recuse several justices, and the failure to address her Motion to Vacate the November 30, 2022 Order after Justice Craig Smith's recusal. Additionally, the request encompasses the Court's neglect to rule on Ms. Parks' Motion for a New Trial in light of ongoing judicial misconduct at both the trial court and appellate levels.



OPINIONS BELOW

The opinion of the Court of Appeals Fifth District of Texas at Dallas appears at (Appendix F) to the petition and has been designated for publication and is reported at *Parks v. Affiliated Bank*, No. 05-21-00411-CV (Tex. App. Oct. 21, 2022)



JURISDICTION

This Court holds jurisdiction pursuant to 28 U.S.C § 1257(a). Final judgment by the 5th Court of Appeals of Dallas issued on October 21, 2022, denial of rehearing detailed in Appendix F. The petitioner's

Motion to Vacate the October 21 Memorandum Opinion and Motion for Rehearing, recorded in Appendix E, was rejected. Additionally, the order denying the Motion for Reconsideration En Banc on November 30, 2022, Appendix D. Following these proceedings, Texas Supreme Court dismissed Petitioner's Review Petition on May 26, 2023, and subsequent Rehearing Motion on August 18, 2023, shown in Appendix A. This Court extended the deadline for filing writ of certiorari petition to January 15, 2023, making it due January 16, 2023, due to the Martin Luther King holiday.

This petition challenges the November 30, 2022, denial of Ms. Parks' recusal motion by Chief Justice Burns, III, Justice Ken Molberg, and Justice Bill Pedersen, III, among others justices who participated on multimember panel decisions with 2 other justices who were disqualified and later recused themselves only after rendering orders on those panels, as well as the October 21, 2022, decision that dismissed her appeal without briefing, denied the right to supplement the clerk's record, and refused a new trial due to transcript inaccuracies, thereby impeding Ms. Parks' ability to present her case.

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**CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

Federal Constitutional Provision:

The FOURTEENTH AMENDMENT of the United States Constitution provides, in pertinent part: "nor shall any State deprive any person of life, liberty, or property, without due process of law."

The SEVENTH AMENDMENT provides: "In all suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved and no fact tried by a jury shall be otherwise reexamined by an court of the United States."

The EIGHTH AMENDMENT provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

Texas Constitutional Provision:

Article 1. BILL OF RIGHTS

- Sec. 3a. EQUALITY UNDER THE LAW. Equality under the shall be not be denied or abridge because of sex, race, color, creed, or national origin.
- Sec. 13. EXCESSIVE BAIL or FINES: CRUEL or UNUSUAL PUNISHMEN; OPEN COURTS; REMEDY by DUE COURSE of LAW. Excessive bail shall not require, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him, in his lands, goods, person or reputation, shall have remedy by due process of law.

- Sec. 15. RIGHT OF TRIAL BY JURY. The right of trial by jury shall remain inviolate. The legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency.

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INTRODUCTION

Petitioner respectfully submits this petition for writ of certiorari, seeking Supreme Court's intervention to address significant constitutional and judicial concerns raised during proceedings in the Court of Appeals 5th District of Texas at Dallas. This petition emphasizes violations of due process, equal protection, lack of safeguards against excessive fines and cruel punishment under the Fourteenth, Seventh, and Eighth Amendments. Central to the appeal are instances of judicial bias, procedural errors, and political influences compromising the judiciary's impartiality and integrity.

This case illustrates judicial failures, notably judges' refusal to recuse despite clear conflicts of interest and unjust dismissal of a Bill of Review on questionable grounds, signaling a departure from fairness. Moreover, the imposition of disproportionate court costs and judgments underlines an Eighth Amendment issue, necessitating the Supreme Court's oversight.

Ms. Parks' experiences highlight systemic issues within the judiciary, affecting public trust and demanding a reaffirmation of commitment to fairness and rule of law. This writ presents the Supreme Court with an opportunity to correct judicial ethics, procedural fairness, and safeguard constitutional rights, pivotal for maintaining confidence in the judicial system.

This case also calls for urgent reform in judicial recusal rules, as evidenced by landmark decisions like *Republican Party of Minnesota v. White* and *Williams v. Pennsylvania*. The need for objective recusal standards, underscored by *Caperton v. A.T. Massey Coal Co.*, remains inadequately addressed in Texas, reflecting systemic deficiencies in ensuring judicial impartiality. This petition urges the Court to grant the writ to uphold the judiciary's integrity and foundational principles of democracy, emphasizing the necessity for clearer recusal protocols to restore trust in the judicial process.



STATEMENT OF THE CASE

Petitioner a licensed realtor and broker in Texas built her business over an extended period of time and developed an online presence generated a continuing stream of clientele which became a key source of business and revenue for Petitioner

Respondents Joshua Campbell and Katherine Campbell were in the mortgage business and, employees, of Respondent Affiliated Bank.

Petitioner had a client, the prospective buyer of a residential home.

The Respondents where responsible for securing a mortgage loan for the buyer but made errors in processing the loan that resulted in Petitioner's client losing out on an opportunity to purchase one home under contract.

As the closing date for the second property neared, the Campbells knew their errors would prevent the transaction from closing but failed to disclose this to the Petitioner or the buyer.

The Petitioner and the buyer discovered an issue with the second loan when the title company informed Parks of a processing error on the closing day.

The Petitioner immediately contacted the Campbells to determine the issue and how get it back on track, but they neither answered nor returned her calls. Consequently, Parks texted the Campbells to inquire about the situation.

Meanwhile, Petitioner's client and four children had vacated the residence they lived for seven years in reliance of the scheduled closing date.

Because the second loan failed to go through due to the Campbells' negligence, Petitioner's client

and four children were rendered homeless until a friend with a two-bedroom apartment, and two children of her own, opened her doors to the buyers and their kids.

The Petitioner's client and her four children lived out of suitcases for weeks while waiting for their loan to be reprocessed, allowing the transaction to close so they could move into their home.

In the meantime, the buyers enrolled their children for school in the area where the home was located, approximately thirty minutes away from where the buyers were staying while they were in limbo.

Eventually, a loan was obtained, transaction closed and funded, and Petitioner's client and children were able to move into a new home.

After closing, Parks discovered someone made a defamatory posting about her on an internet site called "Rip Off Report". The Defamatory Internet Post states it was made by a "Concerned Buyer." The Post identifies Parks by first/last name, provides information regarding her personal residence and discloses her personal cell phone number.

The Defamatory Post calls Parks' character, competence and integrity into question by an anonymous person.

Petitioner immediately suspected the Respondents' Campbells of publishing the post.

When confronted, the Campbells vehemently denied the accusation.

Parks then brought the issue to the attention of Respondents Affiliated Bank. However, Affiliated Bank sent Petitioner a letter denying any wrongdoing and threatening to pursue legal remedies and seek recovery of attorneys' fees against Petitioner if Petitioner took any action against them.

Petitioner hired legal counsel and spent thousands of dollars going through the cumbersome legal process involved with ascertaining who made the Post and ultimately secured an IP address that revealed the post was made by the Respondents' Campbells who were denying they wrote the posting.

Almost simultaneously with the Campbells' defamatory internet post, Parks' online business generation ceased. This clear and conspicuous impact severely harmed her business.

Postings on RipOffReport.com are permanent. The only recourse against a negative post is to pay computer experts' significant fees to use programs that "suppress" the defamatory post, temporarily preventing it from appearing on the initial pages of search results.

However, when a victim stops paying for "suppression" services, the Defamatory Post will creep back up to the first page of internet search results.

Petitioner subsequently filed a lawsuit, asserting negligence, negligent misrepresentation, negligent hiring, retention and superstition, gross negligence, libel per se, libel per quod, slander, business disparagement, invasion of privacy, tortious interference with prospective contracts and business relationships, intentional infliction of emotional distress, fraud, fraudulent misrepresentation, and malice claims against the Respondents Campbells and against Affiliated Bank the alleged respondeat superior liability for the Campbells' acts and omissions.

This case was filed in Judge Sally Montgomery's court, Dallas County Court of Law #3. On October 16, 2015, Respondent Affiliated Bank filed its Original Answer, Verified Denial, and Affirmative Defenses. Joshua Campbell filed his Motion to Dismiss Under the Texas Citizens Participation Act on November 23, 2015. A hearing on Defendant Joshua Campbell's Motion to Dismiss Under the Texas Citizens Participation Act was held in the trial court on March 22, 2016.

During the hearing Judge Montgomery stated on the record that the Respondents created the problem for Petitioner and she hated the Campbells' lied. As Respondent Joshua Campbell admitted in deposition that he lied in the defamatory posting because he didn't want to work with Petitioner any more.

After the hearing, Respondent Joshua Campbell filed Christopher Hensen's Affidavit for

legal fees on March 24, 2016. Similarly Respondent Affiliated Bank submitted John G. Browning's Affidavit on the same date.

Judge Montgomery, signed the Order on Defendant Joshua Campbell's Motion to Dismiss awarding a total judgment of \$92,173.90 against Petitioner. This included \$62,297.50 to Respondent Joshua Campbell and \$29,873.40 to Respondent Affiliated Bank for court cost, attorney's fees, and other expenses incurred in defense.

On April 21, 2016, the Petitioner filed a Motion for New Trial and an Alternative Motion to Vacate, Modify, Correct, or Reform Judgment. The hearing for the Motion for New Trial took place on June 13, 2016.

During the Motion for New Trial hearing Judge Montgomery admitted to issuing the judgment incorrectly.

Judge Montgomery directed the Petitioner and Respondents' counsels to mediate the judgment during the hearing, but the Respondents used the excessive judgment as leverage, threatening financial repercussions against the Petitioner's assets if she didn't dismiss her case.

The parties didn't come to any agreement, so Judge Montgomery then stated that she would grant Petitioner a New Trial for Affiliated Bank.

After she stated on the record Respondent counsel told Judge Montgomery, she no longer had plenary power so she could not grant Petitioner a new trial according to Texas Rules of Civil Procedures 325b(e).

This was not true due to the fact Petitioner's Motion for new trial was filed timely giving Judge Montgomery a total of 100-days of plenary power.

After the court told Petitioner she no longer had plenary power, Judge Montgomery continued to threaten Petitioner with the judgment so Petitioner felt set up and asked the Judge about information she obtained about the lawyer-client-relationship she and respondents' counsel John Browning failed to disclose.

Judge Montgomery and Respondent's counsel, John Browning, misrepresented their long-standing lawyer-client relationship and its privileges on the record. This relationship, evidenced in Judge Montgomery's campaign finance reports, indicates their dishonesty during an active hearing and about Texas laws and conflicts of interest.

Judge Montgomery then stated Petitioner could have recused her, but it was too late so Petitioner's only option was to Dismiss her case or have a judgment against her.

Petitioner Parks didn't know about this relationship until after the judgment was rendered

as she was not active politically to have known about these relationships nor did she know how to research if a judge had conflicts of interest that would disqualify a judge.

Judge Montgomery coerced the petitioner by stating she had only two options: dismiss her case or face a \$92,173.90 judgment against her.

As the Petitioner questioned Judge Montgomery's lack of plenary power, her bailiff threatened the Petitioner with jail time to enforce the agreement. Although Judge Montgomery did not instruct him to do so, she was off the bench and standing at the Respondents' table in her judicial robe, appearing to advocate for the Respondents.

Petitioner then stated on the record she felt forced to accept their deal to dismiss her case because she feared jail time and the respondents would take everything from her even though she had not done anything wrong and Respondents' lied to maliciously hurt Petitioner's reputation and business.

Judge Montgomery even admitted on the record the Respondents were the problem for Ms. Parks, but she failed to mention she had several conflicts of interest with the Respondents' counsel that would make her disqualified to hear the case. There was an appearance of her advocating for the Respondents' by misrepresenting the laws of the state and the constitution.

After the Bailiff threatened jail time and Judge Montgomery stated Petitioner only had two options, Petitioner stated on the record that she was "forced to accepted the deal" to dismiss her case. Judge Montgomery then states on the record that Ms. Parks cannot say forced as the agreement would not be valid.

Petition was under so much duress due to all the threats so she involuntary dismissed the case so she could leave the courtroom where she felt threatened.

After the hearing, the Petitioner learned she could appeal her coerced agreement, made under duress by a disqualified judge with undisclosed conflicts of interest, who had provided her with false legal information. She also possessed evidence showing that Judge Montgomery threatened to sanction her attorney if he filed a Motion for New Trial involving Respondent Affiliated Bank, represented by John Browning, Judge Montgomery's long-standing-attorney.

On July 7, 2016, the Petitioner filed an appeal, unaware of additional conflicts between Respondents' counsel and justices on the 5th Court of Appeal related to upcoming political elections and business projects. These projects were crucial for maintaining attorney John Browning's reputation without exposing his unethical actions. These conflicts deprived the Petitioner of her rights to a fair trial and appeal.

During the 2016-2018 appeal, the 5th court of appeals requested finding and fact hearing from the lower court to determine if Petitioner was coerced and under duress. The Petitioner moved to recuse Judge Montgomery due to conflicts of interest, which she denied. At the hearing, Judge Montgomery was discovered engaging in ex parte communication with the Respondents' counsel without the presence of the Petitioner's attorney.

Once the hearing was started it was changed to Judge Ted Akin. Respondents' Counsel and Judge Montgomery organized 6 bailiffs to be around the courtroom while Petitioner was giving testimony regarding how she was coerced and under duress at the motion for new trial hearing and how she felt when Judge Montgomery and John Browning were dishonest about their lawyer-client-relationship and the rules of law. This was intimidation in a civil courtroom as Petitioner was exposing judicial misconduct not realizing she was being set up again by judges and justices with severe conflicts that go against the rule of law and impartiality of the judicial system.

At this point, the opposing counsel was campaigning to become a justice of the 5th Court of Appeals, which was handling her appeal. Judge Atkins used a pre-written findings and facts document by Browning, adding only a few irrelevant details, disregarding the Petitioner's testimony. The appeals court subsequently dismissed the Petitioner's appeal based on Browning's document. The panel involved in the 2018 dismissal was

actively campaigning with Browning. This connection illustrates a clear conflict of interest, showing impropriety in the justices' failure to recuse themselves due to their financial and political ties, as they campaigned together on the 5th Court of Appeals.

After reviewing the unlawful dismissal of her case, the Petitioner discovered contradictory opinions from the same panel in similar cases. She learned about the Bill of Review, which can be filed in instances of court fraud, official misconduct, wrongful acts by the opposition, and accidents not caused by the party seeking the Bill of Review. This legal option is available when a judgment, believed to violate due process, needs to be challenged.

In 2019 Parks filed the Bill of Review to attack the judgment render by Judge Montgomery in Dallas County Court of Law #3 for \$92,173.90, in 2016.

Respondent Affiliated Bank by way of their attorney John Browning filed a Motion for Plea to Jurisdiction and filed a letter to the court to not allow Respondent Campbells be served Petitioner's Bill of Review so they were never served.

Shortly after Respondents' filing of the plea to jurisdiction, Judge Montgomery filed a Voluntary Motion to Recuse, but failed to recuse back in 2016 before she rendered the excessive judgment when she was disqualified for the same reasons she needed to recuse once the Bill of Review was filed to

attack her unlawful judgment that should be vacated because she was disqualified in 2016.

The case was then transferred to Judge Paula Rosales in Dallas County Court of Law #1 who had a hearing on the case, but after the hearing and reviewing the pleading, she decided to voluntarily recuse herself. In her Order - she noted after reviewing the case and parties, recommended this case be moved OUT of Dallas County to safeguard against potential biases. This act of honor not only could have protected the parties involved but also upheld the integrity of the court and the Constitution.

Judge Rosales states she works with Judge Montgomery and she didn't feel Petitioner would get justice in Dallas County due to relationships with other judges in Dallas County with the same conflicts or more.

The case then transferred to Judge Demetria Benson in Dallas County Court of Law #1 who voluntary recused herself after reviewing the pleading and knowing the parties involved.

The case was transferred to Judge Melissa Bellan in Dallas County Court of Law #2, who did not recuse herself and had the same conflicts as the other judges that recused themselves. Due to conflicts that became very apparent, Petitioner filed a motion to Recuse Judge Bellan, but she denied. On March 8, 2021, Judge Bellan Granted the Respondents' Plea to Jurisdiction *with* prejudice,

even though Petitioner's Bill of Review was filed in the correct court, but Judge Montgomery who rendered the 2016 judgment voluntarily recused herself so that would make Judge Bellan the only judge with jurisdiction. Judge Bellan also dismissed the case with prejudice stating she didn't have jurisdiction which barred Petitioner from refiling her Bill of Review in the correct court if there was one.

Petitioner filed a motion for new trial on April 6, 2021, which was denied on May 22, 2021.

Petitioner then filed an appeal on June 4, 2021, regarding Judge Bellan order granting Respondent Plea to Jurisdiction and doing it *with* prejudice even when she did have jurisdiction.

Due to multiple justices on the 5th Court of Appeal who were aware of the parties and the merits on appeal Petitioner was faced with more challenges of justices failing to recuse themselves who had apparent conflicts of interest.

Even though Respondent counsel didn't win the 2018 election to be a justice on the court. He was later appointed by Governor Greg Abbott after a justice was killed in a car accident in 2020, but later Browning lost the 2020 election, so he was unable to stay on the court. Making him a former colleague with the justices currently on the 5th court of appeals.

During the appeal, the petitioner encountered uncorrectable altered transcripts from the lower court and inaccurate county trial clerk records. The 5th Court of Appeals allowed a hearing regarding the altered transcripts going back to Judge Bellan, but multiple backup recordings were destroyed, full correction was impossible. Petitioner was also denied of a new trial. Additionally, the petitioner was denied the right to supplement an incomplete appellate record that lacked 40 exhibits crucial for her Bill of Review. Despite her attempt to correct this by requesting an extension to include the missing exhibits, the justices dismissed her appeal without allowing her to present a brief, contravening laws intended to protect her appellate rights.

On September 14, 2022, the opinion panel consisting of Justice Robert Burns III, Justice Ken Molberg and Justice Bonnie Goldstein dismissed Petitioner's appeal.

Following this dismissal, the petitioner brought to the court's attention the prior knowledge on the merits Justice Goldstein had who participated on the panel to dismiss petitioner's appeal. Given her knowledge of the parties and the case's details, her participation necessitated disqualification from making judicial decisions regarding this matter. Justice Goldstein recused herself on October 21, 2022. However, the court subsequently vacated the dismissal after the recusal and appointed Justice Bill Pederson III to the panel, a move met with contention due to his known familiarity with the case like other justices on the

court. The only modification in the new opinion was removal of Justice Goldstien and replacing her name with Justice Pederson III, while still having Justice Robert Burns III and Justice Ken Molberg who participated in the panel with Justice Goldstien, now disqualified, making those two-justices tainted by participating on a panel with Justice Goldstein. The retention of the opinion with which Justice Goldstein, had participated, potentially further compromising the court's integrity.

Unfortunately, Petitioner was faced with another daunting task to file a Motion for En Banc Reconsideration to retrieve her case. She filed a motion to recuse other justices' participation on panels that would require them to recuse, but they failed to do so.

Justice Craig Smith, with extensive case knowledge from his time as a district judge, made a concerning statement to Petitioner. He stated, "You better be careful. These are people I serve on the same bench. You can start blasting lawyers all you want. You start blasting judges, you're not going to be well-received in this court." This statement shows he is not going to treat litigants fairly if you speak on unlawful actions of the judges he serves on the same bench with, which would disqualify him for participating on the En Banc Reconsideration panel with all of the justice of the court.

Such remarks deter litigants from voicing legitimate concerns about judicial misconduct, undermining the foundation of fair justice. If judges

become aware of their colleagues' actions that infringe on a party's due process rights, it's their duty to report such misconduct and ensure justice within their capacity. Justice Smith's prior involvement should have disqualified him from participating in the En Banc panel's decision on the petitioner's motion. As a result, the petitioner was forced to request his recusal and the vacating of the En Banc justices' order. Despite his eventual recusal, the 5th Court of Appeals didn't address the Motion to Vacate the En Banc Reconsideration ruling, perpetuating the due process violation and continuing to deny the petitioner her right to a fair trial.

It should be noted Judge Sally Montgomery, Judge Melissa Bellan, Judge Demetria Benson, Justice Bonnie Goldstein, Justice Craig Smith, Chief Justice Robert D. Burns, III, Justice Ken Molberg, Justice Bill Pedersen, III, Justice Cory Carlyle and other justices on the 5th Court of Appeal all share under the same Democratic campaign management as they run as a team against other Democrats in primary elections. These justices and judges all campaign for each other, endorse each other, and hold political fundraisers with each other while it is found they share donation for marketing and etc. during the primary. This cast a reasonable doubt on the impartiality when those decisions completely deter from the fundamental laws of this state and constitution.

With that said, the court never ruled on the motion to vacate leaving petitioner without the right

to file an appeal on her Bill of Review to attack the excessive judgment ordered by Judge Montgomery in 2016. This left Petitioner unable to have her case heard in front of a neutral judge from the underlying case with Judge Montgomery to her Bill of Review which followed with the same continued judicial misconduct that deprived her of her constitutional right to a fair trial and right to appeal if the trial court gets it wrong. Due to protective bubbles around the judges and justice who share political ties and other conflicts cast a strong shadow of doubt on the judicial integrity.

This case exhibits continued pattern of judges and justice failing to recuse themselves and only recusing themselves after they have rendered order that would deprive Petitioners rights to fair due process. This is why it's important for this court to take this petition under review.



REASON FOR GRANTING THE PETITION

1. **Egregious Disregard for Due Process and Fundamental Rights:** The lower courts have shown a flagrant disregard for due process and the denial of the petitioner's fundamental rights.
2. **Judicial Misconduct and Bias:** Petitioner's case presents serious allegations of judicial misconduct and bias, raising significant

concerns about impartiality of the judicial system. This matter is of national importance, as it affects numerous individuals across the country.

3. **Financial Burdens and Access to Justice:** The financial burden of civil litigation often renders justice inaccessible, especially for indigent litigants who must finance their own defense. This issue directly impinges upon rights protected under the 14th Amendment. The Court's review is necessary to address these systemic barriers and ensure justice remains accessible to all, regardless of financial circumstances.
4. **Compromised Integrity and Impartiality of the Appellate Process:** The failure of justices to recuse themselves despite clear conflicts of interest has severely compromised the integrity and impartiality of the appellate process. This situation has cast doubt on the fairness of proceedings and necessitates the Supreme Court's scrutiny.
5. **National Concern and Public Trust:** The issues raised in this case are of national concern and affect public trust in the legal system.
6. **Upholding Constitutional Principles:** The case presents an opportunity for the Supreme Court to reaffirm the principles of fairness, due process, and judicial integrity.

7. **Disparity in Protections Between Criminal and Civil Litigants:** Petitioner highlights the disparity in protections afforded to criminal defendants compared to civil litigants. Civil litigants face excessive legal fees and judgments favoring parties with conflicts of interest.
8. **Burden of Investigating Judicial Background:** The onus of investigating a judge's personal life, biases, and connections shouldn't fall on litigants. This case exhibits the need for judicial transparency and accountability to maintain public trust in the judiciary.

Supreme Court's intervention is paramount to address and remedy the entanglement of disqualified judges still issuing unlawful orders, judgments, and opinions.

Excessive Cost Violating the 8th Amendment (A Call for Supreme Court Review)

This glaring issue demands the attention of this Court is the persistent disparity in judicial treatment experienced by those who lack unlimited financial resources, political connections, or influence in the political area. This inequity is a stark violation of the principles of equality and justice that are foundational to our legal system and Constitution.

Our courts are increasingly perceived as operating on a "pay-to-play" basis, where access to justice and fair treatment are contingent on financial means and connections. This system disproportionately harms those who lack the resources to navigate it, further entrenching social and economic disparities.

Moreover, the issue of collusion and fraud within the judicial system is a pressing concern that requires immediate addressal. When instances of collusion and judicial misconduct are clearly identifiable, there must be established laws and remedies to protect the rights of litigants and maintain the sanctity of the judicial process. The lack of such mechanisms not only denies justice to those directly affected, but also erodes public's trust in the legal system as a whole.

Evidence will show judges and justices in Texas are not adhering to established rules, instead protecting friends, favoring campaign donors, and failing to remand unlawful rulings. This political bias deprives litigants of their constitutional right to a fair and unbiased trial in both lower and appellate courts.

How Unfair Treatment Affects Public

This Petition for a Writ of Certiorari will highlight a pressing concern regarding judicial impartiality and the adherence to due process, underscored by failures to recuse in critical instances. This concern is epitomized by the

situation involving Justice Bill Pederson, who was appointed to a panel following the participation of the disqualified Justice Goldstein, without rectifying the bias introduced into the panel's decision-making. Such actions contravene the principles established in *Williams vs. Pennsylvania*, which mandates recusal in cases of significant conflict of interest to preserve the integrity and impartiality of the judiciary.

Williams v. Pennsylvania, a landmark Supreme Court case, underscores the crucial need for judicial recusal to ensure fairness. It involved Terrance Williams, whose appeal revealed a conflict of interest with Ronald Castille, who had been a prosecutor in his case and later became Chief Justice of the Pennsylvania Supreme Court. The Supreme Court affirmed a Due Process Clause violation, highlighting the need for an objective assessment of potential bias to maintain judicial integrity.

This framework reveals a broader issue: judicial failures undermine due process rights, causing systemic injustices to civil litigants. These individuals face their original cases and the challenge of confronting biases, procedural injustices, and financial extortions. Injustices include unwarranted punitive measures, excessive court fees, and manipulated judicial processes influenced by undisclosed conflicts of interest and political contributions, eroding public trust in the judiciary.

Civil litigants, treated unfairly like criminals, face a system where financial capability influences outcomes due to judicial bias from campaign finance and political partnerships. This causes financial and emotional strain, embarrassment, and humiliation, worsening challenges for individuals seeking justice. The petitioner, a first-generation business owner, exemplifies these broader injustices, hindering the pursuit of generational wealth and equity.

It's with this understanding that we urge the Court to implement necessary safeguards to correct these grave injustices. Our plea is for the Court to act decisively in restoring fairness, equality, and justice within our legal system, ensuring that all individuals, irrespective of financial standing or background, are afforded a fair and trustworthy judicial process. This petition seeks not only to address the specific injustices encountered by the petitioner but to catalyze reform that upholds the foundational principles of our democracy and judiciary.



ARUGUMENT AND AUTHORITES

A. Equitable Bill of Review:

Deprived of her due process, constitutional and statutory rights, the Petitioner's Bill of Review was denied consideration by the Dallas County Courts at Law, which was timely and jurisdictionally filed by filing it in the correct court who rendered the

judgment while providing key evidence meeting the elements required for a Bill of Review. Additionally, the 5th Court of Appeals compounded this deprivation by denying her extension to supplement the record, which was necessary due to inaccuracies, thus preventing her from properly presenting her case based on its merits that were before the court deprived her of due process.

To obtain a bill of review, a litigant must plead and prove (1) a meritorious defense to the cause of action alleged to support the judgment (2) that he was prevented from making by the fraud, accident, or wrongful act of his opponent, (3) unmixed with any fault or negligence of his own.¹ or part.² Typically, equitable bills of review have a four-year-statute-of-limitations.³ Ms. Parks met all requirements for a Bill of Review, which was contested by counsel John Browning with a Plea to Jurisdiction aimed to block its progress. Browning's failure to disclose conflicts, political, campaign, and potential financial ties with judicial officials across both lower and appellate courts fundamentally compromised Ms. Parks' rights.

¹ See, *Mabon Ltd. v. Afri-Carib Enters., Inc.*, 369 S.W.3d 809, 812 (Tex. 2012).

² *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751-52 (Tex. 2003); *Alexander*, 226 S.W.2d at 998; see also Patrick J. Dyer, A Practical Guide to the Equitable Bill of Review, 70 Tex. B.J. 20, 22 (2007).

³ *Caldwell v. Barnes*, 975 S.W.2d 535, 538 (Tex. 1998) (citing TEX. CIV. PRAC. & REM. CODE § 16.051).

The Petitioner's ability to present her case was hindered by fraud, wrongful acts by opponents, and misrepresentation of the law, alongside unlawful threats, without any fault or negligence on Petitioner's part. These actions, violated her 14th Amendment rights, leading to significant financial harm. This pattern of injustice mirrors wider issues within Texas and beyond, warranting this Court's review to establish clear judicial guidelines.

In the initial case, Judge Montgomery issued judgments against Ms. Parks without any motion from several defendants or a fair evaluation of facts and laws. The judgments, based on uncontested affidavits submitted minutes prior, were awarded without any formal request or opportunity for cross-examination. Subsequent hearings further intimidated Ms. Parks, with excessive bailiff presence and denied private counsel discussions, under the threat of incarceration by Judge Montgomery and counsels including John G. Browning falsely claiming Judge Montgomery's loss of plenary power, contrary to Texas Rules of Civil Procedure 329b(e).

Moreover, during a Motion for New Trial hearing, both Judge Montgomery and Attorney John G. Browning lied about their prior lawyer-client relationship, questioning court impartiality and misapplying state and constitutional laws. Browning's later admission of such a relationship confirmed these ethical breaches.

Ms. Parks now faces undue financial burdens, with judgments nearing \$93,000.00 as a result of these proceedings. This mistreatment, stemming from judicial fraud, official errors, and wrongful acts, prevented her from appealing against defendants Joshua Campbell, Katherine Campbell, and Affiliated Bank, prompting to her filing of a Bill of Review to contest Judge Montgomery's judgment.

This case exemplifies a miscarriage of justice, encapsulated within a system marred by judicial corruption and misconduct. The challenges faced by the Petitioner in advancing her Bill of Review, through no fault of her own but due to judicial collusion and undisclosed conflicts, call for this Court's urgent intervention.

B. Jurisdiction For a Bill of Review:

For jurisdictional purposes, the petitioner filed a Bill of Review in Judge Montgomery's court, the judge who issued the original 2016 judgment, adhering to the necessary rules. However, Judge Montgomery and two other judges recused themselves due to conflicts with the parties, opposing counsel, and other judges from the 2016-2018 underlying case. This left Judge Melissa Bellan as the proper judge with jurisdiction. Therefore, Judge Bellan was the only judge with jurisdiction to hear the case, which she wrongfully dismissed

WITH prejudice, stating she didn't have jurisdiction when she did.⁴

C. Appeal:

On September 14, 2022, the 5th Court of Appeals rendered a decision that profoundly affected the petitioner's pursuit of justice. The court, disregarded petitioner's procedural rights, denied her appeal and refused to permit briefing. This denial came despite petitioner's legitimate and timely request for an extension, to supplement the clerks record due to critical omission of 40 vital exhibits from the trial clerk's record.⁵

Unexpectedly, her appeal was dismissed before she could submit a brief, leaving her unable to address the recusal issue alongside the substantive matters of her appeal.

The procedural setbacks she encountered, including delays and inaccuracies in the transcript and missing exhibits from the trial clerk, exerted significant mental and physical toll on Ms. Parks, exacerbating stress to unbearable levels. This conduct by the justices not only inflicted undue harm

⁴ Rodriguez v. EMC Mortgage Corp., 94 S.W.3d 795, 797 (Tex. App.—San Antonio 2002, no pet.).

⁵ **At any time**, the appellant notice that the clerk's record is incomplete – According to Tex. R. App. P. 34.5 (B) (4) Failure to Timely Request. **An appellate court must not [refuse] to file the clerk's record or a supplement clerk's record because of a failure to timely request items to be included in the clerk's record.**

on petitioner but also compromised the integrity of the court. Such a stark denial of due process and consequent inability to pursue an appeal or present her case violated core principles of fairness and justice, leaving her without the chance to argue her position in the lower courts.

D. Failure to Recuse:

Filing recusal can be daunting due to concerns about antagonizing the judge, yet, certain judges should have proactively recused themselves given their prior knowledge of the case. Before the appeal's dismissal, the panel composition was unknown, making specific recusals challenging to determine. Importantly, Justice Goldstein had prior discussions with the petitioner, revealing a conflict of interest that should have precluded her from serving on the panel.

Additionally, the petitioner's opposition, John Browning, had connections with the justices of the 5th Court of Appeals, complicating the matter further. Justice Goldstein's eventual recusal came only after the petitioner took the procedural steps to challenge her participation, actions that unfortunately might bias other justices. This necessity for petitioner-initiated motions underscores a flaw in the system, where the burden of ensuring judicial impartiality falls on the parties involved, rather than on the justices' self-awareness of their disqualifications.

This obstruction highlights a broader issue: when judges are aware of potential conflicts or misconduct affecting due process within their ranks, they have a duty to address and rectify it.

E. Reporters and Supplement Record:

Although the 5th Court granted a hearing to assess transcript accuracy, it failed to correct identified errors. Judge Bellan, presiding over this matter, chose not to address significant discrepancies in the transcripts and prevented the petitioner from using alternative transcripts from Judge Montgomery that would have demonstrated these differences. The deletion of two key audio recordings by court reporters aggravated the situation, leaving only one flawed, partially audible recording for review. With three different transcripts produced from three hearings and just one usable recording, Judge Bellan could not make necessary corrections. This left the petitioner with an incomplete and inaccurate record for her appeal and raised serious concerns about the potential manipulation and destruction of transcripts.

Such procedural errors and mismanagement, underpinned by law, should have necessitated a new trial for the petitioner. Moreover, continued misconduct and evident conflicts warranted Judge Bellan's recusal. The temperament displayed by Judge Bellan during the hearing concerning transcript accuracy, possibly influenced by an investigation by the Texas Ethics Commission for

failing to file campaign finance reports, further muddies the integrity of the proceedings.

The Texas Ethics complaint came from Ms. Parks due to conflicts she noticed and years of campaign finance reports that were not filed for public view. The hearing for the accuracy of the transcripts was held on February 18, 2022, and Judge Bellan had a hearing with the Texas Ethics Commission regarding Ms. Parks' ethic complaint on February 24, 2022. During the hearing on February 18, 2022, due to Judge Bellan's temperament Petitioner request Judge Bellan to recuse herself from the case, but she denied knowing the complaint was filed by Ms. Parks. On April 7, 2022 the Texas Ethics Commission determined that there is credible evidence of violations of Section 254.031 of the Election Code, a law administered and enforced by the commission, so to resolve and settle the complaint without further proceedings, the Commission adopted an Order and Agreed Resolution which validated some of the concerns listed in Ms. Parks' complaint⁶.

Judge Bellan and her court reporter Robin Washington's action would appear retaliatory against Ms. Parks. Parks notified the 5th Court of Appeal of all of this, but they failed to take action in recusing Judge Bellan and allowing a New Trial to protect the

⁶ See

https://www.ethics.state.tx.us/data/enforcement/sworn_complaints/2021/32106143.pdf

Furthermore, the transcripts could not be corrected by agreement because not all parties involved in the three prior trial court hearings were present at the 5th Court of Appeals' hearing to verify transcript accuracy. Opposing counsel John Browning was absent, and two of the three audio recordings from these hearings were deleted. The petitioner needed accurate transcripts to properly file her brief and cite the record. However, with the recordings inaudible, deleted, or destroyed, there was no feasible way to correct the transcripts. Petitioner ask the 5th Court of Appeal for a new trial per TRAP 34.6 (e) and (f)⁷ While explaining the reasons and informing the court that she could provide additional audio evidence demonstrating that the recording played by court reporter Washington might have been altered, the petitioner stated she had her own recording of the hearings which could prove alterations. However, the 5th Court of Appeals denied her motion. The petitioner

⁷ Johnson v. State, 151 S.W.3d 193, 196 (Tex. Crim. App. 2004) (footnotes omitted). TEX. R. APP. P. 34.6(f); see Nava v. State, 415 S.W.3d 289, 305 (Tex. Crim. App. 2013); Castillo v. State, No. 01-13-00632-CR, 2015 WL 1778776, at *2, _S.W.3d_, _(Tex.App.-Houston [1st Dist.] April 16, 2015, no pet.); Mendoza v. State, 439 S.W.3d 564, 566 (Tex. App. -Amarillo 2014, no). Appellants are also entitled to a new trial when several portions of the transcript are inaudible portion of the reporter's record, or lost or destroyed exhibits, is necessary to the appeals resolution. Moreover, if lost, destroyed or inaudible portions of the reporter's record cannot be replaced by agreement of the parties, or the lost or destroyed exhibits cannot be replaced either by agreement.

also requested Ms. Washington's recording, played during the hearing, be entered as evidence in the appellate record since they were played at the hearing, but this request was denied by the 5th Court of Appeals.

When it comes to the rules that govern record supplements for appeals—Texas Rules of Appellate Procedure 34.5(c) and 34.6(d)—are mercifully simple. It can be reduced to a sentence. Any party, the trial court, or the appellate court may “by letter direct” the trial court clerk or reporter to “prepare, certify, and file” a desired record supplement.⁸ That is all. No motion for leave is required.⁹ Nor are there stated time limits. To the contrary, “[a]n appellate court must not refuse to file” a supplemental record because of “a failure to timely” request it.^[7] And lastly, any supplement “will be part of the appellate record.”¹⁰ No discretion plays a part (*arguably*).

The absence of complete and accurate transcripts and clerk's records impedes the petitioner's ability to demonstrate adherence to the essential elements of a Bill of Review. Specifically, it hampers the ability to elucidate why the judge had jurisdiction, the necessity of a Bill of Review to challenge Judge Montgomery's judgment, and the basis for objections to the defendant's motion for plea to jurisdiction.

⁸ Tex. R. App. P. 34.5(c)(1) & 34.6(d) (emphasis added).

⁹ see *Roventini v. Ocular Sci., Inc.*, 111 S.W.3d 719, 725 (Tex. App.—Houston [1st Dist.] 2003, no pet.)

¹⁰ Tex. R. App. P. 34.5(c)(1) & 34.6(d) (emphasis added).

In support of this writ, the petitioner references Texas Rules of Appellate Procedures 34.5(d) Clerk's Record, notably *Holmes v. Jaafreh* and *Charles v. Diggs*, highlighting the appellate clerk's duty to address defects or inaccuracies in the clerk's records. These precedents underscore the principle that appellants should not suffer adverse consequences due to official oversights or errors that are not of their own making. In *Gonzalez v. State*, the court acknowledged a defective clerk's record and granted a motion to correct it, further establishing this principle.

F. Other Authorities:

The Wall Street Journal's series of articles prompted Chief Justice John Roberts to address judicial conflicts at length in his annual end-of-year review.¹¹ Chief Justice Roberts wrote, "[l]et me be crystal clear: The judiciary takes this matter seriously. We expect judges to adhere to the highest standards, and those judges [referring to the judges identified in the Journal's reports] violated an ethics rule."¹²

Congress responded to a panel report about several judicial reforms by passing the Courthouse Ethics and Transparency Act, which requires,

¹¹ Adam Liptak, Chief Justice Roberts Reflects on Conflicts, Harassment and Judicial Independence, N.Y. Times (Dec. 31, 2001)

¹² Chief Justice John G. Roberts, Jr., 2021 Year-End Report on the Federal Judiciary, 3.

among other things, federal judges to make more timely and accessible disclosures of their financial holdings and potential conflicts of interest.¹³ President Biden signed the bill into law on May 13, accompanied by press releases that proclaimed the bill's merits and effects. Congresswoman Deborah Ross (D-NC) was one of the co-authors of the CETA, and she declared that "[t]he American people deserve to have confidence that they will be treated fairly when they seek justice in court."¹⁴ Congresswoman Ross notes that the bill received bipartisan support in the House and Senate, including by Senators Cornyn and Cruz. Among other things, the bill requires the Administrative Office of the U.S. Courts to create a searchable online database of judicial financial forms and post those forms within 90 days of being filed.¹⁵

State courts need the same type of attention because judges and justices are elected, making transparency and accountability essential. Voters need to know the credibility of the judges to ensure they adhere to the law. Therefore, a robust remedy is needed address non-compliance in our state and county courts like in the federal courts because they are not following the laws

¹³ Pub. L. No. 117-125, 136 Stat. 1205 (2022); amending the Ethics in Government Act of 1978; 28 U.S.C. 152 and 631.

¹⁴ ross.house.gov/media/press-releases/house-passes-ross-bill-enhance-judicial-ethics-and-trust; James V. Grimaldi, et al., Judges' Financial-Disclosure Bill Passes, Heads to President's Desk, Wall St. J. (April 27, 2022).

¹⁵ *Id.*

Due to multiple judges and justices failing to timely recuse themselves from this case violated Petitioner's Due Process 14th Amendment rights. "The Due Process Clause entitle a person to an impartial and disinterested tribunal in both civil and criminal cases." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980); accord *In re Murchison*, 349 U.S. 133, 1336 (1955) ("A fair trial in a fair tribunal is a basic requirement of due process") This Court has explained that *Marshall*, 446 U.S. at 242 (internal citation omitted). An individual, the Court wrote, must be assured "that the arbiter is not predisposed to find against him." *Id.*

The Supreme Court in 2017 confirmed that the standard for determining when the Due Process Clause requires recusal is "when, objectively speaking, the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable."¹⁶

The remedy for a due process violation of recusal rules is vacation of the underlying judgment.¹⁷

Texas appellate courts agree. "The impartiality of the judge is not only a matter of

¹⁶ *Rippo v. Baker*, 580 U.S. 285, 137 S.Ct. 905, 907 (2017), quoting *Williams*, 579 U.S.1, 8, 136 S.Ct. 1899, 1905, and *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975).

¹⁷ See *Rippo*, 137 S.Ct. at 907; *Williams*, 579 U.S. at 8; *Caperton*, 559 U.S. at 876.

constitutional law, but also of public policy.”¹⁸ Further, “[p]ublic policy demands that a trial judge act with absolute impartiality. A judge should not act as an advocate for any party. Nor should a judge act as any party’s adversary.”¹⁹

Due process guarantees to a fair tribunal are not often invoked, and are generally implicated in exceptional circumstances.²⁰

“Parties who appear before us are entitled to be heard and to have their cases decided in accordance with the governing rules. This is the irreducible minimum and tautological essence of ‘due process.’ The rules by which cases are heard and decided are not a matter of convenience or individual discretion, but a matter of law by which judges, no less than litigants, are obliged both to know and to follow.”²¹

In those circumstances in which structural error occurs that violates a litigant’s due process rights to a fair tribunal, the only remedy is to set aside the judgment and grant a new trial, as appropriate. “[t]he United States Supreme Court has repeatedly held that a violation of the right to

¹⁸ *Rymer v. Lewis*, 206 S.W.3d 732, 736 (Tex. App. – Dallas 2006, no pet.) (finding trial court acted improperly and reversing judgment).

¹⁹ *Id.*

²⁰ *Volkswagen*, 2022 WL 17072342 at *2.

²¹ *Standard Health Care Sys. v. Saidara*, 633 S.W.3d 120, 151 (Tex. App. – Dallas 2021, no pet.) (Schenck, J., concurring).

an impartial judge is a structural error that defies harm analysis.”²²

All states follow the U.S. Supreme Court’s lead on rejection harm analysis of structural errors. “A structural error affects the framework within which the trial proceeds, rather than simply an error in the trial process itself,’ and is not amenable to harm analysis.”²³ “Structural errors are reversed automatically without a harm analysis.”²⁴ “Structural errors demand reversal because harm to the defendant is irrelevant, either because we protect the right for reasons independent of preventing harm to the defendant, the harm flowing from the violation of the right is simply too hard to measure, or the violation of the right always results in fundamental unfairness.”²⁵ An unconstitutional failure to disqualify or recuse constitutes structural error not amenable to harmless error review.²⁶ The

²² *Saidara*, quoting.

²³ *Cordova-Lopez v. State*, No. 01-20-00724-CR, 2022 WL 17813762, at *1 (Tex. App. – Houston [1st] Dist. Dec. 20, 2022), quoting *Schmutz v. State*, 440 S.W.3d 29, 35 (Tex. Crim. App. 2014).

²⁴ *Schmutz*, 440 S.W.3d at 35.

²⁵ *Cordova-Lopez*, 2022 WL 17813762, at *1; citing *Weaver v. Massachusetts*, ___ U.S. ___, 137 S.Ct. 1899, 1908, 198 L.Ed.2d 420 (2017). See also *Freeman v. State*, 525 S.W.3d 755, 758-59 (Tex. App. – Austin 2017, pet. ref’d)(finding structural error).

²⁶ *People of California v. Smith*, No. B303440, 2021 WL 1540533, at *3 (Cal.App. 2nd Dist., April 20, 2021) (trial judge was former defense counsel for defendant); *Fort v. State of Oklahoma*, 2022 OK CR 12, 516 P.3d 690,

Due Process Clause requirement of an impartial and disinterest tribunal extends to state administrative proceedings of a quasi-judicial nature.²⁷ The U.S. Supreme Court determined that the lack of an impartial trial judge is structural error.²⁸ The “harmless error” analysis of *Liljebal* is inapplicable to structural error cases.

The U.S. Supreme Court and the Texas Supreme Court declared that “[a] fair trial in a fair tribunal is a basic requirement of due process.”²⁹ It’s well settled that a party has the right to a fair trial under the federal and state constitutions.³⁰ “A fair tribunal, in turn, requires a neutral and detached hearing body or officer.”³¹ Stated similarly, “[o]ne of the most fundamental components of a fair trial is a neutral and detached judge.”³²

“Due process guarantees ‘an absence of actual

²⁷ *Driftless Area Land Conservancy v. Public Service Comm’n of Wisconsin*, ___ F.Supp. 3d ___, 2020 WL 6822707, at *14 (W.D. Wis. 2020)(citing *Williams*; finding that two commissioners had potentially recusable experiences).

²⁸ See *U.S. v. Marcus*, 560 U.S. at 261.

²⁹ *Caperton v. A.T. Massey Coal Co.*, 559 U.S. 868, 876, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009); *State v. Volkswagen Aktiengesellschaft*, No. 21-030, No. 21-0133, ___ S.W.3d ___, 2022 WL 17072342, at *2 (Tex. Nov. 18, 2022) *Thomas v. 462 Thomas Family Properties, LP*, 559 S.W.3d 634, 642 (Tex. App. – Dallas 2018, pet. denied).

³⁰ *Thomas*, 559 S.W.3d at 642

³¹ *Volkswagen*, 2022 WL 17072342 at *2.

³² *Id.*, quoting *Rymer v. Lewis*, 206 S.W.3d 732, 736 (Tex. App. – Dallas 2006, no pet.) (finding trial court acted improperly and reversing judgment).

bias' on the part of a judge.”³³

The U.S. Supreme Court considers the right to a fair and impartial judge fundamental and nonwaivable.³⁴ Among other things, the Court in *Caperton* discussed the history of constitutional boundaries on due process grounds for recusal, as well as state and ABA guidelines for recusal. Noting that the case presented exceptional circumstances, the Court found that there “are objective standards that require recusal” under circumstances “in which experience teaches that the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable.”³⁵

The Supreme Court in 2017 confirmed that the standard for determining when the Due Process Clause requires recusal is “when, objectively speaking, the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.”³⁶

G. Errors in the System:

³³ *Williams*, 579 U.S. at 8.

³⁴ *See Arizona v. Fulminante*, 499 U.S. 279, 309-310, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991).

³⁵ *Caperton*, 556 U.S. at 877; *Thomas*, 559 S.W.3d at 642.

³⁶ *Rippo v. Baker*, 580 U.S. 285, 137 S.Ct. 905, 907 (2017), quoting *Williams*, 579 U.S.1, 8, 136 S.Ct. 1899, 1905, and *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975).

In Texas, judges are required to disclose any relationships that could necessitate recusal, but the absence of explicit guidelines for non-financial disclosures leads to ambiguity. The Texas Code of Judicial Conduct does not provide specific directions for disclosing potential conflicts, whether familial, financial, or personal, resulting in a lack of procedural clarity. This gap affects not only Texas but also courts across the U.S. The U.S. Supreme Court has the opportunity to establish clear guidelines for judicial disclosure and penalties for non-compliance, thus enhancing the integrity of the legal process.

While judges might face disciplinary actions ranging from reprimands to removal by the Texas Commission on Judicial Conduct for failing to meet these obligations, current mechanisms offer no recourse for overturning decisions made under undisclosed conflicts. This gap leaves litigants without remedy when their due process rights are compromised by judicial misconduct, underscoring the need for Supreme Court intervention to establish enforceable standards for judicial transparency and accountability.



CONCLUSION and PRAYER

WHEREFORE, for all the reasons set forth about, Petitioner respectfully prays and requests that the Court issue a writ of certiorari to the

Supreme Court of Texas and the 5th Court of Appeal
along with any other relief this court can provide.

♥♥♥Respectfully submitted,

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