

No. 23-816

In The
Supreme Court of the United States



IN RE SHIVA AKULA, MD,

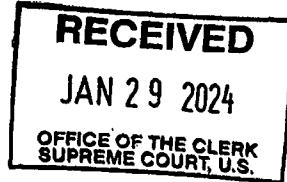
Petitioner.

On Petition For A Writ Of Mandamus
To The United States District Court
For The Eastern District Of Louisiana

PETITION FOR A WRIT OF MANDAMUS

SHIVA AKULA
1750 St. Charles Avenue
7th Floor, #D
New Orleans, LA 70130
504 669 3825
Akulashiva12@gmail.com

Dated: January 25, 2024



QUESTIONS PRESENTED

- (1) Does the law demand that the district court judges of the United States District Court for the Eastern District of Louisiana are obligated to disclose their financial holdings and conflicts of interest?
- (2) Should this Court have stayed the case upon the prior January 2023 application, until U.S.D.J. Africk had disclosed ALL his financial holdings and conflicts of interest?
- (3) Should this Court have transferred the case out of the United States District Court for the Eastern District of Louisiana upon the prior January 2023 petition?
- (4) Should U.S.D.J. Africk's conflicted state render null and void all orders, judgments and verdicts entered in the case?
- (5) Should U.S.D.J. Africk's conflicted state render 'un-safe' the November 6, 2023, conviction of Petitioner, Dr. Shiva Akula?

LIST OF PARTIES

Petitioner:

Dr. Shiva Akula, MD

Respondent:

U.S.D.J. Lance Africk

RELATED CASES

Akula v. Cassidy: 23-CV-01057-DJP-MBN (U.S.D.C. for the Eastern District of Louisiana)

Akula v. Philips: 22-CV-01070-SM-MBN (U.S.D.C. for the Eastern District of Louisiana)

Akula v. Cassidy: 23-CV-60043-RS (U.S.D.C. for the Southern District of Florida)

USA v. Akula: 23-30174 in the United States Court of Appeals for the Fifth Circuit

In Re: Shiva Akula: 23-30118 in the United States Court of Appeals for the Fifth Circuit (District Court No. 21-CR-98-1)

Akula v. Russo: 23-30046 in the United States Court of Appeals for the Fifth Circuit (District Court No. 22-CV-1070)

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23-30118 – April 11, 2023: Opinion/Order of the United States Court of Appeals for the Fifth Circuit In Re Petition for Writ of Mandamus to the United States District Court for the Eastern District of Louisiana USDC No. 21-CR-98-1.

21-CR-98 – January 19, 2024, Order of U.S.D.C. Africk Regarding Dissipation of Petitioner's Monetary Assets.

There exists on the docket no opinion nor order of the January 12, 2024, cancellation of bond and incarceration of Petitioner Akula.

JURISDICTION

The jurisdiction of this Court lies pursuant to the Judiciary Act of 1789 and Article III, Section 1 of the Constitution.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1651. The All-Writs Act, 28 U.S.C. § 1651(a), provides: **“The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”**

CONSTITUTIONAL PROVISIONS INVOLVED

5th Amendment of the United States Constitution – deprivation of due process due to conflicted state of judicial officer.

8th Amendment of the United States Constitution – cruelty of false incarceration purposed to silence petitioner.

14th Amendment of the United States Constitution – deprivation of due process due to conflicted state of judicial officer.



STATEMENT OF THE CASE

This case is about the manifestly unjust prosecution and November 6, 2023 ‘conviction’ and January 12, 2024, incarceration of Petitioner, Dr. Shiva Akula in the Court of U.S.D.J. Lance Africk. U.S.D.J. Africk is a jurist who, during the pendency of the prosecution, did admit to acts of corruption and conflicts of interest, and who, in attempting to prevent Petitioner Akula from exposing such corruption, did illegally incarcerate Petitioner Akula’s person to attempt to silence him.

Petitioner, a highly successful sixty-seven-year-old physician, who over a thirty-year career developed the largest hospice care facility in Louisiana and who in 2005, opened his facility to assisting victims of Hurricane Katrina, was, on August 21, 2021, indicted for alleged healthcare fraud by the U.S. Attorney for the

Eastern District of Louisiana, an office that employed U.S.D.J. Africk prior to his judicial appointment.

U.S.D.J. Africk has been a government employee for the majority of his career, for which he received a government salary and pension. He built his wealth, not from a lucrative private practice position, but from investing heavily in publicly traded corporations, that include members of the health insurance and banking industry, entities that either owed substantial monies to Petitioner or had illegally seized monies from his bank accounts.

U.S.D.J. Africk knew of these conflicts and of his legal obligation to recuse himself, but he denied Petitioner's application to disclose his financial holdings and then denied Petitioner's application for disqualification. In denying these applications, U.S.D.J. Africk did knowingly violate Petitioner's most fundamental human, civil and constitutional rights, a violation, the egregiousness of which continues to be evidenced in the illegal incarceration of Petitioner.

Petitioner comes to this Court, and not the United States Court of Appeals for the 5th Circuit, as the latter court denied Petitioner's application for a writ of mandamus ordering U.S.D.J. Africk disclose his financial holdings.

Petitioner's case represents the 'tip of the iceberg' of not just U.S.D.J. Africk's criminal corruption of the United States District Court, but of the far wider 'War on Doctors' that continues to be perpetrated against principally ethnic minority (African American, Indian,

Hispanic) physicians, consequent to the healthcare insurance industry's profit-purposed 'hijacking' of investigative, prosecutorial, and adjudicative agencies. While corporate executives, shareholders and corrupted public servants get obscenely rich, good compassionate physicians, like Petitioner are in a covert genocidal manner, exterminated in American jails.

Petitioner, a sixty-seven-year-old man, comes to this Court, not just for his own justice, but for all the innocent physicians who, for various reasons, have remained silent in the face of such evil.



RELIEF SOUGHT

1. Petitioner Shiva Akula, MD ("Akula") respectfully requests that this Court grant Akula's petition for a writ of mandamus and direct U.S.D.J. Africk to immediately disclose his financial holdings and conflicts of interest.

2. Petitioner Akula respectfully requests that the sentencing proceeding of February 21, 2024, UNITED STATES OF AMERICA VERSUS SHIVA AKULA (21-cr-00098) be immediately stayed due to the conflicted state of U.S.D.J. Lance Africk.

STANDARD OF REVIEW UNDER THE ALL-WRITS ACT

The All-Writs Act, 28 U.S.C. § 1651, authorizes the issuance of all writs necessary or appropriate in aid of the court’s jurisdiction. The power of an original panel of a United States Court of Appeals to grant relief enforcing and protecting the terms of its mandate is well established in the Supreme Court, this Circuit and other federal courts of appeals.¹ For example, in *Citibank v. Fullum*, this Court noted that:

Despite federal appellate courts’ general reluctance to grant writs of mandamus . . . The Supreme Court has repeatedly held that an appellate court has jurisdiction under U.S.C. § 1651 to issue a writ of mandamus to compel an inferior court to comply.²

To obtain a writ of mandamus in the Third Circuit, a party must show “(1) a clear abuse of discretion or clear error of law; (2) a lack of an alternative avenue

¹ *FTC v. Dean Foods Co.*, 384 U.S. 597 (1966); *U.S. v. N.Y. Tel. Co.*, 434 U.S. 159 (1977); *Cheney v. United States Dist. Court*, 542 U.S. 367, 381 (2004); *Citibank v. Fullum*, 580 F.2d 82 (3d Cir. 1978); *U.S. v. Wexler*, 31 F.3d 117 (3d Cir. 1995); *U.S. v. Apple MacPro Computer*, 851 F.3d 238 (3d Cir. 2017); *City of Cleveland v. FPC*, 561 F.2d 344, 346 (D.C. Cir. 1977); *ILGWU v. Donovan*, 773 F.2d 920 (D.C. Cir. 1984) (per curiam); *PEPCO v. ICC*, 702 F.2d 1026 (D.C. Cir. 1993); *In re People’s Mojahedin Organization of Iran*, 680 F.3d 832 (D.C. Cir. 2012); *Iowa Util. Bd. v. FCC*, 135 F.3d 535 (8th Cir. 1998), vacated on other grounds; *In re FCC*, 217 F.3d 125 (2d Cir. 2000); *Am. Trucking Assoc. v. ICC*, 669 F.2d 957 (5th Cir. 1982); *In re March*, 988 F.2d 498 (4th Cir. 1993).

² 580 F.2d at 86-87 (citations omitted).

for adequate relief; and (3) a likelihood of irreparable injury.”

FACTS NECESSARY TO UNDERSTAND PETITION

Petitioner Akula incorporates all facts contained within the January 19, 2023, Petition (App. 1) and respectfully refers the Court to this attached Petition.

Petitioner Akula respectfully asserts that the truth of every fact set forth in the January 19, 2023 Petition has been irrefutably established, and these facts prove beyond any doubt that U.S.D.J. Africk was and is conflicted. Petitioner Akula’s criminal trial commenced on or around October 20, 2023, and concluded on November 6, 2023.

U.S.D.J. Africk’s conflicted state-of-mind materialized in three (3) specific violations of the law and Petitioner Akula’s right to self-defense: **(i)** on November 6, 2023, U.S.D.J. Africk granted the jury’s request to be provided the report of the state’s nurse-billing expert, a person whom the jury had heard testify; **(ii)** the report was never entered into evidence and has been purposefully omitted from the November 6, 2023, TRIAL EXHIBIT LIST (App. 7); **(iii)** Petitioner Akula’s billing expert and physician, Dr. Davis, was prevented from testifying as to Petitioner Akula’s billing practices.

REASONS FOR GRANTING THE WRIT

- a. U.S.D.J. Africk's conflicted condition, state-of-mind and purposefully improper rulings caused the witty verdict.**

Petitioner Akula's fundamental human right to an impartial tribunal and adjudicator has been violated by U.S.D.J. Africk from the commencement of the case, as is plainly evident in the record. Petitioner Akula's rights under both domestic and international law have been and continue to be violated. Sections 144 and 455 of 28 U.S.C. set forth standards that required the disqualification of U.S.D.J. Africk such that there neither would be, nor could be any tainting and or corruption of the judicial process. U.S.D.J. Africk violated these standards and refused to disqualify himself, because he had been corrupted and was conflicted, facts placed on the record by Petitioner Akula. U.S.D.J. Africk's November 6, 2023, provision of the report to the jury was purposed to cause a conviction, and his ordering the omission of this piece of evidence from the TRIAL EXHIBIT LIST further evidences his corrupted and conflicted state-of-mind, in that its specific purpose is to prohibit appellate review of his criminally minded infraction.

b. Petitioner Akula respectfully assert that his application for a writ of mandamus satisfies the “three conditions” set forth by the United States Supreme Court.

This Court, pursuant to the All-Writs Act, which authorizes that “[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a) has the authority to adjudicate Petitioner Akula’s petition. The requisite “three conditions” that must be satisfied before the issuance of such an order pursuant to § 1651(a) in aid of its jurisdiction are: “(1) “no other adequate means” to attain the relief sought, and (2) a right to the writ that is “clear and indisputable,” and, (3) even if these first two conditions are met, the reviewing court in its discretion must conclude that the writ “is appropriate under the circumstances.” *Cheney v. Dist. Court for Dist. of Columbia*, 542 U.S. 367, 380-81, 124 S.Ct. 2576, 159 L.Ed.2d 459 (2004).” See *In re Briscoe*, 448 F.3d 201 (2006) at 212.

Petitioner Akula’s satisfaction of the first condition is evidenced in the willful omission from the TRIAL EXHIBIT LIST of U.S.D.J. Africk’s improperly entered nurse-billing expert report. The omission’s specific purpose is to continue into the appellate court, the deprivation of Petitioner Akula’s fundamental human rights and his right to honest services, in order to continue the perpetration of concealment of U.S.D.J. Africk’s corrupted and conflicted position, not just in this

case, but in many others, both past and present. Without a grant of the writ of mandamus, U.S.D.J. Africk will be permitted to continue his commission of crime within the United States District Court, a commission that Petitioner Akula will have publicized and will request be investigated by the Senate Judiciary Committee. Without a grant of the writ of mandamus, Petitioner Akula will continue to be persecuted by a corrupted and conflicted district judge, whom the Wall Street Journal has identified as such. Petitioner Akula respectfully asserts that had this Court acted on his January 2023 petition, there would now be no question as to the partiality and conflicted-ness of the proceeding and judge. Similarly, if this Court now grants this petition, it would further the interests of justice and if U.S.D.J. Africk was ordered to disclose his financial holdings and conflicts of interest, it will reduce, if not eliminate, the risk of future occurrence of such acts of judicial corruption. And finally, if this Court were to grant Petitioner Akula's application, it would enhance the public's faith in the federal judiciary. U.S.D.J. Africk's refusal to disclose his financial holdings and conflicts of interest, continues to cause ongoing violations of Petitioner Akula's constitutionally protected right to due process and an impartial tribunal.

Petitioner Akula has satisfied the second condition, in that U.S.D.J. Africk has "committed a 'clear error of law' at least approaching the magnitude of an unauthorized exercise of judicial power, or a failure to use that power when there is a duty to do so." In re

Federal-Mogul Global, Inc., 300 F.3d 368, 384 (3d Cir. 2002).

Petitioner Akula respectfully asserts that the **third condition**, pursuant to the law of this Circuit and that of the Supreme Court, has been satisfied. Petitioner Akula will be further and irreparably injured if the sentencing proceeding is not stayed, a new trial ordered and U.S.D.J. Africk not ordered to disclose ALL his financial holdings, conflicts of interest and ex parte communications.

CONCLUSION

The truth of every fact submitted by Petitioner Akula in his prior January 2023 petition to this Court is now irrefutably established for the purposes of the judicial, executive, and political bodies. Within the last few years, the issue of corruption within the federal judiciary caused the 2022 passing of the Courthouse and Transparency Act and as recently as November 13, 2023, a new ethics code was instituted by this Court to rein in the exact misconduct committed by U.S.D.J. Africk. Petitioner Akula alerted the Senate Judiciary Committee to the fact that his case had the potential to be the test case for the Courthouse and Transparency Act, and he respectfully re-asserts that now piercingly relevant contention. U.S.D.J. Africk's unmitigated misconduct has brought the judicial profession into immense disrepute.

For the above stated reasons, the prior submitted facts and in the interests of justice, Petitioner Akula moves this Court to emergently grant the requested relief.

DATED: JANUARY 25, 2024

Respectfully submitted,

SHIVA AKULA
1750 St. Charles Avenue
7th Floor, #D
New Orleans, LA 70130
504 669 3825
Akulashiva12@gmail.com