

No. 24-1

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE: YEHORAM UZIEL

On Petition For An Extraordinary Writ Of Mandamus To
The United States Court of Appeals For The Ninth Circuit
("USCA9")

Petition for the Rehearing of an Order Denying an
Extraordinary Writ of Mandamus, pursuant to Rule 44

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THE PROCEEDING

The proceeding is a petition for rehearing in the US Supreme Court of October 7, 2024 order denying case # 24-1 pursuant to Rule 44.2.

THE PARTIES

Petitioner is Yehoram Uziel, a self represented litigant.
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Email: yehoram@soligen.com

Respondent is: United States Court of Appeals for the Ninth Circuit ("USCA9")
<https://ecf.ca9.uscourts.gov/n/beam/servlet/Transport/Room>

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TABLE OF AUTHORITIES

US Constitution Amendments I, XIV, VIII, V, VI

Code of Conduct of United States Judges

Statutes

- 28 USC § 455 – Disqualification of justice, judge or magistrate judge of the United States
- 18 USC § 872 - Extortion by officers or employees of the U.S.
- 18 USC § 242 – Deprivation of rights under color of law
- 18 USC § 1512 (2) (b) – Tampering with a witness, victim or informant
- 18 USC § 371 Conspiracy to defraud United States
- 42 USC §1983 Civil Action for Deprivation of rights

Rules:

Federal Rules of Civil Procedures Rules 8, 11, 12

USCA9 Rules of Court.

Rules of the Supreme Court of the United States.

Publications:

1. The Authority of the Court and the Peril of Politics
September 14, 2021 by Justice Stephen Breyer
2. Presumed Guilty: How the Supreme Court empowered the
Police and subverted Civil Rights
by Professor Erwin Chemerinsky August 24, 2021
3. Get Trump: The Threat to Civil Liberties, Due Process and
Our Constitutional Rule of Law
by Prof Emeritus Alan Dershowitz March ,14 2023
4. OVER RULED: The Human Toll of Too Much Law
by Neil Gorsuch and Jonie Nitze August 6, 2024
ISBN978006328473

CONTENTIONS IN SUPPORT OF THE PETITION

Petitioner Yehoram Uziel respectfully submit his opposition to the order denying case # 24-1 - an extraordinary writ of mandamus to USCA9; on the grounds that the order was issued in conflict with the Rule *of* Law³. Uziel herby petitions the court for the rehearing of the order.

Respondent, USCA9 failed to respond by August 2, 2024 as instructed by the court, as well as to certify that its decision not to respond to SCOTUS order was presented in good faith and not for improper purpose, such as harass or cause unnecessary delay pursuant to FRCP Rule 11 and Rule 44.2 of the US Supreme Court.

Intervening circumstances exist. SCOTUS clerk rejected Uziel's original petition (filed on November 15, 2023) multiple times for "failure to comply with various Rules of the Supreme Court of the United States", and finally agreed to docket it as petition for Extraordinary Writ of Mandamus.

Upon docketing case # 24-1, on July 3, 2024, SCOTUS ordered USCA9 to file a respondent brief by August 2, 2024.

On August 7, 2024 when it became apparent that USCA9 ignored SCOTUS order to respond, SCOTUS clerk filed a notice that on September 30, 2024 case # 24-1 will be distributed to conference.

SCOTUS clerk directed Uziel not to file any motion request sanctions and the issuance of the writ based on USCA9 default pursuant to FRCP Rule 11(c).

³ (despite USCA9 failure to answer the complaint or assert affirmative defense to the allegations to the claims that USCA9 violated US Law)

Said intervening circumstances violate the Rule of Law as well as the constitutional rights of Petitioner to: free speech, due process of law and a fair trial by an impartial tribunal.

On October 7, 2024 the Court posted an Order of denial of case No 24-1 the petition for a writ of mandamus, without stating the grounds for a denial, or even a statement of evidence that SCOTUS conducted a conference. Rehearing will be in the benefit of justice.

Case #24-1 requests SCOTUS, to discipline USCA9 circuit judges and the federal judges below USCA9 to comply with US Law, and with the Code of Conduct of US Judges; and refrain from: (i) tampering with evidence; (ii) violating the canons in the Code of Conduct of US Judges; and (iii) violating Petitioner' civil rights to free speech, due process, right to counsel and rule of law.

As recent as August 2024, the honorable Justice Neil Gorsuch co authored and published a book titled "Over Ruled: the Human Toll of Too Much Law". Statements from this book gives rise to the arguments presented are this petition for rehearing.

ARGUMENT

"The core of the rule of law is that no one, even a president or a former president, is above the law."⁴

In Chapter 1 from the book *Over Ruled*, "An Introduction to Law's Empire", Justice Gorsuch explains the difference between the concepts of Rule *of* Law and Rule *by* Law.

"Today everyone likes to throw the phrase 'rule *of* law,' but just what does it mean?"... "As Madison appreciated, the rule *of* law does not mean rule *by* law."⁵.... "The rule of law is usually understood, as well, to guarantee that disputes about what a particular law means will be decided by independent and neutral judges, so even the unpopular and most vulnerable among us receive a fair hearing."⁶

"The rule of law is not an end unto itself.... As Raz said "Observance of the rule of law is necessary if the law is necessary is to respect human dignity"".

In Chapter 3 "Bureaucracy Unbound" page 89 Gorsuch notes "As Chief Justice John Marshall put it, too, judges long took the view that "it is emphatically the province and the duty of the judicial department to say what the law is" in the cases that came before them⁷. Over time, however, courts retreated from those traditional rules in favor of new ones that have benefited the government."

⁴ Prof. Erwin Chemerinsky San Francisco Chronicle August 16, 2023

⁵ Chapter 1 Page 27

⁶ Not by bureaucrats. See, e.g., JOSEPH RAZ, *The Rule of Law and its virtue*, in *THE AUTHORITY OF LAW: ESSAYS ON LAWS AND MORTALITY* 210, 213-214, 217 (1979)

⁷ *Marbury v Madison* 5 U.S. (1 Cranch) 137, 177 (1803)

According to Justice Breyer⁸ "*The Constitution, indeed law in general, applies to those who are not popular just as it applies to those who are popular*".

Justice Breyer continues: "*The Court earned its authority by making decisions that have, over time, increased the public trust*". The standard of judicial decision making upon which Judges are measured is the Code of Conduct for United States Judges.

Justice Breyer concluded: "*one way to promote better understanding on how the judiciary really works*" [is to demonstrate] "*how judges adhere to their oath and how they try to avoid considerations of politics and popularity*"⁹

The conundrum for this denial is the difference between what Justice Breyer and Justice Gorsuch advocate in their lectures and books and the conduct of the Honorable Scott Harris, clerk of the Supreme Court.

It is exactly the synopsis of how the clerk handled Case #24-1.

The denial of Case #24-1 was neither impartial nor relatively predictable¹⁰.

Let it be clear, neither any fact, not any law in case # 24-1 is, or should be in dispute.

SCOTUS ordered USCA9 to respond by August 2, 2024 (30 days from July 3, 2024 - the docketing date).

⁸ Justice Stephen Breyer quotes from the 2021 Scalia Annual lecture at Harvard Law School.

⁹ Id. Also or appearance of impropriety

¹⁰ Raymond M. Kethledge, *Hayek and the Rule of Law*, 13 NYUJL& LIBERTY 193,213 (2020)

USCA9, although perfectly served, failed to respond or even appoint an attorney of record. SCOTUS ignored Federal Rule of Civil Procedure Rule 11 (a) that requires: *"Every pleading.... and other paper must be signed by at least one attorney of record in the attorney' name.....the court must strike an unsigned paper"*.

Rule 11 (c)(1) states: *"if after notice and a reasonable time to respond, if the court determines that Rule 11 (b) has been violated, the court may impose sanctions on any attorney, law firm, or party that violated the rule, or responsible for the violation"*.

SCOTUS is the last resort to respect the human dignity of all litigants. Self-represented litigants are recognized as members of a protected class of litigants. Thereby SCOTUS must apply strict scrutiny to the application of the laws by its own clerk.

There is no evidence that any Justice opined on case #24-1. There is no evidence that SCOTUS clerk convened a conference or informed the Justices that UDCA9 failed to assert any affirmative defense.

JURISDICTIONAL STATEMENT

Mr. Uziel invokes the Court jurisdiction under:

- All Writs Act, 28 U.S.C §§ 1651, authorizes the Supreme Court to issue "all writs necessary or appropriate in the aid of the respective jurisdictions and agreeable to the usage and principles of law."
- The date on which USCA9 decided case No. 21-56306 is July 3, 2023
- The date on which USCA9 decided case No. 21-56303 is July 5, 2023
- An extension of time within to file this petition on or before November 30, 2023 was granted by Justice Kagan on October 5, 2023.
- On April 17 2024, following multiple rejections of petitions for a writ of certiorari, and two applications for leave of court to file petitions for writs of certiorari, Ms. Rashonda Garner on behalf of the honorable Scott S. Harris wrote:
"You are informed that a petition for a writ of certiorari is not pre-requisite to filing a petition for an extraordinary writ of mandamus. As a petition for extraordinary writ is an original action in this Court, there is no deadline for the time to file."
- On July 3, 2024 Case # 24-1 was docketed with an order to USCA9 to respond by August 2, 2024
- On August 7, 2024 the SCOTUS scheduled a conference in September 30, 2024
- On October 7, 2024 the Court entered an order denying case # 24-1.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Provisions

This case involves the First, Fifth, Sixth, Eight and the Fourteen Amendments to the U.S. Constitution.

Federal Statutes

28 USC § 455 – Disqualification of justice, judge or magistrate judge of the United States

18 USC § 872 -- Extortion by officers or employees of the United States

18 USC § 242 – Deprivation of rights under color of law

18 USC § 1512 (2) (b) – Tampering with a witness, victim or informant

18 USC § 371 -- Conspiracy to defraud United States

42 USC §1983 --Civil Action for Deprivation of rights

Federal Rules

Rule 11 – Signing Pleadings, Motions, and Other Papers

The Code of Conduct of US Judges

REASONS FOR GRANTING REHEARING

1. Granting rehearing will be in the aid of the Court's appellate jurisdiction.

SCOTUS has the appellate jurisdiction over USCA9 to discipline USCA9' judicial conduct.

It is clear that SCOTUS clerk assisted USCA9 to violate Federal Rule of Civil Procedure Rule 11.

It is also apparent that USCA9 Circuit Judges violated their oaths to adhere to the Canons, and protect the integrity of the judiciary.

2. Exceptional circumstances warrant the exercise of SCOTUS discretionary powers.

Since 2019 all the District and Circuit Judges, defied legal challenges to impartiality; extorted Petitioner by preventing Petitioner from access to litigate verified claims against Government agents.

As seen recently in other highly publicized cases, the judge (court) impartiality matters.

3. Adequate relief cannot be obtained in any other form or from any other Court.

USCA9 has been unresponsive to SCOTUS requests for hearing and also consistently dismissed challenges to the impartiality of Circuit Judges¹¹; using template statements that Petitioner "is not qualified litigant", or represents a "reasonable person with knowledge of the facts".

¹¹ in conflict with 28 USC §455

4. Mr. Uziel is entitled to relief.

To any reasonable person who reads the Mr. Harris' minutes, his conduct has been neither fair or impartial nor diligent.

The Constitutional rights of any litigant should never be "negotiable" by excluding the litigant from the proceedings.

Furthermore, every litigant must be allowed to present evidence to establish a cause of action, before a judge decides to purge his complaint. The canons require Judges to apply extra sensitivity to self represented litigants where the balance of justice leans heavily against them.

Tampering with evidence is a federal crime regardless of who is behind it, or whether a judge "allowed the Court" to ignore the evidence. Claims should be only "plausible" to the law, not to a Judge or to a Court.

5. The Claims are meritorious and not procedurally barred.

All claims in this petition against USCA9 Circuit Judges' conduct are meritorious and neither legally nor procedurally barred. The facts are undisputed.

A judicial officer that refuses a hearing on a challenge to his own impartiality degrade the rule of law and tarnishes the integrity of the judiciary.

6. Mr. Uziel should be allowed to present expert opinions prior to an order to arbitrarily deny his petition.

Most of the arguments in this petition are based on books speeches and articles written by the honorable Ret. Justice Breyer, Associate Justice Neil Gorsuch and Professors Alan Dershowitz and Irwin Chemerinsky. SCOTUS should allow Uziel to confront USCA9 by presenting these arguments to the justices.

CONCLUSION

It is impossible to believe that Justice Gorsuch, or anyone who read his book interpret the denial of Case #24-1 as a decision that comply with either Rule of Law or even Rule by Law.

"A final interpretation of the law by our judicial system is both impartial and predictable¹²"

The Rule of Law and Equal Protection under US Law mean applying the same legal criteria to all parties.

Rule 44 requires me to certify that this petition for rehearing is presented in good faith and not for delay. It should require a similar certification from USCA9.

Rule 11 (b) requires any party to certify that any filed paper that it is: (1) not being presented from any improper purpose; and (2) the legal contentions are warranted by existing law; and: (3) the factual contentions have evidentiary support; and: (4) the denials of factual contentions are warranted on the evidence.

USCA9 violated Rule 11 (b) but Mr. Harris failed to act according to the law. SCOTUS docket and all missives of Mr. Scott Harris clearly indicate that Mr. Scott handled USCA9 as its judges are above the law; and the Code of Conduct for United States Judges do not apply to them.

That is a clear example and evidence to the human toll of "too much law".

If the Code of Conduct' canons remain just a page on uscourts.gov the rule of law will demise and with it the USA.

Respectfully submitted,

Dated: October 15, 2024

/s/ Yehoram Uziel

Yehoram Uziel

Petitioner in pro per

¹² Raymond M. Ketheledge, Hayek & the rule of law, 13 NTUJL & Liberty 193, 213 (2020). From "Over Ruled: the Human toll of too much law" August 2024 by Neil Gorsuch page 89

Certificate of Compliance pursuant to Rule 44

No. 24-1

Yehoram Uziel

Petitioner

v.

United States Court of Appeals for the Ninth Circuit

Respondent

Pursuant to Supreme Court Rule 44, I, Yehoram Uziel hereby certify that this petition for rehearing is presented in good faith and not for delay.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Dated: October 15, 2024


/s/ Yehoram Uziel

Yehoram Uziel
Petitioner in pro per

Certificate of Compliance

No. 24-1

Yehoram Uziel

Petitioner

v.

United States Court of Appeals for the Ninth Circuit


Respondent

Pursuant to Supreme Court Rule 33.1(h), I, Yehoram Uziel, certify that the petition for the rehearing contains 2747 words. Excluding the parts of the petition that are exempt by Supreme Court Rule 33.1 (d)

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Dated: October 15, 2024


/s/ Yehoram Uziel

Yehoram Uziel

Petitioner in pro per

UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT

Certificate of Service by Electronic Filing

USCA9 case # 21-56303 and case # 21-56306

I hereby certify that I electronically filed the forgoing /
attached documents on this date with the Clerk of the
Court for USCA9 using the appellate electronic filing
system, <http://ecf.ca9.uscourts.gov>

I hereby certify that that I served the foregoing attached
documents to all registered case participants on this date
via the Electronic Filing system.

Description of document:

Petition for the Rehearing of an Order Denying an
Extraordinary Writ of Mandamus pursuant to Rule 44

Signature: /s/ Yehoram Uziel

Date: October 15, 2024