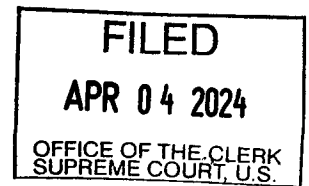


NO **23 - 7188**

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IN THE  
SUPREME COURT OF THE UNITED STATE

JACOB WINDING, In Pro Per and BELINDA SMITH, In Pro Per  
Joint Petitioners

vs.

CALIFORNIA SUPERIOR COURT, COUNTY OF San Joaquin  
Respondent(s)

On Petition for Writ of Certiorari to The Court of the State of California in and  
for the

Third Appellate District

PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

If a judge files and order Striking Petitioners verified statement of Disqualification under CCP section 170.3 but in the same moving order files and answer is the document / order govern by CCP section 170.3(c )(5) which in summation states once a judge provides an answer and refuses to recuse himself/ herself another judge is to hear and determine the matter of disqualification and thus also invoke CCP 170.3 (c )(6) in summation states that a judge cannot rule upon his own disqualification proceedings?

Is a verified statement of disqualification required to meet the standards applied to a motion or Is a verified statement of disqualification a statement of facts which is supported by concrete evidence efficient to show cause?

Is ruling upon your own Judicial Officer disqualification a violation of equal protection of the law and a failure to provide a person due process of law when the Judicial Officer actually committed tangible and evident bias against a party before there court?

## LIST OF PARTIES

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

IFFTIKHAR WAHLA, ( Real Party in Interest)

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## THE RELATED CASES

Superior Court of California, County of San Joaquin

Docket Number: STK-CV-UUDR-2023-0010382

Case Name: Iffikhar Wahla v. Jacob Winding et al.

Date of Entry of Judgment: 02-05-2024

Court of Appeal of the State of California, Third Appellate District

Docket Number: C100460

Case Name: Winding et al. v. The Superior Court of San Joaquin County

Date of Entry of Judgment: 02/23/2024

The California Supreme Court

Docket Number: S284115

Case Name: Winding v. S.C. (Wahla)

Date of Entry of Judgment: 03/20/2024

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Appendix	Date Of Decision	Name of Court	Case No.	Case Name	TITLE OF EXHIBITS
A	02/23/2024	California Third Appellate District Court	C100460	Winding et al. v. The Superior Court of San Joaquin County	Appellate Court Denial of writ of mandate and request for stay by Honorable Judge Earl, P.J.
B	03/05/2023	California Third Appellate District Court	C100460	Winding et al. v. The Superior Court of San Joaquin	Petitioners re-consideration filing and Truefiling.com rejection notice of filing

				County	
C	02/05/2024	California Superior Court, County of San Joaquin, Stockton Branch	STK-CV-UUDR-2023-0010382	Iffikhar Wahla v. Jacob Winding et al.	Respondent Order Striking Petitioners Motion To Disqualify Judge For Judicial Bias And Prejudice and Answer In The Alternative
D	3/20/2024	California Supreme Court	S284115	Winding v. S.C. (Wahla)	The California Supreme Court denial of Review of Petition

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IN THE  
SUPREME COURT OF THE UNITED STATE  
PETITION FOR WRIT OF CERTIORARI

**THE OPINIONS :**

Petitioner(s) respectfully prays that a writ of certiorari issued to review the judgment below.

The opinion of the highest State Court to review the merits was The Court of Appeal of the State of California in and for the Third Appellate District Court appears at **Appendix A** to this petition and is unpublished.



## **JURISDICTION:**

The date on which the highest state court The Court of Appeal of the State of California in and for the Third Appellate District Court decided Petitioner(s) case on the merits was 2-23-2024. A copy of that decision form appears at **Appendix A**.

A petition for rehearing was thereafter denied on the following date 03/05/2024 as the filing of a Writ of Mandate is final upon issuance would have been a request for a new trial. A copy of that denial of filing decision form appears at **Appendix B**.

A Petition for Review was filed with the State of California Supreme Court and a denial of review of the Petition was issued on 03-20-2024. A copy of that decision form appears at **Appendix D**.

Upon a state courts departing far from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to calls for an exercise of the United States Supreme Court's supervisory power. See Supreme Court Rule 10.

No extension of time is needed to file the petition for a writ of certiorari as the time for filing is within the 90 day time for filing rule pursuant to Rules of the Supreme Court of the United States, rule 13.1 and 13.3.

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

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:**

### **California Statutory:**

- California Code of Civil Procedure section 170.3 (c )(5)

“(5) A judge who refuses to recuse himself or herself shall not pass upon his or her own disqualification or upon the sufficiency in law, fact, or otherwise, of the statement of disqualification filed by a party. In that case, the question of disqualification shall be heard and determined by another judge agreed upon by all the parties who have appeared or, in the event they are unable to agree within five days of notification of the judge's answer, by a judge selected by the chairperson of the Judicial Council, or if the chairperson is unable to act, the vice chairperson. “

- California Code of Civil Procedure section 170.3 (c )(6)

“(6) The judge deciding the question of disqualification may decide the question on the basis of the statement of disqualification and answer and any written arguments as the judge requests, or the judge may set the matter for hearing as promptly as practicable. If a hearing is ordered, the judge shall permit the parties and the judge alleged to be disqualified to argue the question of disqualification and shall for good cause shown hear evidence on any disputed issue of fact. If the judge deciding the question of disqualification determines that the judge is disqualified, the judge hearing the question shall notify the presiding judge or the person having authority to appoint a replacement of the disqualified judge...”

### **Constitutional:**

- California Constitution Article 1 section 7:

“ Sec. 7. (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws.”

- United States Constitution Amendment 14 section 1:

“... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person, of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

## STATEMENT OF THE CASE:

Petitioners Petition for review seeks review of the denial of the writ of mandate issued by the Third appellate court in the State of California on February 23, 2024 (Appendix A) as no explanation as to the denial of the writ of mandate before the court was provided to Petitioners. Petitioners filed writ of mandate on the Judicial Officer Judge Jayne Lee order Striking Petitioners verified statement and answer motion filed in the trial court on February 5, 2024 (Appendix D).

The Judicial Officer, Jayne Lee order striking Petitioners verified statement of disqualification undermines the very purpose and protections of CCP section 170.3. The order to Strike Petitioners' verified statement **was also an answer motion which is subject to the procedure as noted in CCP section 170.3(c )(5) and CCP section 170.3( c)(6)** which in summation states that a third Judicial officer after and answer is filed should be assigned to determine if the disqualification of the judge is appropriate and it also says that no judge should be able to rule on the outcome of his or her own disqualification.

Petitioner(s) "verified statement" was filed in the Superior court of the State of California, County of San Joaquin, Stockton Branch on February 1, 2024.

Petitioners' "verified statement" to disqualify Judicial Officer Judge Jayne Lee was erroneously stricken by Judge Jayne Lee and thus Judge Jayne Lee motioned to strike Petitioners verified statement cited that there were no facts stated on the face of the verified statement.

Petitioners verified statement filed by Petitioners on February 01, 2024, stated facts that can be support by actual concrete evidence and it is not to be misconstrued as a motion or to held to the standard of a motion as cited in case law See *Urias v.*

*Harris Farms, inc.*(1991) 285 Cal.Rptr.659.

The verified statement filed by Petitioners is not a motion, it is a simple verified statement laced with facts and attached to it is exhibits substantiating the facts of a Judicial Officer, whom went rouge to detrimentally affect Petitioners because of the

judges' bias and prejudices against Petitioners. Bias to this extent in the courts is dangerous, by a Judicial Officer because it has dire consequences to both the Plaintiff and Defendant in every case. Petitioners respectfully ask this court to grant Petitioners verified Statement to disqualify Judicial Officer Jayne Lee from hearing any of Petitioners cases inclusive of the San Joaquin Superior Court Case, case no. STK-CV-UUDR-2023-0010382.

Petitioner(s) seeks further review of the fact that Judicial Officer Jayne Lee also filed an answer on February 05, 2024 (see Appendix D) which invokes other judicial procedures to be adhered to such as CCP section 170.3( c)(5) and CCP section 170.3 (c )(6).

Petitioner(s) filed a writ of mandate in the Third Appellate Court of California on 02-15-2024. The denial was issued by the Third Appellate Court of California on 02-23-2024.

Petitioners filed a motion for re-consideration in the Third Appellate Court of California on 03-04-2024. The rejection notice of filing was issued on 03-05-2024.

Petitioner(s) filed a Petition for review in the California Supreme Court on 03-14-2024. The denial for Petition review was issued on 03-20-2024.

No answer to the questions of law and statute which affects the California Constitution and United States Constitution has been resolved and as such Petitioner(s) constitutional rights have been denied. **28 U.S.C. §1651. States that,** "The Supreme Court of the United States 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."

The perception of fairness is the foundation of our legal system. We the people need to believe that our legal system is free of bias and prejudice against the people.

## **REASONS FOR GRANTING THE PETITION:**

### The Existing Judicial Procedural Safeguards Have Failed Petitioners

A verified statement is a statement of facts that can be support by actual concrete evidence and it is not to be misconstrued as a motion or to held to the standard of a motion as cited in case law See *Urias v. Harris Farms, inc.*(1991) 285 Cal.Rptr.659.

And.....

Petitioners' Jacob Winding and Belinda Smith verified statement of disqualification of Judge Jayne Lee, filed with the court was stricken by judge Jayne Lee stating there were no legal grounds for disqualification. However, judge Jayne Lee Order to strike was an order and answer as noted on the face of Judge Jayne Lee's Order Striking Petitioners Verified Statement. Once the answer was filed with the court the motion pursuant to statue thus invokes CCP section 170.3 (c)(6) which states that a third party judge should decide the question of disqualification. CCP section 170.3 (c)(5) states that a judge who refuses to recuse himself or herself shall not pass upon his or her own disqualification or upon the sufficiency in law, fact or otherwise, of the statement of disqualification filed by a party.

### The Gross Departure from the accepted and usual course of Judicial Proceedings Is Reviewable By The Supreme Court

The phrase "questions of law" encompasses the application of law to fact. A question of law is an issue concerning the application or interpretation of the law. Question of law, Black's Law Dictionary (8<sup>th</sup> ed. 2004). The Supreme Court of the United States has said "the effect of admitted facts is a question of law." *Nelson v. Montgomery Ward & Co.*, 312 U.S. 373, 376 (1941). At least in this context, law interpretation is inseparable from the normal and accepted usual course of judicial proceedings in law application and statue.

The Supreme Court of the United States review Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court of the United States by **writ of certiorari** where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws. See 28 U.S.C. section 1257.

A Judicial Officers' actions of bias and prejudice uproot our judicial system and erode the confidence of the American people in such a system. At a minimum the courts should want to uphold the illusion of a fair and just trial in the eyes of the people of the state of California and our great nation.

There Is Not A Plain, Speedy, And Adequate Remedy In The Ordinary Course Of Law And Petitioner(S) Jacob B. Winding And Belinda L. Smith Will Suffer Irreparable If The Courts Error Is Not Remedied

If the court does not correct the error, the ensuring trial will be based upon legally inadmissible evidence, misstatements of evidence, misstating the evidence, referring to facts not in evidence, and misstatements of law denying petitioner his right to due process and a fair trial. These intemperate behaviors of a bias judicial Officer violate the California Constitution Article 1 section 7 and the United States Constitution Amendment 14 section 1 as they comprise a pattern of conduct that effects the judicial process with such unfairness as to construe a denial of due process and equal protection under the law. *People v. Gionis* (1995) 9 Cal. 4<sup>th</sup> 1196, 1214, 40 Cal.Rptr. 2d 456, 892 P.2d 119.

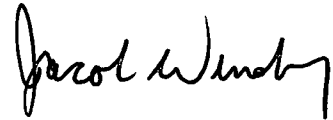
Bias and prejudice demonstrated by a judicial officer of the court negates the people's perception of fundamental fairness in our judicial system. This type of blatant erosion affects both the plaintiff and the defendant.

**CONCLUSION:**

The petition for a writ of certiorari should be granted

DATED: April 04, 2024

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Jacob Winding".

Jacob Winding, In Pro Per

DATED: April 04, 2024

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Belinda Smith".

Belinda Smith, In Pro Per

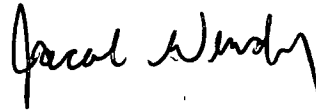
## CERTIFICATE OF WORD COUNT COMPLIANCE

This Petition for Review complies with the volume limitation pursuant to Supreme Court Rule 33.2 as this Petition contains 1,397 words, including footnotes. In making this certification, I have relied on the word count of the computer program used to prepare the Petition for Review.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on the 04<sup>th</sup> day of April, 2024, at Stockton California.

DATED: April 04, 2024

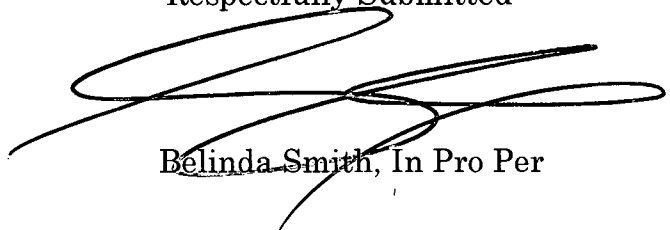
Respectfully Submitted



Jacob Winding, In Pro Per

DATED: April 04, 2024

Respectfully Submitted



Belinda Smith, In Pro Per



## JACOB WINDING, VERIFICATION

I, Jacob Winding am the Petitioner in the case before the court. I have read the foregoing Petition for Writ of Certiorari and know of its contents. The facts alleged in the Petition are within my own knowledge and I know these facts to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on the 04<sup>th</sup> day of April, 2024, at Stockton California.

DATED: April 04, 2024

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Jacob Winding", written in a cursive style.

Jacob Winding, In Pro Per

## BELINDA SMITH, VERIFICATION

I, Belinda Smith am the appellant in the case before the court. I have read the foregoing Petition for Certiorari and know of its contents. The facts alleged in the Petition are within my own knowledge and I know these facts to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on the 04<sup>th</sup> day of April, 2024, at Stockton California.

DATED: April 04, 2024

Respectfully Submitted



Belinda Smith, In Pro Per