

No. 73-887

73-887

In The  
**Supreme Court of the United States**

Supreme Court, U.S.  
FILED

FEB 13 2024

OFFICE OF THE CLERK

IN RE: EUGENE MISQUITH,

*Petitioner.*

On Petition For Writ Of Mandamus  
To The United States Court Of Appeals  
For The Eleventh Circuit

**PETITION FOR WRIT OF MANDAMUS**

EUGENE MISQUITH  
2428 Bay Village Court  
Palm Beach Gardens, Florida 33410  
(561) 385-3184  
misquith@bellsouth.net

## **QUESTIONS PRESENTED**

Did the Opinion of The Eleventh Circuit U.S. Court of Appeals, namely:

“After reviewing the briefs and the record, we find no error, And we affirm the dismissal of Misquith’s second amended complaint for the reasons stated in the Magistrate Judge’s well-reasoned Report and recommendation”.

1. Introduce Impropriety in this case by mentioning the Magistrate Judge in the opinion.
2. Deny me my 14th Amendment Right to Due Process, by giving me no reasoning or guidance, while praising the reasoning of a lower court judge.

## **PARTIES TO THE PROCEEDING**

Eugene Misquith	Plaintiff
Robert Borrego	Respondent
Palm Beach Trauma Associates	Respondent
St. Mary's Medical Center	Respondent
Health Care District of Palm Beach County	Respondent

## **RELATED CASES**

*Misquith v. Borrego*, No. 22-11194 (11th Cir. Feb. 22, 2023)

*Misquith v. Borrego*, No. 20-81123-CIV-CANNON/Reinhart (S.D. Fla. Jun. 1, 2021)

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**ORDERS AND OPINIONS ENTERED**

*Misquith v. Borrego*, No. 22-11194 (11th Cir. Feb. 22, 2023) App. 5.

Eugene Misquith appeals the district court's dismissal of his second amended complaint against Palm Beach County health care District ("the district"), St. Mary's Medical Center ("St. Mary's"), Robert Borrego, And Palm Beach Trauma Associates ("PBTA") (collectively, "the healthcare providers"), alleging disability discrimination and retaliation under the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12112, 12203(a), race, national origin, age, and disability discrimination and retaliation under the Florida Civil Rights Act ("FRCA"), Fla. Stat. § 760.10, and retaliation under the Florida Whistleblower Act ("FWA"), Fla. Stat. § 448.102. He argues that the district court improperly dismissed the 90-page second amended complaint as a shotgun pleading and for failure to state a claim.

After reviewing the briefs and the record, we find no error, and we affirm the dismissal of Misquith's second amended complaint for the reasons stated in the Magistrate Judge's well-reasoned report and recommendation. **AFFIRMED**.

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**JURISDICTION**

The United States Supreme Court has jurisdiction to hear and determine this Petition for Writ of Mandamus and/or Writ of Prohibition under 28 U.S.C. § 1651(a) and Supreme Court Rule 20.3.

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**CONSTITUTIONAL AND  
STATUTORY PROVISIONS INVOLVED****CONSTITUTIONAL PROVISIONS****U.S. Constitution, Amendment XIV**

Section 1. All persons born or naturalized in the United States and subject to the Jurisdiction thereof, Are citizens of the United States and of the State Wherein they reside. 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.

**STATUTES****Eleventh Circuit Judicial Conduct and Disability  
Rules (11th Cir. JCDR, Article 2(a)(I)(D)**

**“Engaging in partisan political activity, or  
making inappropriately partisan statements.”**

## CODE OF CONDUCT FOR U.S. JUDGES Canon 2/2A

Canon 2: A Judge should avoid Impropriety and the Appearance of Impropriety, in all Activities.

Canon 2A: Actual Improprieties under this standard Include Violations of Law, Court Rules, or Other Specific Provisions of This Code.

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**RULE 20.1 STATEMENT**

There exists truly exceptional circumstance that mandate the issuance of the Writ of Mandamus sought by me in this matter.

1. **After** the Opinion of the 11th Circuit, in my Appeal, within the prescribed time, I filed a complaint with The Chief Judge. This was dismissed. App. 2. I then filed a Petition to the Judicial Council of Georgia, once again within the prescribed time. The Judicial Council of Georgia, Affirmed the dismissal of my complaint by the Chief Judge. App. 1.

Therefore, due to the elapsed time, I cannot file a writ of Certiorari.

**Hence a Writ of Mandamus is the only legal recourse left to me.**

2. This writ will aid in the Court's Appellate Jurisdiction, as This opinion has departed from the accepted and usual course of Judicial Proceedings, and therefore.

3. It calls for an exercise of This Court's Supervisory Power.

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### **STATEMENT OF THE CASE**

I am a Board-Certified Trauma Surgeon, who worked at the Trauma Center at St. Mary's Trauma Center, West Palm Beach, Florida. I was forced to accept Patients That did not need to be at the Trauma Center, purely for financial reasons, breaking my Hippocratic Oath. When I complained, I was retaliated against and terminated. I filed a wrongful termination lawsuit, that was picked apart at random, and I was effectively denied my day in court, by the District Court in Florida. App. 7, 18, 46.

Hence, I filed an Appeal with the 11th Circuit, Court of Appeals in Georgia.

The 11th Circuit denied my Appeal, and I filed a Judicial Complaint, which was Dismissed by The Chief Judge. My Petition to the Judicial Council of Georgia, resulted in Affirmation of the Dismissal by The Chief Judge.

Hence, my only legal recourse at this time is a Writ of Mandamus.

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### **REASONS FOR GRANTING THE WRIT**

**“After reviewing the briefs and the record, we find no error, and we affirm the dismissal of**

Misquith's second amended complaint for the reasons stated in the Magistrate Judges well-reasoned Report and recommendation."

**THIS OPINION HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS, AS TO CALL FOR AN EXERCISE OF THIS COURT'S SUPERVISORY POWER.**

1. The mention of the Magistrate judge introduced Impropriety into this case. **Eleventh Circuit Judicial Conduct and Disability Rules (11th Cir. JCDR, Article 2(a)(I)(D).**

**"Engaging in partisan political activity or making inappropriately partisan statements."**

**IN COLLOQUIAL TERMS THE 11TH CIRCUIT SAID TO THE MAGISTRATE JUDGE:**

**"YOU SLAM DUNKED THIS CASE; WE HAVE NOTHING TO ADD".**

**THIS IS UNCONSCIONABLE.**

**It is common knowledge that The Magistrate Judge in this case, was in the Political Spotlight, in a case involving Ex-President Trump.**

2. This opinion was **Prejudicial**, as no Reasoning or Guidance was given to me, what other litigants receive from an Appeals Court, as a **Rule**.

**I did not receive my 14th Amendment Constitutional Right to Due Process and Equal protection of The Laws.**

3. This opinion violated the Code of Conduct for United States Judges.

**Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety, on all Activities.**

**Canon 2A: Actual Improprieties under this Standard include Violations of law, Court rules, or other Specific Provisions of This Code.**

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## CONCLUSION

The petition for a writ of mandamus should be granted, so that I can have my Constitutional Right to an Appeal, devoid of Judicial Impropriety.

Respectfully submitted,

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Date: February 13, 2024