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APPENDIX A

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-5197

September Term, 2024

1:24-cv-02086-APM
Filed On: March 20, 2025

Bahig F. Bishay, Private Attorney General,
Appellant

v.

Trevor Neil McFadden, Solely in individual
capacity, et al.,
Appellees

ORDER

Appellant's complaint filed on July 11, 2024, in the United States District Court for the District of Columbia named as defendants 14 judges sitting on this court at that time. Accordingly, this appeal was assigned to three Judges from the United States Court of Appeals for the Second, Fourth, and Eighth Circuits, sitting by designation. By judgment filed on January 24, 2025, the panel sitting by designation affirmed the district court's order filed July 30, 2024. Appellant then filed a petition for rehearing en banc. Upon consideration of the petition for rehearing en banc. and there being no judges of this court available to

constitute an en banc court, it is

ORDERED that the petition for rehearing en banc be dismissed.

FOR THE COURT:
Clifton B. Cislak, Clerk

BY: /s/ Daniel J. Reidy
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 24-5197

September Term, 2024

1:24-cv-02086-APM
Filed On: March 20, 2025

Bahig F. Bishay, Private Attorney General,
Appellant

v.

Trevor Neil McFadden, Solely in individual
capacity, et al.,
Appellees

BEFORE: Thacker* and Erickson**, Circuit Judges;
and Sack***, Senior Circuit Judge

ORDER

Upon consideration of the petition for rehearing,
the corrected motion to certify questions of law, and
the notice filed by appellant, it is

* Of the Fourth Circuit, sitting by designation.

** Of the Eighth Circuit, sitting by designation.

*** Of the Second Circuit, sitting by designation.

ORDERED that the petition for rehearing and the corrected motion to certify questions of law be denied.

Per Curiam

FOR THE COURT:
Clifton B. Cislak, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

APPENDIX B

DESIGNATION AND ASSIGNMENT OF AN ACTIVE UNITED STATES JUDGE FOR SERVICE IN ANOTHER CIRCUIT

The Chief Judge of the United States Court of Appeals for the District of Columbia Circuit has certified that there is a necessity for the designation and assignment of a judge from another circuit or another court to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit in No. 24-5197, Bishay v. McFadden, et al. The Chief Judge of the United States Court of Appeals for the Eighth Circuit has consented to the designation and assignment of the

HONORABLE RALPH R. ERICKSON

a Judge of the United States Court of Appeals for the Eighth Circuit for such service.

NOW, THEREFORE, pursuant to the authority vested in me by Title 28, United States Code, section 291(a), I do hereby designate and assign the Honorable Ralph R. Erickson to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit for the period or purpose stated and for such time as needed in advance to prepare and to issue necessary orders, or thereafter as required to complete unfinished business.

CHIEF JUSTICE OF THE UNITED STATES

Washington, D.C. 12/11/24

A True copy SCOTT S. HARRIS

Test:

Clerk of the Supreme Court of the United States

By /s/

Deputy

[LETTERHEAD OF THE ADMINISTRATIVE
OFFICE OF UNITED STATES COURTS]

December 17, 2024

Mr. Maureen Gornik
Clerk, United States Court of Appeals
for the Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South Tenth Street, Room 24.329
St. Louis, MO 63102-1116

Mr. Mark J. Langer
Clerk, United States Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W., Room 5509
Washington, DC 20001

Dear Mr. Gornik and Mr. Langer:

Enclosed is the Chief Justice's designation of the Honorable Ralph R. Erickson of the United States Court of Appeals for the Eighth Circuit to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit in No. 24-5197, Bishay v. McFadden, et al.. Pursuant to 28 U.S.C. § 295, please file and enter this assignment on the minutes of your respective courts.

Please feel free to contact me at (202) 502-1177 if you have any questions or concerns.

Sincerely,

/s/

Anne McKenna
Senior Attorney
Judicial Programs

Enclosures: (Clerk of Lending Court, Mr. Gornik -
Original Designation)
(Clerk of Borrowing Court, Mr. Langer -
Certified Copy of Designation)

cc: Honorable Ralph R. Erickson
Ms. Millie Adams
Ms. Betsy Paret

A TRADITION OF SERVICE TO
THE FEDERAL JUDICIARY

**DESIGNATION AND ASSIGNMENT
OF AN ACTIVE UNITED STATES JUDGE
FOR SERVICE IN ANOTHER CIRCUIT**

The Chief Judge of the United States Court of Appeals for the District of Columbia Circuit has certified that there is a necessity for the designation and assignment of a judge from another circuit or another court to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit in No. 24-5197, Bishay v. McFadden, et al. The

HONORABLE ROBERT D. SACK

a Senior Judge of the United States Court of Appeals has consented to such designation and assignment.

NOW, THEREFORE, pursuant to the authority vested in me by Title 28, United States Code, section 294(d), I do hereby designate and assign the Honorable Robert D. Sack to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit for the period or purpose stated and for such time as needed in advance to prepare and to issue necessary orders, or thereafter as required to complete unfinished business.

CHIEF JUSTICE OF THE UNITED STATES

Washington, D.C. 12/11/24

A True copy SCOTT S. HARRIS
Test:
Clerk of the Supreme Court of the United States

By /s/
Deputy

[LETTERHEAD OF THE ADMINISTRATIVE
OFFICE OF UNITED STATES COURTS]

December 17, 2024

Ms. Catherine O'Hagan Wolfe
Clerk, United States Court of Appeals
for the Second Circuit
Thurgood Marshall U.S. Courthouse
New York, NY 1007-1501

Mr. Mark J. Langer
Clerk, United States Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W., Room 5509
Washington, DC 20001

Dear Ms. Wolfe and Mr. Langer:

Enclosed is the Chief Justice's designation of the Honorable Robert D. Sack of the United States Court of Appeals for the Second Circuit to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit in No. 24-5197, Bishay v. McFadden, et al.. Pursuant to 28 U.S.C. § 295, please file and enter this assignment on the minutes of your respective courts.

Please feel free to contact me at (202) 502-1177 if you have any questions or concerns.

Sincerely,

/s/

Anne McKenna
Senior Attorney
Judicial Programs

Enclosures: (Clerk of Lending Court, Ms. Wolfe -
Original Designation)
(Clerk of Borrowing Court, Mr. Langer -
Certified Copy of Designation)

cc: Honorable Robert D. Sack
Ms. Michael Jordan
Ms. Betsy Paret

A TRADITION OF SERVICE TO
THE FEDERAL JUDICIARY

**DESIGNATION AND ASSIGNMENT OF AN
ACTIVE UNITED STATES JUDGE FOR
SERVICE IN ANOTHER CIRCUIT**

The Chief Judge of the United States Court of Appeals for the District of Columbia Circuit has certified that there is a necessity for the designation and assignment of a judge from another circuit or another court to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit in No. 24-5197, Bishay v. McFadden, et al. The Chief Judge of the United States Court of Appeals for the Fourth Circuit has consented to the designation and assignment of the

HONORABLE STEPHANIE DAWN THACKER

a Judge of the United States Court of Appeals for the Fourth Circuit for such service.

NOW, THEREFORE, pursuant to the authority vested in me by Title 28, United States Code, section 291(a), I do hereby designate and assign the Honorable Stephanie Dawn Thacker to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit for the period or purpose stated and for such time as needed in advance to prepare and to issue necessary orders, or thereafter as required to complete unfinished business.

CHIEF JUSTICE OF THE UNITED STATES

Washington, D.C. 12/11/24

A True copy SCOTT S. HARRIS
Test:
Clerk of the Supreme Court of the United States
By /s/
Deputy

[LETTERHEAD OF THE ADMINISTRATIVE
OFFICE OF UNITED STATES COURTS]

December 17, 2024

Ms. Nwamaka C. Anowi
Clerk, United States Court of Appeals
for the Fourth Circuit
Lewis F. Powell, Jr. U.S. Courthouse Annex
1100 East Main Street, Ste 501
Richmond, VA 22319-3525

Mr. Mark J. Langer
Clerk, United States Court of Appeals
for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W., Room 5509
Washington, DC 20001

Dear Ms. Anowi and Mr. Langer:

Enclosed is the Chief Justice's designation of the Honorable Robert D. Sack of the United States Court of Appeals for the Second Circuit to perform judicial duties in the United States Court of Appeals for the District of Columbia Circuit in No. 24-5197, Bishay v. McFadden, et al.. Pursuant to 28 U.S.C. § 295, please file and enter this assignment on the minutes of your respective courts.

Please feel free to contact me at (202) 502-1177 if you have any questions or concerns.

Sincerely,

/s/

Anne McKenna
Senior Attorney
Judicial Programs

Enclosures: (Clerk of Lending Court, Ms. Anowi -
Original Designation)
(Clerk of Borrowing Court, Mr. Langer -
Certified Copy of Designation)

cc: Honorable Stephanie Dawn Thacker
Ms. Michael Jordan
Ms. Betsy Paret

A TRADITION OF SERVICE TO
THE FEDERAL JUDICIARY

APPENDIX C

No. 24-5197

IN THE UNITED STATES
COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BAHIG F. BISHAY, in the capacity of Plaintiff &
Private Attorney General at the behest of *all* citizens
of the United States under 18 U.S.C. §§ 1961-1968
(1994 ed. and Supp. III),
Appellants

vs.

TREVOR N. MCFADDEN, and others¹, solely in
individual capacities,
Appellees

ON APPEAL FROM ORDERS OF THE
UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA
C.A. No. 1:24-cv-02086

CASE BEING CONSIDERED FOR TREATMENT

¹ Sri Srinivasan, Patricia Miletta, Cornelia Pillard, Robert Wilkins, Gregory Katsas, Neomi Rao, Justin Walker, Michelle Childs, Florence Pan, Bradley Garcia, Harry Edwards, Douglas Ginsburg, Raymond Randolph, and Judith Rogers, *circuit judicial officers*; and Trevor McFadden, Amit Mehta, and Dabney Friedrich, *district judicial officers*.

PURSUANT TO RULE 34(j) OF THE COURT'S RULES. HOWEVER, DUE TO CLEAR CONFLICT(S) PRESENTED HEREIN, THE FOURTEEN (14) JUDICIAL OFFICERS OF THIS CIRCUIT *** **NAMED DEFENDANTS-APPELLEES** *** ARE REQUIRED TO **CERTIFY THE QUESTION(S)** PRESENTED IN THIS MOTION TO THE U.S. SUPREME COURT UNDER RULE 19 OF THE RULES OF THE U.S. SUPREME COURT, HENCE:

APPELLANTS' MOTION REQUIRING THE FOURTEEN (14) JUDICIAL OFFICERS NAMED DEFENDANTS-APPELLEES TO RECUSE THEMSELVES AND PROCEED NO FURTHER PURSUANT TO 28 U.S.C. § 144 & § 455(a), (b)(1) and (5)(i). INSTEAD, TO CERTIFY THE QUESTIONS PRESENTED IN THIS MOTION TO THE U.S. SUPREME COURT PURSUANT TO RULE 19 OF THE RULES OF THE U.S. SUPREME COURT BASED ON CLEAR PERSONAL AND JUDICIAL CONFLICT(S)

Pursuant to the strict mandates set forth in 28 U.S.C. § 144; based on "*personal bias and prejudice*" chronicled in the *Appellants' Brief & Record Appendix* submitted herewith, specifically exhibited against PAG-Bishay; and the additional mandates set forth in 28 U.S.C. § 455(a), (b)(1) and (5)(i), Bahig F. Bishay, on his own behalf and at the behest of *all* citizens of the United States pursuant to the authority vested in him by the U.S. Congress under under 18 U.S.C. §§ 1961-1968 (1994 ed. and Supp. III), (hereinafter PAG-Bishay), respectfully herein requires judicial officers:

Sri Srinivasan, Patricia Milet, Cornelia Pillard, Robert Wilkins, Gregory Katsas, Neomi Rao, Justin Walker, Michelle Childs, Florence Pan, Bradley Garcia, Harry Edwards, Douglas Ginsburg, Raymond Randolph, and Judith Rogers, to (i) recuse themselves forthwith; (ii) proceed no further; and (iii) **CERTIFY** the below ***Discrete Questions Presented*** to the U.S. Supreme Court, pursuant to Rule 19 of the Rules of the U.S. Supreme Court, based on clear personal and judicial conflict(s) manifested in the within matter.

THE DISCRETE QUESTIONS PRESENTED

- I. Whether government employees classified as judicial officers are absolutely immune from prosecution for declaratory relief only, if they are sued solely in individual capacity for violating the U.S. Constitution; and for foreclosing Civil / Constitutional Rights while *acting under color of law*, thus deemed to have acted *ultra vires* their assigned judicial authority and immediately became "*private actors stripped of their status as representatives of the sovereign*", as the U.S. Supreme Court so held in *Ex parte Young* to wit:

"When an official acts pursuant to an unconstitutional statute, the absence of valid authority leaves the official ultra vires his authority, and thus a private actor stripped of his status as a representative of the sovereign.

It is simply an illegal act on the part

of the official ... 'If the act which the state Attorney General seeks to enforce is a violation of the Federal Constitution, the officer in proceeding under such enactment comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his individual capacity to the consequences of his conduct'"?

See Ex parte Young, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908), id. 159-160, 28 S.Ct., at 454.26; et seq ; and under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971) ("In Bell v. Hood, 327 U.S. 678, 66 S.Ct. 773, 90 L.Ed. 939 (1946), we reserved the question whether violation of that command by a federal agent acting under color of his authority gives rise to a cause of action for damages consequent upon his unconstitutional conduct. Today we hold that it does."); Mitchell v. Forsyth, 472 U.S. 511, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985), citing Harlow v. Fitzgerald, 457 U.S. 800, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982) ("petitioner is immune unless his actions violated clearly established law ... We conclude that the Attorney General is not absolutely immune from suit for damages arising out of his allegedly unconstitutional conduct in performing his national security function.")

II. If the answer to the preceding question is to the negative, in that said judicial officers *** who are sued only in individual capacity for violating the U.S. Constitution are *not* immune from prosecution for declaratory relief only *** must said judicial officers, under 42 U.S.C. §§ 1983 & 1985(3), as part of the *Civil Right Act* of 1871, the 5th and the 14th Amendments to the U.S. Constitution, be found to have violated a clear *declaratory decree* set forth in 28 U.S.C. § 1251 when they falsely [and deliberately] proffered that the U.S. Supreme Court possessed "*original-exclusive*" jurisdiction to adjudicate the Constitutional – Civil Rights claims PAG-Bishay lawfully brought in the U.S. District Court for the District of Columbia in Civil Action No. 1:21-cv-01831-TNM, which PAG-Bishay properly brought under *declaratory decrees* set forth in Article III, §§ 1 and 2 of the U.S. Constitution; 28 U.S.C. §§ 1331, 1361, 1391(b), 1651(a), and 2201, et seq.; 42 U.S.C. § 1983 & §1985(3), as part of the Civil Right Act of 1871; 18 U.S.C. § 4; 18 U.S.C. § 63; 18 U.S. C. § 152; 18 U.S.C. § 1503; 18 U.S.C., Ch. 73, § 1509; 18 U.S.C. § 1341; 18 U.S.C. § 1343; 18 U.S.C. §§ 1961-1968 (including §§1962(d) and 1964(c)); 18 U.S.C. §§ 2314, 2315; 18 U.S.C. § 3284; 11 U.S.C. §362; and the Mandatory Restitution Act of 1996, 18 U.S.C. §§ 3663A and 3664 as applying to twenty eight (28) specific defendants described in said action as the "beneficiaries" of eight (8) federal crimes listed therein; knowing that said defendants were **neither "States within the United**

States that brought actions against citizens of another State or against aliens"; nor "ambassadors, public ministers, consuls, or vice consuls of foreign states."?

III. If the answer to the preceding question is to the negative, in that said judicial officers are **not** immune from prosecution for declaratory relief only, did said judicial officers also violate their judicial oath(s) and oath(s) of office, after they pledged, **under oath before the American people and their Representatives**, to:

"Administer justice without respect to persons, and do equal right to the poor and to the rich, and faithfully and impartially discharge and perform all the duties incumbent upon him [them] under the Constitution and laws of the United States; and that he [they] will bear true faith and allegiance to the same"?

See Judiciary Act of 1789; 28 U.S.C. § 453 & 5 U.S.C. § 3381.

IV. If the answer to the preceding question is to the affirmative, in that said judicial officers indeed breached their judicial & office oath(s) under the *Judiciary Act of 1789*; 28 U.S.C. § 453 & 5 U.S.C. § 3381; and also violated civil and constitutional rights protected under 42 U.S.C. §§ 1983 & 1985(3), as part of the *Civil Right Act*

of 1871, the 5th and the 14th Amendments to the U.S. Constitution, should said judicial officers be deemed to have defrauded the American people of taxpayers' money unlawfully used to defend other judicial officers and government employees sued in individual capacity for violating the U.S. Constitution, who were named defendants in Civil Action No. 1:21-cv-01831-TNM, based on the following federal prohibition:

"The Department of Justice will not assert any legal position or defense on behalf of any employee sued in his individual capacity which is deemed not to be in the interest of the United States ...?"

See declaratory decrees set forth in **28 CFR § 50.15 (a) (1), (2), (4), (5), (7), (8) (ii) and (v), and (b) (1) and (2)**, which prohibit the use of taxpayers' money to defend violators of the U.S. Constitution.

- V. Based on the foregoing, and all that is stated in the Appellants' Brief submitted herewith, should the U.S. District Court for the District of Columbia be ORDERED to [re-open] Civil Action Nos. 1:21-cv- 01831 & 1:24-cv-02086, so as to permit PAG-Bishay to lawfully prosecute the Civil-Rights / Constitutional claims presented therein; and the monetary damages asserted against specific parties described therein as the "beneficiaries" of eight (8) federal crimes listed therein?

Dated: September 27, 2024

Respectfully submitted by:

Bahig F. Bishay,
Plaintiff & Private Attorney General
Authorized by the U.S. Congress under
18 U.S.C. §§ 1961-1968 (1994 ed. and Supp. III)

/s/Bahig F. Bishay

Bahig F. Bishay
P.O. Box 396
Norwood, MA 02062
Tel: 781.551.0400
BFBishay@earthlink.net

**CERTIFICATE OF TYPE-VOLUME LIMIT,
TYPEFACE, AND TYPE-STYLE**

I hereby certify that this document complies with Rule 35(b)(2) in all aspects and countable words, totaling 1,201 words. This document complies with the typeface requirements of Fed.R.App.P. 32(a)(5) and the type-style requirements of Fed.R.App.32(a)(6) because this document was prepared in a proportionally spaced typeface using Microsoft Word, 14-point Times New Roman font.

/s/ Bahig Bishay
Bahig Bishay

**CERTIFICATE OF SERVICE
MADE ON THE PARTIES**

I, Bahig Bishay, hereby certify that I served true copy of this document on all parties, via this court's electronic filing system, on 9/27/2024.

/s/ Bahig Bishay
Bahig Bishay

**CERTIFICATE OF SERVICE MADE ON U.S.
ATTORNEY GENERAL MERICK B. GARLAND**

I, Bahig Bishay, hereby certify that I served true copy of this document on U.S. Attorney General Merick B. Garland, via U.S. Priority Mail, on 9/27/2024:

Merrick B. Garland,
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

**CERTIFICATE OF SERVICE MADE ON
U.S. SENATOR RICHARD DURBIN**

I, Bahig Bishay, hereby certify that I served true copy of this document on U.S. Senator Richard Durbin, via U.S. Priority Mail, on 9/27/2024:

Chair, Richard Durbin,
U.S. Senate, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

/s/ Bahig Bishay

Bahig Bishay

**CERTIFICATE OF SERVICE MADE ON
U.S. SENATOR LINDSEY GRAHAM**

I, Bahig Bishay, hereby certify that I served true copy of this document on U.S. Senator Lindsey Graham, via U.S. Priority Mail, on 9/27/2024:

Ranking Member, Lindsey Graham,
U.S. Senate, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

/s/ Bahig Bishay
Bahig Bishay

**CERTIFICATE OF SERVICE MADE ON
U.S. REPRESENTATIVE MIKE JOHNSON,
SPEAKER OF THE U.S. HOUSE OF
REPRESENTATIVES**

I, Bahig Bishay, hereby certify that I served true copy of this document on U.S. Congressman Mike Johnson, via U.S. Priority Mail, on 9/27/2024:

Representative Mike Johnson,
Speaker of the United States House of Representatives
H-232, The Capitol
Washington, D.C. 20515

/s/ Bahig Bishay
Bahig Bishay

**CERTIFICATE OF SERVICE MADE ON
U.S. REPRESENTATIVE JIM JORDAN,
CHAIRMAN OF THE U.S. HOUSE OF
REPRESENTATIVES JUDICIARY
COMMITTEE**

I, Bahig Bishay, hereby certify that I served true copy of this document on U.S. Congressman Jim Jordan, via U.S. Priority Mail, on 9/27/2024:

Representative Jim Jordan,
Chairman of the U.S. House of Representatives
Judiciary Committee
213 8 Rayburn House Building
Washington, DC 20515

/s/ Bahig Bishay
Bahig Bishay

**CERTIFICATE OF SERVICE MADE ON
U.S. REPRESENTATIVE JERROLD NADLER,
RANKING MEMBER OF THE U.S. HOUSE OF
REPRESENTATIVES JUDICIARY
COMMITTEE**

I, Bahig Bishay, hereby certify that I served true copy of this document on U.S. Congressman Jerrold Nadler, via U.S. Priority Mail, on 9/27/2024:

Representative Jerrold Nadler,
Ranking Member of the U.S. House of Representatives
Judiciary Committee
2132 Rayburn HOB
Washington, DC 20515

/s/ Bahig Bishay
Bahig Bishay

bfbishay@earthlink.net

From: ecfnoticing@cadc.uscourts.gov
Sent: Monday, December 30, 2024 5:16 PM
To: bfbishay@earthlink.net
Subject: 24-5197 Bahig Bishay v. Trevor McFadden, et al "Notice Filed" (1:24-cv-02086-APM)

NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

United States Court of Appeals for
District of Columbia Circuit

Notice of Docket Activity

The following transaction was entered on 12/30/2024 at 5:15:18 PM Eastern Standard Time and filed on 12/17/2024

Case Name: Bahig Bishay v. Trevor McFadden, et al

Case Number: 24-5197

Document(s): Document(s)

Docket Text:

NOTICE OF DESIGNATIONS [2091945] filed for the intercircuit assignment of Circuit Judges Stephanie D. Thacker and Ralph R. Erickson, and Senior Circuit Judge Robert D. Sack, to perform judicial duties in this case. [24-5197]

Notice will be electronically mailed to:

Bahig F. Blshay: bfbblshay@earthlink.net
Ms. Jane M. Lyons, Assistant U.S. Attorney:
jane.lyons@usdoj.gov, caseview.ecf@usdoj.gov,
usadc.civll@usdoj.gov, alicia.dupree@usdoj.gov,
johnny.walker@usdoj.gov

The following document(s) are associated with this transaction:

Document Description: Notice Filed

Original Filename: C:\Users\ScottAtchue\Desktop\9041_IA_Pack_Ack_7.pdf

Electronic Document Stamp:

[S T A M P _ a c e c f S t a m p _ 1 D = 1 1 0 9 1 8 6 8 2 3
[Date=12/17/2024] [FileNumber=2091945-0]
[aaf50bdd2b2940e4e5eba79a2fa877459407d38330fb2
9a1ab699178f725c313dba04abc187cf46c9831d
9268869483c0eaee224d60c9a 19f92c07b4f6c4279e]]

APPENDIX D

Bahig F. Bishay

From: ecfnoticing@cadc.uscourts.gov
Sent: Friday, January 24, 2025 9:01 AM
To: bfbishay@earthlink.net
Subject: 24-5197 Bahig Bishay v. Trevor McFadden, et al "Judgment Filed (Special Panel)" (1:24-cv-02086-APM)

NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

United States Court of Appeals for District of Columbia Circuit

Notice of Docket Activity

The following transaction was entered on 01/24/2025 at 8:59:35 AM Eastern Standard Time and filed on 01/24/2025

Case Name: Bahig Bishay v. Trevor McFadden, et al

Case Number: 24-5197

Document(s): Document(s)

Docket Text:

PER CURIAM JUDGMENT [2096114] filed (without memorandum) that the district court's dismissal of this case with prejudice be affirmed. It is FURTHER ORDERED that appellant's motion to exceed word limits [2077222-2] and motion for leave to accept the appendix [2077765-3] be granted. It is FURTHER ORDERED that appellant's motion to expedite ruling be dismissed as moot [2090951-2]. It is FURTHER ORDERED that appellant's motions to certify questions of law to the United States Supreme Court be denied [2077164-2], [2074006-2]. It is FURTHER ORDERED that all other motions filed by appellant be denied [2083478-2], [2083477-2], [2083475-2]. (SEE JUDGMENT FOR DETAILS) withholding issuance of the mandate. Before Judges: Thacker*, Erickson** and Sack***.

Notice will be electronically mailed to:

Bahig F. Bishay: bfbishay@earthlink.net
Ms. Jane M. Lyons, Assistant U.S. Attorney:
jane.lyons@usdoj.gov, caseview.ecf@usdoj.gov,
usadc.civil@usdoj.gov, alicia.dupree@usdoj.gov,
johnny.walker@usdoj.gov

* Of the Fourth Circuit, sitting by designation.

** Of the Eighth Circuit, sitting by designation.

*** Of the Second Circuit, sitting by designation.

The following document(s) are associated with this transaction:

Document Description: Judgment Sent

Original Filename: /opt/ ACECF/live/forms/24-5197LDSJ.pdf

Electronic Document Stamp: [STAMP
acecfStamp_lID=1109186823 [Date=01/24/2025]
[FileNumber=2096114-0] [a35297842a51b84da6e
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7cdd5fc028459f0d5dc0 0a99ba58f71321790e
7aeb39fa99bbc59cbc03573b36]]

Recipients:

- Bahig F. Bishay
- Ms. Jane M. Lyons, Assistant U.S. Attorney

APPENDIX E

No. 24-5197

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BAHIG F. BISHAY, in the capacity of Plaintiff &
Private Attorney General at the behest of *all* citizens
of the United States under 18 U.S.C. §§ 1961-1968
(1994 ed. and Supp. Ill) (PAG-Bishay),
Appellants

vs.

TREVOR N. MCFADDEN, and others, solely
in individual capacities,
Appellees

ON APPEAL FROM ORDERS OF THE
UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA
C.A. No. 1:24-cv-02086

PLAINTIFF & PRIVATE ATTORNEY GENERAL
BAHIG BISHAY'S *CONSTITUTIONAL DEMAND*
*** MADE AT THE BEHEST OF *ALL CITIZENS*
OF THE UNITED STATES UNDER 18 U.S.C. §§
1961-1968 -V ("PAG-BISHAY") *** MADE HEREIN
UNDER RULE 35 ON THE FOLLOWING
JUDICIAL OFFICERS: SRI SRINIVASAN;
KAREN LECRAFT-HENDERSON; PATRICIA

MILLETT; CORNELIA PILLARD; ROBERT WILKINS; GREGORY KATSAS; NEOMI RAO; JUSTIN WALKER; MICHELLE CHILDS; FLORENCE PAN; BRADLEY GARCIA; HARRY EDWARDS; DOUGLAS GINSBURG; RAYMOND RANDOLPH; and JUDITH ROGERS *** TO FORTHWITH *SET ASIDE* THE JANUARY 24, 2025 ORDER(S) ENTERED BY THREE (3) JUDICIAL OFFICERS SITTING BY DESIGNATION AND, INSTEAD, *CERTIFY* THE DISCRETE QUESTION(S) PRESENTED ON SEPTEMBER 27, 2024 TO THE U.S. SUPREME COURT, PURSUANT TO RULE 19 OF THE RULES OF THE COURT, BECAUSE THE FIFTEEN (15) OFFICERS NAMED ABOVE ARE DISQUALIFIED TO ACT IN *EN BANC* CAPACITY PURSUANT TO RULE 35 OF THE *FEDERAL RULES OF APPELLATE PROCEDURE; LOCAL RULE 35* *** DUE TO CLEAR CONFLICT(S) ALREADY RECOGNIZED AND ACKNOWLEDGED BY SAID OFFICERS UNDER 28 U.S.C. § 144; and 28 U.S.C. § 455(a), (b)(1) and (5)(i).

THE DISCRETE QUESTION(S) PRESENTED ON SEPTEMBER 27, 2024 *** WHICH THE THREE (3) OFFICERS SITTING BY DESIGNATION FAILED TO ANSWER *** THUS REQUIRING THE FIFTEEN (15) OFFICERS NAMED ABOVE TO *CERTIFY* TO THE U.S. SUPREME COURT UNDER RULE 19 OF THE COURT'S RULES, ARE RESTATEMENT IN THIS DOCUMENT AND MUST FORTHWITH BE *CERTIFIED* PURSUANT TO THE PLEDGE(S) MADE UNDER OATH BY ALL

JUDICIAL OFFICERS REFERENCED IN THIS DOCUMENT, PURSUANT TO THE *JUDICIARY ACT OF 1789*; 28 U.S.C. § 453 & 5 U.S.C. § 3331:

"I, ___, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as __ under the Constitution and laws of the United States. So help me God."

(Pub. L. 101-650, title IV, § 404, Dec. 1, 1990, 104 Stat. 5124.)

"I, __, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

THE DISCRETE QUESTIONS PRESENTED

- I. Whether government employees classified as judicial officers are absolutely immune from prosecution for declaratory relief only, if they are sued solely in individual capacity for violating the U.S. Constitution; and for foreclosing Civil / Constitutional Rights while *acting under color of law*, thus deemed to have acted *ultra vires* their assigned judicial authority and immediately became "*private actors stripped of their status as representatives of the sovereign*", as the U.S. Supreme Court so held in *Ex parte Young* to wit:

"When an official acts pursuant to an unconstitutional statute, the absence of valid authority leaves the official ultra vires his authority, and thus a private actor stripped of his status as a representative of the sovereign.

It is simply an illegal act on the part of the official... 'If the act which the state Attorney General seeks to enforce is a violation of the Federal Constitution, the officer in proceeding under such enactment comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his individual capacity to the consequences of his conduct'"?

See Ex parte Young, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908), *id.* 159-160, 28 S.Ct., at 454.26; *et seq* ; and under *Bivens v. Six Unknown Named Agents*

of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971) ("*In Bell v. Hood*, 327 U.S. 678, 66 S.Ct. 773, 90 L.Ed. 939 (1946), we reserved the question whether violation of that command by a federal agent acting under color of his authority gives rise to a cause of action for damages consequent upon his unconstitutional conduct. Today we hold that it does."); *Mitchell v. Forsyth*, 472 U.S. 511, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985), citing *Harlow v. Fitzgerald*, 457 U.S. 800, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982) ("petitioner is immune unless his actions violated clearly established law... We conclude that the Attorney General is not absolutely immune from suit for damages arising out of his allegedly unconstitutional conduct in performing his national security function.")

- II. If the answer to the preceding question is to the negative, in that said judicial officers *** who are sued only in individual capacity for violating the U.S. Constitution are **not** immune from prosecution for declaratory relief only *** must said judicial officers, under 42 U.S.C. §§ 1983 & 1985(3), as part of the *Civil Right Act* of 1871, the 5th and the 14th Amendments to the U.S. Constitution, be found to have violated a clear **declaratory decree** set forth in **28 U.S.C. § 1251** when they falsely [and deliberately] proffered that the U.S. Supreme Court possessed "**original-exclusive**" jurisdiction to adjudicate the Constitutional – Civil Rights claims PAG-Bishay lawfully brought in the U.S. District Court for the District of Columbia in Civil Action No. 1:21-cv-01831-TNM, which

PAG-Bishay properly brought under *declaratory decrees* set forth in Article III, §§ 1 and 2 of the U.S. Constitution; 28 U.S.C. §§ 1331, 1361, 1391(b), 1651(a), and 2201, et seq.; 42 U.S.C. § 1983 & §1985(3), as part of the *Civil Right Act* of 1871; 18 U.S.C. § 4; 18 U.S.C. § 63; 18 U.S. C. § 152; 18 U.S.C. § 1503; 18 U.S.C., Ch. 73, § 1509; 18 U.S.C. § 1341; 18 U.S.C. § 1343; 18 U.S.C. §§ 1961-1968 (including §§1962(d) and 1964(c)); 18 U.S.C. §§ 2314, 2315; 18 U.S.C. § 3284; 11 U.S.C. §362; and the *Mandatory Restitution Act* of 1996, 18 U.S.C. §§ 3663A and 3664 as applying to twenty eight (28) specific defendants described in said action as the "beneficiaries" of eight (8) federal crimes listed therein; knowing that said defendants were neither *"States within the United States that brought actions against citizens of another State or against aliens"*; *"ambassadors, public ministers, consuls, or vice consuls of foreign states."*?

III. If the answer to the preceding question is to the negative, in that said judicial officers are *not* immune from prosecution for declaratory relief only, did said judicial officers also violate their judicial oath(s) and oath(s) of office, after they pledged, *under oath* before the American people and their Representatives to discharge the following:

"Administer justice without respect to persons, and do equal right to the poor and to the rich, and faithfully and impartially discharge and

perform all the duties incumbent upon him [them] under the Constitution and laws of the United States; and that he [they] will bear true faith and allegiance to the same ... "?

See Judiciary Act of 1789; 28 U.S.C. § 453 & 5 U.S.C. § 3331.

IV. If the answer to the preceding question is to the affirmative, in that said judicial officers indeed breached their judicial & office oath(s) under the *Judiciary Act of 1789; 28 U.S.C. § 453 & 5 U.S.C. § 3331*; and also violated civil and constitutional rights protected under 42 U.S.C. §§ 1983 & 1985(3), as part of the *Civil Right Act* of 1871, the 5th and the 14th Amendments to the U.S. Constitution, should said judicial officers be deemed to have defrauded the American people of taxpayers' money unlawfully used to defend other judicial officers and government employees sued in individual capacity for violating the U.S. Constitution, who were named defendants in Civil Action No. 1:21-cv-01831-TNM, based on the following federal prohibition:

"The Department of Justice will not assert any legal position or defense on behalf of any employee sued in his individual capacity which is deemed not to be in the interest of the United States ... "?

See *declaratory decrees* set forth in 28 CFR § 50.15 (a) (1), (2), (4), (5), (7), (8) (ii) and (v), and (b) (1)

and (2), which prohibit the use of taxpayers' money to defend violators of the U.S. Constitution.

V. Based on the foregoing, should the U.S. District Court for the District of Columbia be ORDERED to [re-open] Civil Action Nos. 1:21-cv-01831 & 1:24-cv-02086, so as to permit PAG-Bishay to lawfully prosecute the Civil-Rights / Constitutional claims presented therein; and the monetary damages asserted against specific parties described therein as the "beneficiaries" of eight (8) federal crimes listed therein?

THE DISCRETE RELIEF SOUGHT

Based on the foregoing, and all that is stated in the **Appellant's Brief, Document No. 2077169** and re-stated above, and the relief sought in **Document Nos.: 2077164: 2077222; 2077765; 2083475; 2083477; 2083478; 2090951; 2094169; and 2095832**, all incorporated herein by reference with the same force, pursuant to Rule 10(c) of the *Federal Rules of Civil Procedure*, PAG-Bishay respectfully moves the fifteen (15) judicial officers of the U.S. Court of Appeals for the District of Columbia Circuit, and the three (3) judicial officers sitting by designation in the within matter, to forthwith **CERTIFY** the *Discrete Questions Presented* on September 27, 2024, which are re-stated herein with the same force and accuracy, to the U.S. Supreme Court, under Rule 19 of the Rules of the Court.

Respectfully submitted on January 24, 2025, by:

Bahig F. Bishay,
Plaintiff & Private Attorney General
Authorized by the U.S. Congress under
18 U.S.C. §§ 1961-1968 (1994 ed. and Supp. III)

/s/ Bahig F. Bishay

Bahig F. Bishay
P.O. Box 396
Norwood, MA 02062
Tel: 781.551.0400
BFBishay@earthlink.net

**CERTIFICATE OF TYPE-VOLUME LIMIT,
TYPEFACE, AND TYPE-STYLE**

I hereby certify that this document complies with Rule 35(b)(2) in all aspects and countable words of 1,796. This document complies with the typeface requirements of Fed.R.App.P. 32(a)(5) and the type-style requirements of Fed.R.App.32(a)(6) because this document was prepared in a proportionally spaced typeface using Microsoft Word, 14-point Times New Roman font.

/s/ Bahig F. Bishay
Bahig F. Bishay

CERTIFICATE OF SERVICE

I, Bahig F. Bishay, hereby certify that I served true copy of this document on all parties, via this court's electronic filing system, on 1/24/2025.

/s/ Bahig F. Bishay
Bahig F. Bishay

No. 24-5197

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

BAHIG F. BISHAY, in the capacity of
Plaintiff & Private Attorney General at the behest of
all citizens of the United States under
18 U.S.C. §§ 1961-1968 (1994 ed. and Supp. Ill)
(PAG-Bishay),
Appellants

vs.

TREVOR N. MCFADDEN, and others, solely in
individual capacities,
Appellees

ON APPEAL FROM ORDERS OF THE UNITED
STATES DISTRICT COURT DISTRICT OF
COLUMBIA C.A. No. 1:24-cv-02086

PLAINTIFF & PRIVATE ATTORNEY GENERAL
BAHIG BISHAY'S CONSTITUTIONAL DEMAND
*** MADE AT THE BEHEST OF *ALL CITIZENS*
OF THE UNITED STATES UNDER 18 U.S.C. §§
1961-1968 ("PAG-BISHAY") *** MADE HEREIN
UNDER CIRCUIT RULE 40 ON THE
FOLLOWING JUDICIAL OFFICERS:
STEPHANIE DAWN THACKER; RALPH
ERICKSON; and ROBERT SACK, ALL THREE (3)
SITTING BY DESIGNATION *** TO
FORTHWITH *SET ASIDE* THE JANUARY 24,

2025 ORDER(S) ENTERED BY SAID THREE (3) JUDICIAL OFFICERS AND, INSTEAD, *CERTIFY* THE DISCRETE QUESTION(S) PRESENTED ON SEPTEMBER 27, 2024 TO THE U.S. SUPREME COURT, PURSUANT TO RULE 19 OF THE RULES OF THE COURT, BECAUSE THE FIFTEEN (15) JUDICIAL OFFICERS OF THIS U.S. CIRCUIT ARE DISQUALIFIED TO ACT IN *EN BANC* CAPACITY PURSUANT TO RULE 35 OF THE *FEDERAL RULES OF APPELLATE PROCEDURE; LOCAL RULE 35*, DUE TO CLEAR CONFLICT(S) ALREADY RECOGNIZED AND ACKNOWLEDGED BY SAID JUDICIAL OFFICERS UNDER 28 U.S.C. § 144; and 28 U.S.C. § 455(a), (b)(1) and (5)(i).

THE DISCRETE QUESTION(S) PRESENTED ON SEPTEMBER 27, 2024 *** WHICH THE THREE (3) OFFICERS SITTING BY DESIGNATION FAILED TO ANSWER *** THUS REQUIRING THE FIFTEEN (15) OFFICERS OF THIS CIRCUIT TO *CERTIFY* TO THE U.S. SUPREME COURT UNDER RULE 19 OF THE COURT'S RULES, ARE RESTATED IN THIS DOCUMENT AND MUST FORTHWITH BE *CERTIFIED* PURSUANT TO THE PLEDGE(S) MADE UNDER OATH BY ALL JUDICIAL OFFICERS REFERENCED IN THIS DOCUMENT, PURSUANT TO THE *JUDICIARY ACT OF 1789*; 28 U.S.C. § 453 & 5 U.S.C. § 3331:

*"I, ___, do solemnly swear (or affirm)
that I will administer justice without
respect to persons, and do equal right*

to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _ under the Constitution and laws of the United States. So help me God."

(Pub. L. 101-650, title IV, § 404, Dec. 1, 1990, 104 Stat. 5124.)

"I, __, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

THE DISCRETE QUESTIONS PRESENTED

- I. Whether government employees classified as judicial officers are absolutely immune from prosecution for declaratory relief only, if they are sued solely in individual capacity for violating the U.S. Constitution; and for foreclosing Civil / Constitutional Rights while

acting under color of law, thus deemed to have acted *ultra vires* their assigned judicial authority and immediately became "*private actors stripped of their status as representatives of the sovereign*", as the U.S. Supreme Court so held in *Ex parte Young* to wit:

"When an official acts pursuant to an unconstitutional statute, the absence of valid authority leaves the official ultra vires his authority, and thus a private actor stripped of his status as a representative of the sovereign.

It is simply an illegal act on the part of the official ... 'If the act which the state Attorney General seeks to enforce is a violation of the Federal Constitution, the officer in proceeding under such enactment comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his individual capacity to the consequences of his conduct'"?

See Ex parte Young, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908), *id.* 159-160, 28 S.Ct., at 454.26; *et seq*; and under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971) ("*In Bell v. Hood*, 327 U.S. 678, 66 S.Ct. 773, 90 L.Ed. 939 (1946), we reserved the question whether violation of that command by a federal agent acting under color of his authority gives rise to a cause of action for damages consequent upon

his unconstitutional conduct. Today we hold that it does."); Mitchell v. Forsyth, 472 U.S. 511, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985), citing Harlow v. Fitzgerald, 457 U.S. 800, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982) ("petitioner is immune unless his actions violated clearly established law ... We conclude that the Attorney General is not absolutely immune from suit/or damages arising out of his allegedly unconstitutional conduct in performing his national security function.")

II. If the answer to the preceding question is to the negative, in that said judicial officers *** who are sued only in individual capacity for violating the U.S. Constitution are *not* immune from prosecution for declaratory relief only *** must said judicial officers, under 42 U.S.C. §§ 1983 & 1985(3), as part of the *Civil Right Act* of 1871, the 5th and the 14th Amendments to the U.S. Constitution, be found to have violated a clear *declaratory decree* set forth in 28 U.S.C. § 1251 when they falsely [and deliberately] proffered that the U.S. Supreme Court possessed "*original-exclusive*" jurisdiction to adjudicate the Constitutional – Civil Rights claims PAG-Bishay lawfully brought in the U.S. District Court for the District of Columbia in Civil Action No. 1:21-cv-01831-TNM, which PAG-Bishay properly brought under *declaratory decrees* set forth in Article III, §§ 1 and 2 of the U.S. Constitution; 28 U.S.C. §§ 1331, 1361, 1391(b), 1651(a), and 2201, et seq.; 42 U.S.C. § 1983 & §1985(3), as part of the *Civil Right Act* of 1871; 18 U.S.C. § 4; 18 U.S.C. § 63; 18 U.S. C. § 152; 18 U.S.C. § 1503; 18 U.S.C., Ch. 73, § 1509; 18 U.S.C. § 1341; 18 U.S.C. § 1343; 18 U.S.C. §§ 1961-1968 (including

§§1962(d) and 1964(c)); 18 U.S.C. §§ 2314, 2315; 18 U.S.C. § 3284; 11 U.S.C. §362; and the *Mandatory Restitution Act* of 1996, 18 U.S.C. §§ 3663A and 3664 as applying to twenty eight (28) specific defendants described in said action as the "beneficiaries" of eight (8) federal crimes listed therein; knowing that said defendants were **neither "States within the United States that brought actions against citizens of another State or against aliens"; nor "ambassadors, public ministers, consuls, or vice consuls of foreign states."**?

III. If the answer to the preceding question is to the negative, in that said judicial officers are **not** immune from prosecution for declaratory relief only, did said judicial officers also violate their judicial oath(s) and oath(s) of office, after they pledged, **under oath** before the American people and their Representatives to discharge the following:

"Administer justice without respect to persons, and do equal right to the poor and to the rich, and faithfully and impartially discharge and perform all the duties incumbent upon him [them] under the Constitution and laws of the United States; and that he [they] will bear true faith and allegiance to the same ...?"

See Judiciary Act of 1789; 28 U.S.C. § 453 & 5 U.S.C. § 3331.

IV. If the answer to the preceding question is to the affirmative, in that said judicial officers indeed

breached their judicial & office oath(s) under the *Judiciary Act* of 1789; 28 U.S.C. § 453 & 5 U.S.C. § 3331; and also violated civil and constitutional rights protected under 42 U.S.C. §§ 1983 & 1985(3), as part of the *Civil Right Act* of 1871, the 5th and the 14th Amendments to the U.S. Constitution, should said judicial officers be deemed to have defrauded the American people of taxpayers' money unlawfully used to defend other judicial officers and government employees sued in individual capacity for violating the U.S. Constitution, who were named defendants in Civil Action No. 1:21-cv-01831-TNM, based on the following federal prohibition:

"The Department of Justice will not assert any legal position or defense on behalf of any employee sued in his individual capacity which is deemed not to be in the interest of the United States ...?"

See *declaratory decrees* set forth in 28 CFR § 50.15 (a) (1), (2), (4), (5), (7), (8) (ii) and (v), and (b) (1) and (2), which prohibit the use of taxpayers' money to defend violators of the U.S. Constitution.

V. Based on the foregoing, should the U.S. District Court for the District of Columbia be ORDERED to [re-open] Civil Action Nos. 1:21-cv-01831 & 1:24-cv-02086, so as to permit PAG-Bishay to lawfully prosecute the Civil-Rights / Constitutional claims presented therein; and the monetary damages asserted against specific

parties described therein as the "beneficiaries" of eight (8) federal crimes listed therein?

THE DISCRETE RELIEF SOUGHT

Based on the foregoing, and all that is stated in the **Appellant's Brief, Document No. 2077169** and re-stated above, and the relief sought in **Document Nos.: 2077164: 2077222; 2077765; 2083475; 2083477; 2083478; 2090951; 2094169; and 2095832**, all incorporated herein by reference with the same force, pursuant to Rule 10(c) of the *Federal Rules of Civil Procedure*, PAG-Bishay respectfully moves the fifteen (15) judicial officers of the U.S. Court of Appeals for the District of Columbia Circuit, and the three (3) judicial officers sitting by designation in the within matter, to forthwith *CERTIFY* the *Discrete Questions Presented* on September 27, 2024, which are re-stated herein with the same force and accuracy, to the U.S. Supreme Court, under Rule 19 of the Rules of the Court.

Respectfully submitted on January 24, 2025, by:

Bahig F. Bishay,
Plaintiff & Private Attorney General
Authorized by the U.S. Congress under
18 U.S.C. §§ 1961-1968 (1994 ed. and Supp. III)

/s/ Bahig F. Bishay

Bahig F. Bishay
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Tel: 781.551.0400
BFBishay@earthlink.net

**CERTIFICATE OF TYPE-VOLUME
LIMIT, TYPEFACE, AND TYPE-STYLE**

I hereby certify that this document complies with Rule 35(b)(2) in all aspects and countable words of 1,772. This document complies with the typeface requirements of Fed.R.App.P. 32(a)(5) and the type-style requirements of Fed.R.App.32(a)(6) because this document was prepared in a proportionally spaced typeface using Microsoft Word, 14-point Times New Roman font.

/s/ Bahig F. Bishay
Bahig F. Bishay

CERTIFICATE OF SERVICE

I, Bahig F. Bishay, hereby certify that I served true copy of this document on all parties, via this court's electronic filing system, on 1/24/2025.

/s/ Bahig F. Bishay
Bahig F. Bishay

APPENDIX F

bfbishay@earthlink.net

From: ednoticing@cadc.uscourts.gov
Sent: Thursday, March 20, 2025 3:52 PM
To: bfbishay@earthlink.net
Subject: 24-5197 Bahig Bishay v. Trevor McFadden, et al "Order Filed (CLERK)" (1:24-cv-02086-APM)

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United States Court of Appeals for District of Columbia Circuit

Notice of Docket Activity

The following transaction was entered on 03/20/2025 at 3:51:40 PM Eastern Daylight Time and filed on 03/20/2025

Case Name: Bahig Bishayv. Trevor McFadden, et al

Case Number: 24-5197

Document(s): Document(s)

Docket Text:

CLERK'S ORDER [2106805] filed dismissing appellant's petition for rehearing en banc [2096234-2]. [24- 5197]

Notice will be electronically mailed to:

Bahig F. Bishay: bfbishay@earthlink.net
Ms. Jane M. Lyons, Assistant U.S. Attorney:
jane.lyons@usdoj.gov, caseview.ecf@usdoj.gov,
usadc.civil@usdoj.gov, alicia.dupree@usdoj.gov,
johnny.watker@usdoj.gov

The following document(s) are associated with this transaction:

Document Description: Order Sent

Original.Filename: /opt/ACECF/live/forms/24-5197LDCN.1.pdf

Electronic Document Stamp:

[S T A M P a c e c f S t a m p _ 1 D = 1 1 0 9 1 8 6 8 2 3
[Date=03/20/2025] [FileNumber=2106805-0]
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951274fb40092a404f37bbdbce3852b5711d791
675d921265127ef6302942ecd88477a16a8add01535b]]

Recipients:

- Bahig F. Bishay

- Ms. Jane M. Lyons, Assistant U.S. Attorney

bfbishay@earthlink.net

From: ecfnoticing@cadc.uscourts.gov
Sent: Thursday, March 20, 2025 3:50 PM
To: bfbishay@earthlink.net
Subject: 24-5197 Bahig Bishay v. Trevor McFadden, et al "Per Curiam Order Filed (Special Panel)" (1:24-cv-02086-APM)

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United States Court of Appeals for District of Columbia Circuit

Notice of Docket Activity

The following transaction was entered on 03/20/2025 at 3:49:33 PM Eastern Daylight Time and filed on 03/20/2025

Case Name: Bahig Bishay v. Trevor McFadden, et al

Case Number: 24-5197

Document(s): Document(s)

Docket Text:

PER CURIAM ORDER [2106804] filed denying appellant's petition for rehearing [2096237-2] and corrected motion to certify question of law [2096423-2]. Before Judges: Thacker*, Erickson** and Sack***:

[24-5197] Notice will be electronically mailed to:

Bahig F. Bishay: bfbishay@earthlink.net
Ms. Jane M. Lyons, Assistant U.S. Attorney:
jane.lyons@usdoj.gov, caseview.ecf@usdoj.gov,
usadc.civil@usdoj.gov, alicia.dupree@usdoj.gov,
johnny.walker@usdoj.gov

The following document(s) are associated with this transaction:

Document Description: Order Sent

Original Filename: /opt/ACECF/live/forms/24-5197LDSN.1.pdf

Electronic Document Stamp:

[S T A M P _ a c e c f S t a m p _ 1 D = 1 1 0 9 1 8 6 8 2 3
[Date=03/20/2025] [FileNumber=2106804-0]
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d652f77212d1d172e9d29d883a64442ec013ac0
469cdafa78a59e605c9d12439c589e61687f2db58cb19]]

* Of the Fourth Circuit, sitting by designation.

** Of the Eighth Circuit, sitting by designation.

*** Of the Second Circuit, sitting by designation.

Recipients:

- Bahig F. Bishay
- Ms. Jane M. Lyons, Assistant U.S. Attorney