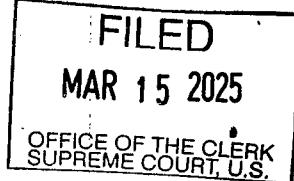


No. 24-1053

ORIGINAL

In the  
SUPREME COURT OF THE UNITED STATES



*In re Sara Ann Edmondson, Petitioner*

*ON PETITION FOR WRIT OF MANDAMUS TO THE  
COURT OF APPEALS FOR THE THIRD CIRCUIT*

PETITION FOR A WRIT OF MANDAMUS

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**QUESTION PRESENTED FOR REVIEW**

Whether this Court will exercise the power enumerated and entitled in *Insurance Company v. Comstock* to issue a writ of mandamus on the Third Circuit to reinstate the improperly removed Article III Section 2 claims of the one case controversy for appropriate adjudication under the established standard of review and remand.

Whether this Court will exercise its authority to direct investigations into possible conspiracy, color of law and bank fraud violations.

**PARTIES TO THE PROCEEDING**

Sara Ann Edmondson, Petitioner in this Court  
(plaintiff-appellee in the court of appeals)

Respondents in this matter: United States Court of Appeals for the Third Circuit; Judge Patty Shwartz in her capacity as Circuit Judge; Judge Cheryl Krause in her capacity as Circuit Judge; Judge Richard Nygaard in his capacity as Circuit Judge; Judge Tameka Montgomery-Reeves in her capacity as Circuit Judge; Judge Thomas Hardiman in his capacity as Circuit Judge; Judge L. Felipe Restrepo in his capacity as Circuit Judge; Judge Paul Matey in his capacity as Circuit Judge; Judge Cindy Chung in her capacity as Circuit Judge.

**STATEMENT OF RELATED PROCEEDINGS**

The following proceedings are directly related to the case in this Court within the meaning of Rule 14.1(b)(iii): U.S. District Court of New Jersey No. 13-cv-7704; U.S. Court of Appeals for the Third Circuit, No. 17-1991; U.S. Court of Appeals for the Third Circuit, No. 18-2203; U.S. Court of Appeals for the Third Circuit, No. 23-2938.

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#### **CONCISE STATEMENT OF JURISDICTION**

Petitioner's Petition for a writ of mandamus has jurisdiction under 28 U.S.C. § 1651.

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## **PETITION FOR A WRIT OF MANDAMUS**

Petitioner petitions for a writ of mandamus to compel the United States Court of Appeals for the Third Circuit to reinstate the improperly removed claims under Article III Section 2 for appropriate standard of review established by the Circuit under *Delgrossos v. Sprang* and subsequently remand to the State Tribunal for adjudication without entitlement to the benefit of res judicata. *Insurance Company v. Comstock*

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## **OPINIONS BELOW**

The District Court Memorandum Order administratively terminating Article III Section 2 claims appears in Petitioner's Appendix A. There is no corresponding Third Circuit Court of Appeals written opinion or adjudication in this matter that meets its own appropriate, established standard of review of administratively terminated Article III Section 2 claims under *Delgrossos v. Spang & Co.*

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## **JURISDICTION**

This Court has jurisdiction under the All Writs Act of 28 U.S.C. 1651 encapsulated under *Insurance Company v. Comstock*.

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**CONSTITUTIONAL AND STATUTORY PROVISIONS  
INVOLVED**

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."

Article III Section 2 covers Supplemental Jurisdiction.

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**STATEMENT OF THE CASE**  
"One Constitutional Case"

This case requires the supervisory power of the Court to reinstate an improperly removed cause under Article III Section 2 of the Constitution as a result of the Third Circuit's resistance to exercise its supervisory power over the district court. The memorandum order attached at Appendix A summarizes the history of the matter and documents the contract, breach and fraud issues that were presented and subsequently removed. The

administrative termination of "the pending motion" speaks to that which was removed from the docket and that which required standard procedural review under the Third Circuit's *Delgrossos v. Spang*. In the event an improperly removed Article III Section 2 claim is neither reviewed nor an appropriate determination made by the Circuit, then the matter remains a live controversy under the Third Circuit's definition in *Papotto*, which defines an administrative termination as "judicially removed ... without making any final adjudication", as well as under the Supreme Court's *United Mine Workers of America v. Gibbs and Jinks v. Richland County*. ("Title 28 U. S. C. § 1367 determines whether a federal district court with jurisdiction over a civil action may exercise supplemental jurisdiction over other claims forming part of the same Article III "case or controversy." If the court declines to

exercise such jurisdiction, the claims will be dismissed and must be refiled in state court." *Jinks v. Richland County*, 538 U.S. 456 (2003)) The standard bearer Sixth Circuit in its *Arabian Motors* ruling gives further clarity on the issue at hand and the appropriate supervision thereof:

How, one might ask, could a live controversy exist over a dispute that has been arbitrated and in which our court has already confirmed the arbitration award? It is a fair question, one of several oddities of this long-running dispute. The lingering complication arises from the reality that Arabian Motors withdrew some of its claims—the contract and fraud claims—from the arbitration. One possibility is that those claims were withdrawn with prejudice, confirming that this dispute is indeed over—and moot through and through. Another possibility is that the rules of the arbitration tribunal allow a party to remove claims from the dispute resolution without prejudice—and renew them later. Because the latter possibility remains a realistic possibility, a live question remains about whether Arabian Motors' common law claims will go to arbitration. Recall that Arabian Motors brought breach of contract and fraud claims in its federal court complaint. In the last trip to our circuit, we held that the district

court had not yet ruled on these claims, but that we could review them when it did. *Arabian Motors Grp.*, 775 F. App'x at 217 n.1. That confirms that the arbitration award did not resolve whether these counterclaims must be arbitrated.

While it is worth noting that the federal court complaint here also brought breach and fraud claims, the lingering complication here arises from the reality that the District Court removed via administrative termination some of the claims - the contract and fraud claims - from the docket.

See Appendix A. Judicial admissions of misrepresentations in the essential terms of the contract, breach and fraud were placed on the record through the memorandum order. Additionally, while the memorandum order states the oral argument was to select an arbitrator, the docket sheet reveals that it was a summary judgment hearing to address contract claims making that entire process a bait and switch. See Appendix B, Docket No. 71.

"Power to issue the writ of mandamus to the circuit courts is exercised by this Court to compel the circuit court to proceed to a final judgment or decree in a cause, in order that this Court may exercise the jurisdiction of review given by law; and in the case of *Ex Parte Bradstreet*, [Footnote 9] this Court decided, Marshall, C.J., giving the opinion of the court, that every party has a right to the judgment of this Court in a suit brought by him in one of the inferior courts of the United States, provided the matter in dispute exceeds the sum or value of two thousand dollars, and that the court in such case will issue the writ to a circuit court or a district court exercising circuit court powers, in a case where the subordinate court had improperly dismissed the case, requiring the court to reinstate the case and to proceed to try and adjudge the issues between the parties." *Insurance Company v. Comstock*, 83 U.S. 258 (1872)

The focus of this case is encapsulated in the aforementioned *Insurance Company v. Comstock*; the refusal of the Circuit to adjudicate pursuant to the accepted procedural standard of review has caused willful and intentional 5th and 14th Amendment violations to the Petitioner's Constitutional rights. Additionally, it leaves a

live controversy. As a result, the matter before this Court embarks on a solicitation for a writ of mandamus obligating the exercise of procedural due process pursuant to the standard of review well established by the Third Circuit on matters involving judicial administratively terminated Article III Section 2 claims, which along with the federal claims comprise but one constitutional "case".

#### **THE EXISTENCE OF A LIVE CONTROVERSY**

The Third Circuit itself acknowledges its supervisory position in matters of "administrative termination" and has an extensive record of issuing Writs of Mandamus. In its *Delgrossos ruling*:

Similarly, the order in this case permits reinstatement and contemplates the possibility of future proceedings. The order does not purport to end litigation on the merits and the parties agree that it does not determine any issues or resolve the

entire case. We recognize that the conduct of the district court raises the question whether the order effectively, if not expressly, brings the case to a close. On balance, however, we believe that the order is not final for purposes of § 1291 and that the Participants' allegations regarding the conduct of the district court are properly addressed through a petition for a writ of mandamus. *Delgrossos v. Spang and Co.*, 903 F.2d 234 (3d Cir. 1990)

According to the Third Circuit Court's *Papotto* ruling, an outright administrative termination of a claim under Article III Section 2 of the Constitution is one that has been judicially "removed ... without making any final adjudication". *Papotto v. Hartford Life & Accident Ins. Co.*, 731 F.3d 265 (3d Cir. 2013). In its supervisory role, the Third Circuit has had an established legal and standard mode of procedure for reviewing district court administrative terminations under Local Civil Rule 41.1.

In *Patten Securities Corp. v. Diamond Greyhound & Genetics, Inc.*, 819 F.2d 400 (3d Cir.1987), we considered the appealability of an order that

denied cross motions to dismiss, "administratively terminated" the action pending arbitration, and authorized reinstatement upon motion by either party. We held that the order was not a final judgment because it permitted reinstatement and clearly contemplated the possibility of further proceedings. *Id.* at 403.<sup>21</sup>

In *Morton Intern., Inc. v. A.E. Staley Mfg. Co.*, 460 F.3d 470 (3d Cir. 2006), the Third Circuit is very clear on how it reviews administrative termination orders.

In its *Primerica Holdings* ruling, not only is a writ issued but the case is also reassigned:

In light of these unfortunate circumstances, we will grant the petition for mandamus. We must also exercise our authority to direct the Chief Judge of the Eastern District of Pennsylvania to reassign the case to another district court judge on remand. See *Alexander v. Primerica Holdings, Inc.*, 10 F.3d 155, 167 (3d Cir.1993) ("We are authorized to order the reassignment of this case to another district court judge pursuant either to the All Writs Act, 28 U.S.C. § 1651(a) or 28 U.S.C. § 2106."). Although we recognize that "[t]he decision to remove a judge from an ongoing trial should be considered

seriously and made only rarely," *Huber v. Taylor*, 532 F.3d 237, 251 (3d Cir.2008), the district court's troubling actions in this case leave us with no alternative.

Because public confidence in the judicial system mandates, at a minimum, the appearance of neutrality and impartiality in the administration of justice, we will issue a writ of mandamus, in the exercise of our supervision over the district court, see *Haines v. Liggett Group Inc.*, 975 F.2d 81, 97-98 (3d Cir.1992), directing: (1) no further proceedings in this case take place before Judge Lechner; and (2) that the Chief Judge order the Clerk of the District Court of the District of New Jersey to reassign this case to another district court judge. *Alexander v. Primerica Holdings, Inc.*, 10 F. 3d 155 - Court of Appeals, 3rd Circuit 1993.

"On the basis only of the record", this Court will note the language in the District Court Memorandum Order removing the Article III Section 2 claims without authorizing reinstatement or contemplating further proceedings. *Haines v. Liggett Group, Inc.*, 975 F. 2d 81 - Court of Appeals, 3rd Circuit 1992. **See** Appendix A.

Like *Arabian Motors and Gibbs*, removed contract claims in this matter are still left to be submitted before the state tribunal without the entitlement to the benefit of raising *res judicata*. Like *Alexander*, this matter should also be reassigned due to the Circuit's "troubling actions".

The Third Circuit engaged in a profound assault on this Citizen's rights in an attempt to circumvent the following,

In general, an innocent party can void a contract induced by fraud. See *In Re Allegheny Int'l*, 954 F.2d 167, 178 (3d Cir. 1992). This doctrine applies with equal force to arbitration agreements—the defrauded party can void the agreement and pursue its claims in court. See *Rent-A-Center v. Jackson*, — U.S. —, 130 S.Ct. 2772, 2776, 2778, 177 L.Ed.2d 403 (2010) ("Like other contracts, [arbitration agreements] may be invalidated by generally applicable contract defenses, such as fraud, duress, or unconscionability." (citation and question marks omitted)). *Freeman v. Pittsburgh Glass Works, LLC*, 709 F.3d 240, 256 (3d Cir. 2013)

The only viable solution for this problem is the writ of mandamus as "[i]t issues to the judges of any inferior court commanding them to do justice according to the powers of their office whenever the same is delayed.' ExParte Crane, 5 Pet. 190, 192, 8L. Ed. 92, 94(1832). Continued delay and refusal to conduct a review according to procedural standard established by the Third Circuit means Petitioner's 'right of redress is being severely impaired". Thermtron, *supra*, 423 U.S. at 3419 46 L. Ed. 2d 542, 96 S. Ct. 584. Further, the unwarranted and intentional Writs of Execution on Petitioner's property as a result of 28 USC 241 and 28 USC 242 incur claims of 18 USC 1344.

**28 USC 1651(a) & 28 USC 2106**

The All Writs Act (28 U.S. Code § 1651) gave the "Supreme Court and all courts established by Act of Congress" the

authority to issue writs of mandamus "in aid of their respective jurisdictions and agreeable to the usages and principles of law."

28 USC § 2106 instructs, "The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances." Those proceedings should include investigations under 18 USC 1344, 28 USC 241 and 28 USC 242.

**REASONS FOR GRANTING THE PETITION**

The issuance of a writ of mandamus to a lower court is warranted when a party establishes that "(1) 'no other adequate means [exist] to attain the relief he desires,' (2) the party's 'right to issuance of the writ is 'clear and indisputable,'" and (3) 'the writ is appropriate under the circumstances.'" Hollingsworth v. Perry, 558 U.S. 183, 190 (2010) (per curiam) (quoting Cheney v. United States Dist. Court, 542 U.S. 367, 380-81 (2004)) (brackets in original). Mandamus is reserved for "exceptional circumstances amounting to a judicial 'usurpation of power.'" Cheney, 542 U.S. at 380 (citation omitted).

A "traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its

authority when it is its duty to do so." *Roche v. Evaporated Milk Assn.*, 319 U.S. 21, 26 (1943); *Ex parte Peru*, 318 U.S. 578, 584 (1943); *Bankers Life Cas. Co. v. Holland*, 346 U.S. 379, 382 (1953). "Repeated decisions of this Court have established the rule . . . that the writ will lie in a proper case to direct a subordinate Federal court to decide a pending cause," *Insurance Co. v. Comstock*, 16 Wall. 258, 270 (1873), or to require "a Federal court of inferior jurisdiction to reinstate a case, and to proceed to try and adjudicate the same." *McClellan v. Carland*, 217 U.S., at 280. *Thermtron Products, Inc., v. Hermansdorfer*, 423 U.S. 336, 352 (1976)

This Court furthers in *Smith v. Spizzirri* that words matter and words including "will", "must" and "shall" "create an obligation impervious to judicial discretion."

*Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach,*  
523 U. S. 26, 35 (1998)

"The right to trial by an impartial judge 'is a basic requirement of due process.'" *In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 625, 99 L.Ed. 942 (1955). Additionally, "Impartiality and the appearance of impartiality in a judicial officer are the sine qua non of the American legal system." In *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 U.S. 145, 89 S.Ct. 337, 340, 21 L.Ed.2d 301 (1968), the United States Supreme Court stated: "[A]ny tribunal permitted by law to try cases and controversies not only must be unbiased but also must avoid even the appearance of bias."

**NO OTHER ADEQUATE MEANS TO OBTAIN RELIEF**

*Insurance Company v. Comstock* guarantees and provides the means necessary to rectify an improperly dismissed or removed cause requiring reinstatement and appropriate adjudication. There is no other means of relief.

**CLEAR AND INDISPUTABLE**

It is clear and indisputable that *Insurance Company v. Comstock* creates an obligation “impervious to judicial discretion”.

### CONCLUSION

While the Circuit has repeatedly refused to exercise its supervisory role and in August 2024 denied a motion to file a certified question under Rule 19 with the Supreme Court for instructions and directives, *Insurance Company v. Comstock* provides a clear mandate for a writ of mandamus in matters of the improper removal of Article III Section 2 claims. Mandamus is reserved for “exceptional circumstances amounting to a judicial ‘usurpation of power.’” Cheney, 542 U.S. at 380 (citation omitted). At no time during Petitioner’s visits to the Third Circuit did the Appellate Court see fit to follow the

prescribed procedures to review administratively terminated Article III Section 2 claims, which is a clear usurpation of power that now requires this Court's intervention.

/s/ Sara Ann Edmondson

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