24-251

ORIGINAL

No. 24-



IN THE

# Supreme Court of the United States

JACK JORDAN,

*Petitioner,*

*v.*

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT,

*Respondent.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

## PETITION FOR A WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

1. Whether the U.S. Constitution delegated power to federal courts to injure a court officer (an attorney) because he stated in written federal court filings (*e.g.*, motions to reconsider or recuse or appellate briefing) that other court officers (federal judges) knowingly misrepresented evidence reviewed *in camera*, knowingly violated rights and freedoms expressly secured by the U.S. Constitution and federal laws and committed federal offenses (*e.g.*, in 18 U.S.C. 241, 242, 371, 1001, 1341, 1343, 1349 or 1519) when no fact ever was stated or proved to show how any such attorney statement was false or misleading or otherwise adversely affected any proceeding or exceeded the scope of speech and petitioning secured by the First, Fifth and Fourteenth Amendments of the U.S. Constitution and copious U.S. Supreme Court precedent thereunder.

2. When an attorney challenges reciprocal disbarment, whether the U.S. Constitution delegated power to federal courts to disbar the attorney (*i.e.*, deprive the attorney of his liberty to practice and property interest in practicing his profession in such courts) for purported misconduct without such federal court expressly identifying the particular governing standard(s) of conduct, identifying the attorney conduct that purportedly violated any such standard, identifying the facts material to proving how any such attorney conduct violated any such standard, and identifying the evidence that was admissible and admitted to prove all material facts.

## DIRECTLY RELATED PROCEEDINGS

U.S. Court of Appeals, Ninth Circuit (disbarment):

In re: JACK JORDAN, Admitted to the Bar of the Ninth Circuit: July 19, 2019, No. 23-80007 (Jan. 17, 2024), *reh'g* and *reh'g en banc denied* (June 4, 2024).

Report and Recommendation (disbarment) (Dec. 14, 2023).

U.S. Supreme Court (disbarment):

*In re Disbarment of Jordan*, No. D-03109, 143 S. Ct. 2605 (June 5, 2023), *recon. denied* 144 S. Ct. 259 (Oct. 2, 2023).

U.S. Court of Appeals, Eighth Circuit (disbarment):

*Jordan v. U.S. Dept. of Labor*, No. 20-2494 (8th Cir. Nov. 2, 2021), *recon. denied* (Nov. 17, 2021), *cert. denied sub nom. Jordan v. DOL*, 142 S. Ct. 2649 (2022) (No. 21-1180).

U.S. Court of Appeals, Tenth Circuit (disbarment):

*In re Jordan*, 2023 U.S. App. LEXIS 16506 (Jan. 3, 2023), *recon. denied* (Jan. 20, 2023), *cert. denied sub nom. Jordan v. United States Ct. of Appeals for the Tenth Circuit*, 143 S. Ct. 2661 (2023) (No. 22-1029).

U.S. Court of Appeals, District of Columbia Circuit (disbarment):

> *In re Jordan*, No. 23-8505 (Nov. 14, 2023), *reh'ng* and *reh'ng en banc denied* (Jan. 3, 2024), *cert. denied sub nom. Jordan v. United States Ct. of Appeals for the D.C. Circuit*, 2024 U.S. Lexis 2388 (2024) (No. 23-1087).

Kansas Supreme Court (disbarment):

> *In re Jordan*, No. 124,956, 316 Kan. 501, 518 P.3d 1203 (Kan. Oct. 21, 2022), *cert. denied sub nom. Jordan v. Kan. Disciplinary Adm'r*, 143 S. Ct. 982 (2023) (No. 22-684).

New York State Supreme Court, Appellate Division, First Department (disbarment):

> *Matter of Jordan*, No. 2023-01872, 217 A.D.3d 21, 193 N.Y.S.3d 17 (N.Y. App. Div. July 6, 2023) *recon. denied* (Oct. 17, 2023).

New York State Court of Appeals (appeal dismissed):

> *Matter of Jordan*, No. APL-2023-00189, 41 N.Y.3d 986, 234 N.E.3d 1052 (N. Y. May 16, 2024) (cert. pet. filed U.S. Sup. Ct. No. 24-174).

U.S. Court of Appeals, District of Columbia Circuit (helping conceal evidence judges lied about Powers' email):

> *Jack Jordan v. U.S. Dept. of Justice*, No. 22-5289 (Apr. 11, 2023) (summary affirmance of denial of

motion under Fed.R.Civ.P. 60 re: Powers' email), *reh'ng* and *reh'ng en banc denied* (July 20, 2023), *cert. denied sub nom. Jordan v. DOJ*, 144 S. Ct. 570 (Jan. 8, 2024) (No. 23-533).

*Jack Jordan v. U.S. Dept. of Labor*, No. 19-5201 (summary affirmance of summary judgment re: Powers' email) (Jan. 16, 2020) *reh'ng denied* (Feb. 18, 2020), *cert. denied sub nom. Jordan v. DOL*, 141 S. Ct. 640 (Oct 19, 2020) (No. 20-241).

*Jack Jordan v. U.S. Dept. of Labor*, No. 18-5128 (summary affirmance of summary judgment re: Powers' email) (Oct. 19, 2018), *reh'ng* and *reh'ng en banc denied* (Jan. 24, 2019).

U.S. Court of Appeals, Eighth Circuit (helping conceal evidence judges lied about Powers' email):

*Robert Campo v. U.S. Dept of Justice* (No. 20-2430); *Ferissa Talley v. U.S. Dept. of Labor* (No. 20-2439) (affirming summary judgment re: Powers' email) (July 30, 2021) *reh'ng* and *reh'ng en banc denied* (Nov. 2, 2021), *cert. denied sub nom. Robert Campo, et al., v. Department of Justice, et al.*, 142 S. Ct. 2753 (May 31, 2022) (No. 21-1320).

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## PETITION FOR WRIT OF CERTIORARI

Petitioner Jack Jordan respectfully petitions for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Ninth Circuit.

## DECISIONS BELOW

The order disbarring Petitioner, *In re: Jack Jordan, Admitted to the Bar of the Ninth Circuit: July 19, 2019* (App. 1a) is unreported but available at 2024 U.S. App. LEXIS 1100 and it "adopted in full" a prior "report and recommendation" (App. 2a-28a). The order denying rehearing (App. 29a) is unreported but available at 2024 U.S. App. LEXIS 13534.

## JURISDICTION

Judgment was entered on January 17, 2024. App. 1a. A timely-filed petition for rehearing was denied on June 4, 2024. App. 29a. This Court has jurisdiction under 28 U.S.C. 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. Amend. I:

> Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. Amend. V:

> No person shall . . . be deprived of life, liberty, or property, without due process of law. . . .

U.S. Const. Amend. XIV, §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.

U.S. Const. Art. III, §2:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority. . . .

U.S. Const. Art. IV, §1:

> Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

U.S. Const. Art. IV, §2, cl. 1:

> The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

U.S. Const. Art. IV, §4:

> The United States shall guarantee to every State in this Union a Republican Form of Government. . . .

U.S. Const. Art. VI:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
>
> The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution. . . .

5 U.S.C. 3331:

> An individual, except the President, elected or appointed to an office of honor or profit in the

> civil service or uniformed services, shall take the following oath: "I, AB, 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." This section does not affect other oaths required by law.

28 U.S.C. 453:

> Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "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."

18 U.S.C. 241:

> If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United

> States, or because of his having so exercised the same . . . They shall be fined under this title or imprisoned not more than ten years, or both. . . .

18 U.S.C. 242:

> Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States . . . shall be fined under this title or imprisoned not more than one year, or both. . . .

## STATEMENT OF THE CASE

Ninth Circuit judges emphasized that they abused disbarment for two purposes: to retaliate against Petitioner for the viewpoint and content of his statements in court filings exposing federal employees (including judges) who lied about the content and purpose of an email by Darin Powers ("Powers' email") and to help conceal evidence that many attorneys of federal agencies (and Littler Mendelson, P.C.) and federal and administrative judges lied about such evidence. *See* App. 3a-16a.

No one ever refuted (or even denied) any Petitioner statement about any judge or attorney lying about evidence or committing any federal offense. No one ever identified any admissible admitted evidence that any such Petitioner statement was false or misleading regarding any fact or legal authority.

Initially, a federal agency judge (Larry Merck) lied about the content and purpose of Powers' email to Robert Huber and Huber's reply to Powers ("Huber's email") in July 2013. *See* App. 3a-4a. Neither Huber nor Powers was an attorney, and—despite 11 years' litigation in numerous cases—no one ever identified evidence that either email was sent in July 2013 to any person then admitted to practice law before any court. *Cf.* App. 3a-16a; U.S. Sup. Ct. ("SCOTUS") No. 23-533 Petition at 7.

So ALJ Merck lied. He knowingly misrepresented that both Powers and Huber "expressly sought legal advice from [DynCorp]'s in-house counsel" in both "emails." App. 4a.

In litigation before Judge Rudolph Contreras (D.D.C.) under the Freedom of Information Act ("FOIA"), agency attorneys lied (in court filings and a declaration) about Huber and Powers marking their emails "Subject to Attorney Client Privilege" and "explicitly request[ing]" a DynCorp attorney's "input and review," and Judge Contreras pretended that their lies and his lies satisfied the requirements of FOIA and Rule 56 of the Federal Rules of Civil Procedure ("FRCP") so that federal employees could continue concealing evidence of the foregoing lies. *See* SCOTUS No. 23-533 Petition at 10-13.

Judge Contreras knew ALJ Merck and agency attorneys lied about the content and purpose of Huber's email, so he (eventually) ordered its release. *See id.* at 13. Huber's one-sentence email clearly neither bore any privilege notation nor sought anything from any attorney. *See id.* App. 35 (Huber's email).

But Judge Contreras knowingly violated FOIA and FRCP Rule 56 and lied repeatedly and concealed evidence that he (and ALJ Merck and agency attorneys) lied about Powers' email in multiple decisions—and no one ever even denied Judge Contreras did all the foregoing. *Compare* SCOTUS No. 23-533 Petition at 6-16 *with* Government Waiver.

Judge Contreras repeatedly lied about seeing evidence Powers labeled Powers' email "subject to attorney-client privilege" (directly contradicting many attorneys representing that Powers marked Powers' email "Subject to Attorney Client Privilege") and Powers' email "contain[ed] an express request for legal advice." No. 23-533 Pet. at 11-12.

After Judge Contreras and D.C. Circuit judges expressly used Judge Contreras' lies about Powers' email to justify summary judgment and summary affirmance, they all admitted all such words (if any) were merely (at most) "*disjointed words*" having "*minimal or no information content.*" *Id.* at 15 (emphasis by Judge Contreras). Judge Conteras even lied about the evidence of such words (or their absence) being "meaningless." *Id.* *See also* App. 6a, below (quoting D.C. Circuit).

Judge Otrie Smith (Mo. W.D.) and Eighth Circuit judges also lied, knowingly violated FOIA and FRCP Rule 56 and committed the offenses in 18 U.S.C. 241, 242, 371, 1001 to help conceal the same evidence in two related FOIA cases. *See* App. 5a, 7a-8a. *See also* SCOTUS No. 21-1320 Petition. In *Talley*, Judge Smith lied about seeing evidence that Powers marked Powers' email "Subject to Attorney Client Privilege" and requested

"counsel's advice about the information in his email" so such information was DynCorp's privileged information. *Id.* at 5-6. Simultaneously, in *Campo*, Judge Smith (and agency attorneys, including in a declaration) represented the same information was Petitioner's private personal information. *Id.* at 8-11.

Ninth Circuit judges emphasized that they disbarred Petitioner to help conceal evidence that many judges and attorneys lied to conceal evidence that ALJ Merck, Judge Contreras and Judge Smith lied and committed many federal offenses (including 18 U.S.C. 241, 242, 371, 1001, 1341, 1343, 1349, 1519), including to help Littler Mendelson attorneys defraud a DynCorp employee injured in Iraq supporting the U.S. government. *See* App. 3a-6a.

Federal judges fined Petitioner for contempt ($1,000 and $500) and many state and federal judges caused Petitioner to be disbarred because of Petitioner's true, unrefuted statements in federal court filings (motions to reconsider rulings or recuse judges, responses to show cause orders, or appeals) that federal agency attorneys and agency and federal judges lied about the content and purpose of Powers' email and committed federal offenses to conceal evidence of such lies. *See* App. 8a-16a. Absolutely "all" such actions against Petitioner "stem from" Petitioner's "pursuit" of "Powers email" and Petitioner's related "allegations" about the lies and crimes of "judges." App. 3a.

In many federal court filings, Petitioner stated that judges and attorneys illegally concealed (or helped conceal) evidence that Powers did not include in his email any privilege notation or request, above, and committed

particular federal offenses, and no one ever proved otherwise with any admissible evidence or legal authority. *See, e.g.*, SCOTUS No. 23-533 Pet. at 9, 16, 25, 28, 36-38.

No decision by any court pertaining to any Petitioner disbarment ever identified any fact or proof thereof (admissible admitted evidence) to prove *how* any Petitioner statement violated any court rule; *how* it was false or misleading or adversely affected any proceeding; or *how* it exceeded the freedom of speech and right to petition secured by our Constitution. *Cf.* pages ii-iii, above, citing decisions.

Federal and state governments had many opportunities to prove something Petitioner stated about judges and attorneys lying and committing crimes was false. *See* pages iii-iv, above (identifying many proceedings and decisions). But no one ever even attempted to do so.

All judges responsible for Petitioners' disbarments failed to bear (or to confirm that anyone bore) any burden of proof stated in any SCOTUS, Ninth Circuit or Kansas precedent, below, protecting the freedom of speech and right to petition.

No judge's hearsay ever was admitted or admissible in any state or federal proceeding to establish that any such hearsay was true or to establish any material fact adverse to Petitioner.

Ninth Circuit judges purported to reciprocally disbar Petitioner for violating Kansas rules of conduct with Petitioner's statements about judges, but they knowingly misrepresented that "[a]t issue in the underlying Kansas

disbarment were ABA Model Rules of Professional Conduct 3.1, 8.2 and 8.4." App. 19a (under caption "GOVERNING LAW"). They failed to address any relevant (Kansas) rule of conduct or precedent or any fact material thereunder or evidence of such fact. *See* App. 23a-26a (under heading "There is Sufficient Proof of Misconduct."). They even refused to comply with (or even address) any SCOTUS precedent or text of our Constitution protecting Petitioner's speech and petitions. *See* App 26a-28a.

Kansas judges disbarred Petitioner because in federal court "filings" Petitioner's "allegations about" federal "judges" were "serious" and "derogatory," *i.e.*, about "criminal activity, lies, misrepresentations, [criminal] conspiracy" in 18 U.S.C. 241 and "treason to the Constitution" because federal judges criminally concealed or helped conceal parts of "Powers' email," to knowingly misrepresent they were "protected" by "attorney-client privilege." *In re Jordan*, 518 P.3d 1203, 1226 (Kan. 2022).

Kansas attorneys and judges flouted Kansas Supreme Court ("KSC") precedent and copious SCOTUS precedent and (knowingly) violated the Fourteenth Amendment. *See id.* at 1224, 1234, 1235 (citing *N.A.A.C.P. v. Button*, 371 U.S. 415 (1963); *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964); *Garrison v. Louisiana*, 379 U.S. 64 (1964); *Pickering v. Board of Ed.*, 391 U.S. 563 (1968); *In re Primus*, 436 U.S. 412 (1978); *Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990)).

They knew such precedent "require[d]" Kansas to "prove that the statements [Petitioner] made about judges" were "false." *Id.* at 1224. They knew Kansas law

"prohibit[ed] only false statements," *i.e.*, only "factual allegations that are [proved] false." *In re Pyle*, 156 P.3d 1231, 1243 (2007) (construing Kan.R.Prof.C. 8.2(a)).

KSC *judges* knowingly misrepresented that Kansas *attorneys* somehow "determined" that Kansas "was not required to prove [any Petitioner] statements were false." *Jordan* at 1239. They pretended to distinguish *Pyle* by merely contending that Petitioner "did not offer evidence tending to show any factual basis for his allegations." *Id.*

Petitioner repeatedly proved (and no one ever even disputed) KSC judges violated Kansas statutes and Kansas and U.S. Constitutions and contravened copious controlling SCOTUS and KSC precedent. *See, e.g.*, SCOTUS Nos. 22-684, 22-1029 Petitions, Supplemental Briefs and government waivers.

## REASONS FOR GRANTING THE WRIT

### I. This Is a Clean Vehicle for Addressing Judges' Egregious Systemic Violations of Our Constitution.

No material fact or controlling legal authority is—or could be—disputed. Federal judges committed the federal offenses that Petitioner said they committed. No one ever even attempted to prove (or even contended) otherwise. *Compare* waivers filed regarding SCOTUS petitions cited on pages ii-iv, above, *with* U.S. Sup. Ct. R. 15.2 ("Counsel" have "an obligation to the Court to point out" promptly "any perceived misstatement" of "fact or law" in "the petition" bearing "on what issues properly would be before the Court." "Any objection" based on "what occurred in the proceedings below" may otherwise "be deemed waived.").

Judges attacking attorneys for expressing honest beliefs about criminal judicial misconduct act like a dangerously unaccountable, clearly unconstitutional aristocratic order usurping power to place themselves above Congress, the people and our Constitution. *Cf.* U.S. Const. Art. I, §§ 9, 10 (prohibiting any "Title of Nobility"). Every judge responsible for disbarring Petitioner from any court merely pretended that judges are above "the supreme Law of the Land." Art. VI.

Executive and judicial officers are "not above the law." *Trump v. United States*, 144 S. Ct. 2312, 2323 (2024). No one "charged with enforcing federal criminal laws" is "above them." *Id.* at 2331. "[T]hat no man is above the law" is a "principle, foundational to our Constitution and system of Government." *Id.* at 2355 (Sotomayor, Kagan, Jackson, JJ., dissenting).

"Even judges" clearly "can be punished criminally" under 18 U.S.C. 241 or 242 "for willful deprivations of constitutional rights." *Imbler v. Pachtman*, 424 U.S. 409, 429 (1976). *Accord Dennis v. Sparks*, 449 U.S. 24, 28, n.5 (1980); *Briscoe v. Lahue*, 460 U.S. 325, 345, n.32 (1983); *Ex parte Virginia*, 100 U.S. 339 (1880) (criminal prosecution of judge for abuse of official power).

No judge was given any power to injure lawyers for the viewpoint or content of Petitioner's statements about judges lying or committing crimes. That was accentuated recently by many court filings by attorneys stating that the former president lied and committed crimes.

Public servants (judges, attorneys) have the power to say people lied and committed crimes because sovereign

citizens have the right to say so (including about such public servants). Much in the Constitution emphatically protects political expression as integral and essential to citizens' self-government (requiring and protecting speech by legislators, executive and judicial officers (including attorneys), jurors, witnesses, electors and voters, each exercising parts of the people's power to think and speak for ourselves about our government).

SCOTUS precedent emphasized that "admission to the Bar" of each federal court is a "right." *Selling v. Radford*, 243 U.S. 46, 48 (1917). Every judge responsible for disbarring Petitioner from any federal court "deprived" Petitioner of "liberty" or "property" without "due process of law." U.S. Const. Amend. V.

Each such court was required to conduct an "investigation" to assess Petitioner's purported "misconduct" and "the proof relied upon to establish" all material facts. *Selling* at 48-49. Each court was required to devote "intrinsic consideration of [any relevant prior court] record" to address two issues that irrefutably precluded Petitioner's disbarments. First, "there was such an infirmity of proof as to" many material facts (and many material "facts" were not even "found") which precluded relying on any prior judge's "conclusion" about Petitioner or Powers' email. *Id.* at 51. Second, "[an]other grave reason" established that disbarment "would conflict with" every judge's and court's "duty" not "to disbar except upon the conviction that, under the principles of right and justice," they are "constrained" to disbar. *Id.*

Such "grave reason" was established in copious SCOTUS precedent starting almost 100 years ago

(including repeatedly in recent years). Such precedent repeatedly emphasized that public officials are public servants and no judge or court has any power to injure Petitioner because of his viewpoint or because of the content of his statements about the lies and crimes of judges without *proof* of *facts* (by admissible admitted *evidence* that was clear and convincing) of *how* Petitioner's statements were false or otherwise adversely affected a proceeding.

No one did—or can—prove that any judge was delegated any power in any state or federal Constitution to injure Petitioner because of the viewpoint or content of Petitioner's statements in court filings regarding judges' or attorneys' criminal misconduct.

No one did—or can—prove that Powers included in Powers' email the words or phrases represented by judges and attorneys above, or prove that ALJ Merck, Judge Contreras, Judge Smith or federal attorneys did not lie about the content of Powers' email, or prove that they or Eighth Circuit or D.C. Circuit judges did not commit federal offenses to conceal evidence of such lies.

No one did—or can—prove even one fact establishing *how* any Petitioner statement or court filing violated any court rule or *how* it exceeded the freedom of speech or right to petition. No one did—or can—bear any burden of proof in any controlling SCOTUS, Ninth Circuit or KSC precedent below securing such freedom or right.

No federal judge could even rationally believe that any relevant conclusory hearsay by any judge (any contention about Powers' email or any Petitioner statement or filing) could constitute or replace *proof* of *facts* with *evidence* that

was lawfully admissible and actually admitted in federal or Kansas court.

A presiding judge "may not" in any way usurp or "assume the role of a witness," so "he may not either distort" any "evidence" or "add to it." *Quercia v. United States*, 289 U.S. 466, 470 (1933). Even findings of actual facts "are not evidence of" such "facts." *United States v. Joyce*, 511 F.2d 1127, 1132 (9th Cir. 1974). *Accord Mackay v. Easton*, 86 U.S. 619, 620 (1873). *Cf. also, e.g.*, Fed.R.Evid. 102, 602, 605, 802, 803, 806, 1002, 1003, 1004, 1101. Regarding state "acts, records, and judicial proceedings," courts are bound by federal rules (approved by Congress) because "Congress may by general laws prescribe the manner in which" they must "be proved, and the effect thereof." U.S. Const. Art. IV, §1.

All decisions disbarring Petitioner were devoid of any evidence of lawful adjudication. Every judge responsible for disbarring Petitioner from any federal court acted no better than a common con man playing a confidence game on the public. Each abused the public's confidence that each would fulfill his oaths of office. *Cf.* 5 U.S.C. 3331; 28 U.S.C. 453. Each knowingly violated our Constitution.

The first and foremost duty of every federal employee is "to support and defend" our "Constitution" against "all enemies, foreign and domestic" and "bear true faith and allegiance" to our Constitution. 5 U.S.C. 3331. *Accord* U.S. Const. Art. VI (Supremacy Clause; oath). Petitioner and other soldiers fulfilled their duty with courage and conviction against foreign enemies. Judges must fulfill their duty with courage and conviction against domestic enemies.

Denying certiorari will undermine our Constitution by protecting and promoting egregious systemic usurpations of power by many judges of many federal, state and agency tribunals, many of whom knowingly violated clear, controlling provisions of federal law and our Constitution to lie about evidence, illegally and criminally help conceal evidence of such lies, and criminally retaliate against Petitioner for exposing the lies and crimes of judges.

## II. Ninth Circuit Judges Clearly Violated the Most Fundamental and Vital Aspects of Our Constitution.

Judges injuring Petitioner for statements in court filings about criminal judicial misconduct egregiously violated our Constitution. Our nation's Founders and our Constitution's Framers repeatedly emphasized that the people are sovereign and all government employees are our representatives (servants), not our rulers.

The Founders and Framers (many of whom were attorneys) feared sitting judges as much as standing armies. They emphasized that abuses by the king's judges were crucial causes of the American Revolution and Revolutionary War. *See, e.g.*, Declaration of Independence (1776) ¶¶6, 10-12, 15, 17, 20-23. *See, esp.*, ¶17 ("mock Trial"); ¶21 (people "tried for pretended Offences"); ¶10 (officials "obstruct[ing] the Administration of Justice"). So Americans fought for "Laws" ensuring "the Right of Representation" which would be "formidable to Tyrants" (*id.* ¶5) and "for opposing" with "Firmness" any "Invasions on the Rights of the People" (*id.* ¶7).

Even in 1774, Congress (comprising many attorneys) emphasized that "freedom of the press" was among

Americans' "great rights" because it served the "advancement of truth" and "diffusion of liberal sentiments on the administration of Government," including so that "oppressive officers" can be "shamed or intimidated, into more honourable and just modes of conducting [public] affairs." *Near v. Minn.*, 283 U.S. 697, 717 (1931); *Roth v. United States*, 354 U.S. 476, 484 (1957); *Thornhill v. Alabama*, 310 U.S. 88, 102 (1940) (substituting "ashamed" for "shamed").

Virginia's legislature (led by George Mason and James Madison) emphasized that "the freedom of the Press is one of the greatest bulwarks of liberty" and it would "be restrained" only "by despotick Governments." Virginia Declaration of Rights §12 (June 12, 1776).

Madison's proposed language for our First Amendment also elaborated on the nature and reason for its rights and freedoms: "The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable." Proposed Constitutional Amendments (1789) (https://founders.archives.gov/documents/Madison/01-12-02-0126).

Madison also emphasized the "great importance in [our] republic" of "guard[ing] society against the oppression of [would-be] rulers." *The Federalist* No. 51 (*The Federalist Papers* are available at https://guides.loc.gov/federalist-papers/full-text).

"[T]he Constitution created a [republican] form of government under which 'The people, not the government, possess the absolute sovereignty.' [Our republican]

government dispersed power" in many ways precisely because "of the people's" extreme "distrust" of people with "power" at "all levels." *New York Times*, 376 U.S. at 274 (quoting Madison). In "Republican Government," the "censorial power" necessarily generally is "in the people over the Government, and not in the Government over the people." *Id.* at 275 (quoting Madison).

Alexander Hamilton similarly emphasized that "[t]he two greatest securities" that "the people" have "for the faithful exercise of any delegated power" are "the restraints" imposed by fear "of public opinion" and the public's "opportunity of discovering with facility and clearness the misconduct of the persons they trust," to facilitate "their removal from office" or their "punishment." *The Federalist* No. 70.

More specifically, Hamilton (a New York attorney) emphasized that our Constitution protected us from "the great engines of judicial despotism," including "arbitrary methods," "prosecuting pretended offenses," and "arbitrary punishments." *The Federalist* No. 83. *Accord Alleyne v. United States*, 570 U.S. 99, 126-127 (2013) (Roberts, C.J., dissenting) ("judicial despotism").

Judges are (and must act as) "servant[s]" or "representative[s]" of "the people." *The Federalist* No. 78 (Hamilton). Imposing the "standard of good behavior" on judges was meant to be an "excellent barrier to the encroachments and oppressions of [such] representative[s]" and "to secure a steady, upright, and impartial administration of the laws" by judges. *Id.*

Hamilton further elaborated on good or bad judicial behavior. Every judge's "duty" is "to declare all acts"

(especially those of other court officers) "contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing." *Id.*

Absolutely "every act of a delegated authority" (including by judges) "contrary to the tenor of the" Constitution "is void." *Id.* To pretend otherwise (as many judges have done to help conceal Powers' email or disbar Petitioner) is to pretend "that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves." *Id.*

The sovereign "People" created the "Constitution" (and every branch of federal government) to "establish Justice" and "secure the Blessings of Liberty." U.S. Const. Preamble. The people emphasized their sovereignty by reserving all their "rights," even those not included in any "enumeration" (Amend. IX), and merely "delegat[ing]" some of their "powers" to federal representatives (Amend. X).

The people re-emphasized their sovereignty by confirming that no part of federal or state government was delegated any power to "abridg[e] the freedom of speech" and "press" or "the right" to "petition" courts to "redress" any "grievances" regarding unconstitutional or criminal judicial misconduct. Amend. I. *Accord* Amend. XIV, §1.

Our Constitution requires a "Republican Form of Government" to secure "all Privileges and Immunities of Citizens" against all public servants. Art. IV. *Accord* Amend. XIV, §1 ("privileges or immunities," "due process of law," "equal protection of the laws").

Federal judges do not have lifetime appointments or immunity from the people's oversight. They may "hold" and use "their Offices" only "during" (and for) "good Behaviour." Art. III, §1. They have only such "powers" as the people "delegated" to courts "by the Constitution." Amend. X. No judge has any power to deprive any person of any liberty or property without due process of law. *See* Amend. V; Amend. XIV, §1; 18 U.S.C. 241, 242.

Absolutely "all" state and federal "judicial Officers" are "bound" to "support" the "Constitution" always in all matters. Art. VI. In all Petitioner's cases, all "Judges" (state and federal) are "bound" by the "Constitution" and federal "Laws," which are "the supreme Law of the Land." *Id. Accord* Art. III, §2 ("judicial Power" exists only "under" our "Constitution" and federal "Laws").

Judges' knowing violations of their oaths (to disbar Petitioner) are "worse than solemn mockery" of the people and our Constitution. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 180 (1803) (Marshall, C.J.). Such judges "*usurp*" powers "*not given*" (or expressly withheld) by our Constitution, committing "treason to the Constitution." *United States v. Will*, 449 U.S. 200, 216, n.19 (1980) (Burger, C.J.) (quoting *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 404 (1821) (Marshall, C.J.)).

Such anti-constitutional misconduct is dangerous:

> Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.

*Miranda v. Ariz.*, 384 U.S. 436, 480 (1966) (quoting *Olmstead v. United States*, 277 U.S. 438, 485 (1928) (Brandeis, Holmes, JJ., dissenting)).

Nearly everything negative said about the Sedition Act of 1798 or the officials who abused it (especially the impeached SCOTUS Justice Chase) applies to judges retaliating against Petitioner for statements about judicial misconduct.

Judges' "artful and vicious" retaliation was crafted to "conceal usurpation" that "is forbidden" by "the Constitution." Address of the General Assembly of Virginia (1799) (Madison) (https://press-pubs.uchicago.edu/founders/documents/amendI_speechs21.html). Judges retaliating against critics defraud Americans of "sacred rights" and "the bulwark of" our "liberty;" such "hideous" abuse of power "turns loose" the "utmost invention of insatiable" judicial "malice and ambition." *Id.*

Judges usurped "power[s] not delegated" to them and even "expressly and positively forbidden by" multiple constitutional provisions and amendments. Virginia Resolutions of 1798 (Madison) (https://founders.archives.gov/documents/Madison/01-17-02-0128). Judges' usurpations were "deliberate" and "dangerous," demonstrated "reproachful inconsistency" and "criminal degeneracy," and "subvert[ed]" the "principles of free government" and many "provisions of" our "Constitution." *Id.* Such usurpations should "produce universal alarm, because" judges seek to defraud Americans of our "right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of" every "right." *Id.*

The "evil of usurpation" by "the judicial department" committing "infractions dangerous to the essential rights of" the people also is "dangerous to the great purposes for which the Constitution was established," *i.e.*, confirming two great "truths," the "sovereignty of the people over constitutions" and the "authority of constitutions over governments." Report of 1800 on the Virginia Resolutions (Madison) (https://founders.archives.gov/documents/Madison/01-17-02-0202).

## III. SCOTUS Must Stop Judges' Clearly Unconstitutional Viewpoint Discrimination.

"Viewpoint discrimination is poison to a free society;" "it is especially important" that SCOTUS emphasize "that the First Amendment does not tolerate viewpoint discrimination." *Iancu v. Brunetti*, 588 U.S. 388, 399 (2019) (Alito, J., concurring).

It "is a bedrock principle underlying the First Amendment" that "government may not prohibit the expression of an idea simply because" somebody (especially a public servant) "finds the idea" merely "offensive or disagreeable." *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

Judges retaliated against Petitioner because his speech about judges was "derogatory." *Matal v. Tam*, 582 U.S. 218, 221 (2017). Such retaliation is "the essence of viewpoint discrimination;" it "reflects" mere "disapproval of a subset of messages" that judges merely consider "offensive." *Id.* Judges' "viewpoint discrimination" unconstitutionally "singled out a subset of messages for disfavor based on the views expressed." *Id.*

Any "regulation of speech because of disagreement with the message it conveys" violates our Constitution. *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989). Court "restrictions on the time, place, or manner" of "speech" must be proved "reasonable." *Id.* (collecting cases). If sanctions *can* be "justified without reference to the content" of "speech," they *must* be "justified" with proof they were "narrowly tailored to serve" a "significant governmental interest" and proof they "leave open ample alternative channels for communication" of relevant "information." *Id.*

Judges "target[ing]" Petitioner's "particular views" committed "blatant" and "egregious" "violation[s] of the First Amendment." *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995). Courts are "limited public forum[s]" in which judges "may not" ever "discriminate against speech on the basis of its viewpoint." *Id. Accord Shurtleff v. City of Bos.*, 596 U.S. 243, 273 (2022). (Kavanaugh, J., concurring) ("limited public forum"). Judges' "viewpoint discrimination" is "presumed impermissible when directed against speech" never proved to exceed "the forum's limitations." *Rosenberger* at 830.

"When the government encourages diverse expression," including "by creating a forum for debate" (*e.g.*, in court proceedings) "the First Amendment prevents [government] from discriminating against speakers based on their viewpoint." *Shurtleff* at 247. Judges "may not exclude" or punish lawyer or litigant "speech" to repress the "viewpoint" that judges cannot influence litigation with illegal, unconstitutional or criminal misconduct. *Id.* at 258. Such repression clearly is "impermissible viewpoint discrimination." *Id.*

Judges may not "aim at the suppression of speech" on "the basis of viewpoint." *303 Creative LLC v. Elenis*, 600 U.S. 570, 622 (2023) (Sotomayor, Kagan, Jackson, JJ., dissenting) (quoting *Roberts v. United States Jaycees*, 468 U.S. 609, 623-624 (1984)). Judges may not "appl[y] the law" for "the *purpose* of hampering" attorneys' "ability to express" their or their client's "views" regarding issues relevant to court proceedings. *Id.* (quoting *Roberts* at 624). Petitioner's "services (legal advocacy) were expressive; indeed, they consisted of speech." *Id.* at 622-623 (citing *Hishon v. King & Spalding*, 467 U.S. 69, 78 (1984)). Judges have no power to "inhibi[t]" attorneys' "ability to advocate" in court filings their or their clients' "ideas and beliefs." *Id.* at 623 (citing *Hishon* at 78).

## IV. SCOTUS Must Stop Judges from Retaliating Against Attorneys for Statements about Judicial Misconduct without Proof of How Such Statements Were False.

The First Amendment expressly emphasizes every American's "freedom to think as" he "will and to speak as" he "think[s]." *Elenis*, 600 U.S. at 571. Such "rights" are "inalienable." *Id.* at 584 (quoting Madison).

"[T]he freedom of thought and speech" is "indispensable to the discovery and spread" of "truth" about public affairs. *Id.* (quoting *Whitney v. California*, 274 U.S. 357, 375 (1927) (Brandeis, Holmes, JJ., concurring)). "[A]llowing all views to flourish" is necessary to "test and improve our own thinking" as "individuals and as a Nation," so it is a "fixed star in our constitutional constellation" that "government may not interfere" (as judges have) with the "marketplace of ideas" about whether judicial conduct is constitutional

or criminal. *Id.* at 584-585 (quoting *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 642 (1943)).

"All manner of speech" (including in court proceedings) enjoys "First Amendment's protections." *Id.* at 587. "[T]he First Amendment's protections belong" to "all, including" attorneys "whose motives" judges consider "misinformed or offensive." *Id.* at 595. "[T]he First Amendment protects" Petitioner's "right to speak his mind regardless of whether the government considers his speech sensible" or "misguided" or whether it causes judges "anguish" or "incalculable grief." *Id.* at 571-572.

"The hallmark of the protection of free speech is to allow 'free trade in ideas' even ideas that the overwhelming majority of people might find distasteful or discomforting." *Virginia v. Black*, 538 U.S. 343, 358 (2003).

"[T]he law" (including the First, Fifth and Fourteenth Amendments) "gives judges as persons, or courts as institutions" absolutely "no greater immunity from" our "criticism" (or our Constitution) "than other persons or institutions." *Landmark Commc'ns, Inc. v. Virginia*, 435 U.S. 829, 839 (1978) (cleaned up). Attorney "speech cannot be punished" merely "to protect the court as a mystical entity" or "judges as individuals or as anointed priests set apart from the community and spared the criticism to which" all "other public servants are exposed." *Id.* at 842.

Mere "injury to [any judge's] official reputation is an insufficient reason" for "repressing speech that would otherwise be free," and "protect[ing]" the "institutional reputation of the courts, is entitled to no greater weight in the constitutional scales." *Id.* at 841-842. Judges also

cannot rely on mere contentions that "allegations of [judicial] misconduct" are "unfounded" (or frivolous or baseless). *Id.* at 840.

Judges have no power to punish attorney criticism that judges deem merely unfounded or offensive (or both). *See, e.g., New York Times*, 376 U.S. at 273 (collecting cases). "Criticism of [judges'] official conduct does not lose its constitutional protection merely because it is effective criticism" and "diminishes their official reputations." *Id.* Any "repression" of "criticism of the judge or his decision" must "be justified" by proving "obstruction of justice." *Id.*

Judges' retaliation against Petitioner is worse than even the Sedition Act of 1798, which expressly permitted criticism that brought federal officials "into contempt or disrepute" or "excite[d] against them" the "hatred" of the "people" unless such criticism was proved to be "false" and "malicious." *Id.* at 273-274.

All courts must protect all Americans' "privilege for criticism of official conduct." *Id.* at 282. All courts must "support" the "privilege for the citizen-critic of government." *Id.* Such "privilege is required by the First and Fourteenth Amendments." *Id.* at 283. Courts cannot "give public servants an unjustified preference over the public they serve" by affording "critics of official conduct" less than "a fair equivalent of the immunity granted to the officials themselves." *Id.* at 282-83. *See also id.* at 269 (cleaned up):

> freedom of expression upon public questions is secured [as a] constitutional safeguard to assure unfettered interchange of ideas [to bring

> about] political and social changes desired by the people. [ F]ree political discussion [so] that government may be responsive to the will of the people and that changes may be obtained by lawful means[ is] essential to the security of the Republic [and] is a fundamental principle of our constitutional system.

"(I)t is a prized American privilege to speak one's mind" on "all public institutions." *Id.* "[T]his opportunity" must "be afforded" for "vigorous advocacy" in court proceedings. *Id.* (quoting *Button*, 371 U.S. at 429) ("the First Amendment" necessarily "protects vigorous advocacy" in court proceedings "against governmental intrusion") (collecting cases).

All "public men" are essentially "public property," and "discussion cannot be denied and the right" and "duty" of "criticism must not be stifled." *Id.* at 268. The pretense that judges have the power to punish attorneys for speech/petitions exposing criminal judicial misconduct "reflect[s] the obsolete" (seditious libel) "doctrine that the governed must not criticize their governors." *Id.* at 272 (citation omitted). "The interest of the public" in the truth about purported public servants "outweighs the interest" of "any [offended] individual. [Clearly,] protection of the public requires" both "discussion" and "information" about judicial misconduct. *Id.*

Petitioner's "speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection." *Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (quoting *Connick v. Myers*, 461 U.S. 138, 145 (1983)) (cleaned up). *See also Snyder* at 453

(discussing when "[s]peech deals with matters of public concern").

Petitioner's "speech concerning public affairs" is "the essence of self-government" and it "should be uninhibited, robust, and wide-open," and it may "include vehement, caustic," and "unpleasantly sharp attacks on government and public officials." *Garrison*, 379 U.S. at 74-75. *Accord Snyder* at 452; *Rosenblatt v. Baer*, 383 U.S. 75, 85 (1966).

> [The public has] a strong interest in debate on public issues [including] about those persons who are in a position significantly to influence the resolution of those issues. Criticism of government is at the very center of the constitutionally protected area of free discussion. Criticism of those responsible for government operations must be free, lest criticism of government itself be penalized.

*Rosenblatt* at 85.

Garrison publicly implied eight judges were criminally corrupt. Even so, SCOTUS emphasized the "public interest in a free flow of information to the people concerning public officials, their servants" is "paramount," so "anything which" even "might touch on an official's fitness for office is relevant," including judges' "dishonesty, malfeasance, or improper motivation." *Garrison* at 77.

"Truth may not be the subject of" any type of content-based "sanctions" "where discussion of public affairs is concerned," so "only" Petitioner "statements" proved to be "false" may be punished with "either civil or

criminal sanctions." *Id.* at 74. Our Constitution "absolutely prohibits" any content-based "punishment of truthful criticism" of any public servant's public service. *Id.* at 78. *Accord Pickering*, 391 U.S. at 574 (precluding government employee's discharge).

No Petitioner speech/petition "relating to matters of public concern" was proved to "contain" even a "false factual connotation," so it must "receive full constitutional protection." *Milkovich*, 497 U.S. at 20. Punished speech must at least "imply" an "assertion of fact" that was proved "false." *Id.* at 19.

The "freedom of speech" and "press" is one freedom in two forms. So "a reporter's constitutional rights are no greater than those of any other member of the public." *Nixon v. Warner Commc'ns*, 435 U.S. 589, 609 (1978) (collecting cases). Individuals and corporations/media have the same speech/press freedom. *See First Nat'l Bank v. Bellotti*, 435 U.S. 765 (1978).

Judges are "constitutionally disqualified from dictating" (in the manner they did) "the subjects about which" attorneys "may speak" or which "speakers" may "address a public issue." *Id.* at 784-785. *Bellotti* protected state-created corporations; *a fortiori*, it protects state-licensed attorneys. *Button*; *Garrison*; *Connick*; *Garcetti*; *United Mine Workers*; *Spevack*, herein, also protect, specifically, attorney speech.

Generations of judges have designed decisions to deceive Americans and defraud us of our rights. *See, e.g.*, *Jordan*, 518 P.3d at 1225 (quoting *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1071 (1991)) ("in the courtroom

itself, during a judicial proceeding, whatever right to 'free speech' an attorney has is extremely circumscribed"). That far-less-than-half-truth straw man in irrelevant *dictum* is the darling of judicial despots.

The truth is far greater and simpler. "No person" may "be deprived of life, liberty, or property, without due process of law." U.S. Const. Amend. V. *Accord* Amend XIV. Nobody (including judges) has any contrary right or power. But copious law permits and protects copious speech by lawyers, litigants, witnesses, jurors in courtrooms and court papers. Nothing permits injuring Petitioner because of the content of his statements about illegal, unconstitutional and criminal judicial misconduct without proof of *how* such statements adversely affected a proceeding.

The "right to petition" is "one of the most precious of the liberties safeguarded by the Bill of Rights." *BE&K Constr. Co. v. NLRB*, 536 U.S. 516, 524 (2002) (quoting *United Mine Workers v. Illinois Bar Ass'n*, 389 U.S. 217, 222 (1967)) (cleaned up). Such "right is implied" by "the very idea of a government, republican in form," and it "extends to all departments of the Government" including "courts." *Id.* at 524-525.

"[T]he rights of free speech" and "free press" are "not confined to" (or from) "any field." *United Mine Workers* at 223. "[T]he principles announced in *Button*," *infra*, govern "litigation" (petitions or speech) "for political purposes" or "solely designed to compensate" alleged "victims." *Id.*

Courts "may not prohibit" any "modes of expression and association protected by the First and Fourteenth

Amendments" by merely invoking the mere general "power to regulate the legal profession." *Button*, 371 U.S. at 428-429. "[I]t is no answer to" any of Petitioner's "constitutional claims" that the mere "purpose of" any "regulations" (court rules or rulings) "was merely to insure high professional standards." *Id.* at 438-439. Judges "may not, under the [mere] guise of prohibiting professional misconduct, ignore" (knowingly violate) "constitutional rights" (as judges did). *Id.* at 439.

Courts "cannot foreclose the exercise of constitutional rights by mere labels," *e.g.*, *attorney*, *discipline*, *reciprocal* or *judge*. *Id.* at 429. No "regulatory measures" (court rule or ruling), "no matter how sophisticated," can "be employed in purpose or in effect to stifle, penalize, or curb" Petitioner's "exercise of First Amendment rights." *Id.* at 439. *Accord New York Times*, 376 U.S. at 269 (dispensing with all "mere labels" abused as "formulae for the repression of expression"). "The test is not the [mere] form in" (or the label under) which government "power" was "applied but" whether "such power" was "exercised" constitutionally. *Id.* at 265.

Government "cannot condition" even actual "employment" (much less licensing) "on a basis that infringes [any] employee's" (any attorney's) "constitutionally protected interest in freedom of expression." *Garcetti v. Ceballos*, 547 U.S. 410, 413 (2006) (quoting *Connick*, 461 U.S. at 142).

"The First Amendment limits the ability of [government even as an] employer to leverage [even an] employment relationship to restrict" any "liberties" that even government "employees enjoy" as "citizens."

*Garcetti* at 419. Even when government restricts speech of attorneys as "employees" when "speaking as citizens about matters of public concern," government must prove it imposed "only" such "speech restrictions" as were "necessary for" government "to operate efficiently and effectively." *Id.* No one ever even did that much regarding Petitioner.

## V. The First, Fifth and Fourteenth Amendments and Criminal Statutes Protect Attorney Speech.

Previously, judges deprived many Americans of "the privileges and immunities of citizens," including "full liberty of speech" upon "all subjects upon which" all "citizens" have the right to "speak." *Dred Scott v. Sandford*, 60 U.S. 393, 416-417 (1857)). Judges continue to do the same to lawyers. But our Constitution secures equal protection of law to all citizens. *See, e.g., United States v. Vaello-Madero*, 596 U.S. 159, 170-180 (2022) (Thomas, J., concurring).

A primary point of the Fourteenth Amendment and powerful legislation of the late 1800's was to emphasize that no public servant has any power to knowingly violate any person's rights secured by our Constitution. *See, e.g., Mitchum v. Foster*, 407 U.S. 225, 230-231, 238-243 (1972); *United States v. Price*, 383 U.S. 787, 769-807 (1966) (discussing 18 U.S.C. 241, 242 and tracing their history to 1866-1870).

Any judges "conspir[ing] to injure, oppress, threaten, or intimidate" attorneys "in the free exercise or enjoyment of any right or privilege secured to" them "by the Constitution or laws of the United States, or because of"

their "having so exercised" any such "right or privilege" commit a crime. 18 U.S.C. 241.

Any judge acting "under color of any law" or "custom" to "willfully" deprive attorneys "of any rights, privileges, or immunities secured or protected by" any provision of the "Constitution" or federal "laws" commits a crime. 18 U.S.C. 242. No judge or judicial action or custom is exempt, including so-called deference, comity, reciprocity, *res judicata*, presumptions or pretenses (*e.g.*, that judicial hearsay against Petitioner is true or is evidence it is true). In Section 242, the "qualification" regarding "alienage, color and race" is inapplicable "to deprivations of any rights or privileges." *United States v. Classic*, 313 U.S. 299, 326 (1941).

The "Fifth Amendment" and "the Fourteenth" each "extends its protection to lawyers," and neither may "be watered down" to facilitate "disbarment." *Spevack v. Klein*, 385 U.S. 511, 514 (1967) (Douglas, Black, Brennan, JJ., Warren, C.J.). Judges cannot resort to "procedure" that "would deny" attorneys "all opportunity" to compel each court "to make a record" showing proof of material facts (by clear and convincing evidence). *Id.* at 518-519.

There is "no room in the" Fifth or Fourteenth Amendments to discriminate based on mere "classifications of people so as to deny [lawyers due process]. Lawyers are not excepted" from "person" in the Fifth and Fourteenth Amendments, and judges "can imply no exception." *Id.* at 516. "The special responsibilities [attorneys] assume" as "officer[s] of the court do not carry with them" any "diminution" of attorneys' "Fifth Amendment rights." *Id.* at 520 (Fortas, J., concurring).

"The threat of disbarment and the loss of professional standing, professional reputation, and of livelihood are powerful forms of compulsion" that some judges abuse to illegally intimidate and injure attorneys. *Id.* at 516 (plurality). So the following "views" in *Cohen* were implicit ("need not be elaborated again"). *Id.* at 514.

The "important role" of "lawyers" in "our society" makes it "imperative that [lawyers] not be discriminated against" regarding "freedoms that are designed to protect" Americans "against the tyrannical exertion of governmental power. [Indeed,] the great purposes underlying [such] freedoms [include affording] independence to those who must discharge important public responsibilities. [Lawyers], with responsibilities as great as those placed upon any group in our society, must have that independence." *Cohen v. Hurley*, 366 U.S. 117, 137 (1961) (Black, Douglas, JJ., Warren, C.J., dissenting)

It is "important" to "society and the bar itself that lawyers be unintimidated—free to think, speak, and act as members of an Independent Bar." *Konigsberg v. State Bar of Cal.*, 353 U.S. 252, 273 (1957). "An informed, independent judiciary" must have "an informed, independent bar." *Legal Services Corp. v. Velazquez*, 531 U.S. 533, 545 (2001). Judges cannot "prohibit[ ] speech and expression upon which courts must depend for the proper exercise" of "judicial power." *Id.*

Judges and "courts depend" on an "independent bar" for "the proper performance of [judges' and courts' constitutional] duties and responsibilities. Restricting" conscientious, capable "attorneys" from "presenting arguments and analyses to the courts distorts the legal

system by altering the traditional" (constitutional) "role" of "attorneys." *Id.* at 544.

Judges cannot "exclude from litigation those arguments and theories" they deem "unacceptable but which by their nature are within the province of the courts to consider." *Id.* at 546. Judges cannot refuse to adjudicate credibility and crimes merely because judges lied and committed crimes.

## VI. Before Punishing Attorney Speech, Courts Must Prove Material Facts.

An "Amendment's plain text covers" Petitioner's conduct, so "the Constitution presumptively protects that conduct." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17 (2022). Each court must "justify" any "regulation" thereof, *i.e.*, "must demonstrate" that disbarment was "consistent with this Nation's historical tradition" of protecting speech/petitions. *Id.* Each court "must affirmatively prove that" disbarment was within this nation's "historical tradition" of protecting speech/petitions within "the outer bounds" of each "right." *Id.* at 19.

Whenever "the constitutional right to speak" is "deterred by" invoking any "general" rule, "due process demands that the speech be unencumbered until" government presents "sufficient proof to justify its inhibition." *Speiser v. Randall*, 357 U.S. 513, 528-529 (1958).

"[T]he substantive law" identifies "proof or evidentiary requirements," including "which facts are material,"

*i.e.*, "might affect the outcome" under "governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). SCOTUS precedent emphasized material facts, and "the First Amendment mandates a 'clear and convincing' standard" of proof. *Id.* at 252.

"Disbarment" is "a punishment" that judges must prove they used only "to protect the public." *In re Ruffalo*, 390 U.S. 544, 550 (1968). Disbarment is "quasi-criminal." *Id.* at 551. Judges cannot repress attorney speech with "procedural violation of due process" that "would never pass muster in any normal civil or criminal litigation" for libel, defamation or contempt. *Id.* at 551. The "consequences" for attorneys compel at least due process for "the ordinary run of civil cases" for defamation or libel. *Konigsberg*, 353 U.S. at 257.

"Attorneys" asserting "statements impugning the integrity of a judge" are "entitled" to "First Amendment protections applicable in the defamation context." *Standing Comm. on Discipline of the United States Dist. Court v. Yagman*, 55 F.3d 1430, 1438 (9th Cir. 1995). "[A] ttorneys may be sanctioned for impugning the integrity of a judge or the court only if their statements are" proved "false;" moreover, "truth is an absolute defense." *Id.* (citing *Garrison*, 379 U.S. at 74).

Such "statements" clearly "may not be punished" unless "proved" to be "false." *Id.* Each "disciplinary body" always "bears the burden of proving" (identifying proof of ) "falsity." *Id.* Attorney "opinion" may be "sanction[ed] only" if "declaring or implying actual facts" that were "proved" to be "false." *Id.* at 1438-1439 (citing *Milkovich*, 497 U.S. at 21).

No one ever even "claim[ed] that" that any Petitioner "factual assertion was false, and" every court failed to make any "finding to that effect," so courts must "proceed" on "the assumption that" each Petitioner factual "statement is true." *Id.* at 1438.

Attorney "statement[s]" are "only actionable" (sanctionable) if disclosed or implied "facts" were proved "false;" specific "facts" must be "proven" "untrue." *Berry v. Schmitt*, 688 F.3d 290, 303 (6th Cir. 2012).

"The constitutional protection" (due process of law) "does not" necessarily "turn upon" the "truth, popularity, or social utility of the ideas and beliefs which are offered." *New York Times*, 376 U.S. at 271 (quoting *Button*, 371 U.S. at 445). Due process is determined by purported public servants injuring people for petitions and speech for viewpoint and content regarding public issues.

Government must present "proof," and it must have "the convincing clarity which the constitutional standard demands." *Id.* at 285-286. "The power to create presumptions is not a means of escape from constitutional restrictions." *Id.* at 284.

"When First Amendment compliance is the point to be proved, the risk of non-persuasion" always "must rest with the Government, not with the citizen." *United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 818 (2000). "When" any "Government restricts" any "speech, the Government" always "bears the burden of proving the constitutionality of its actions." *Id.* at 816.

"When" any "Government" restricts any "speech based on its content," any potential "presumption of constitutionality" must be "reversed. Content-based regulations" (including orders imposing punishment or penalty) "are presumptively invalid, and the Government bears the burden to rebut that presumption." *Id.* at 817 (cleaned up).

Each court must prove it "determine[d] the constitutionality of" each content-based "restriction" (disbarment) with "strict scrutiny." *Republican Party v. White*, 536 U.S. 765, 774-775 (2002). *Accord Reed v. Town of Gilbert*, 576 U.S. 155, 163-164 (2015).

"Content-based laws" (and punishments or penalties) are "presumptively unconstitutional." *Reed* at 163. All sanctions targeted the content of Petitioner's speech/petitions. *Cf. id.* at 163-64 (identifying "content-based" restrictions). Content-based sanctions must "be justified only" by each court "prov[ing] that" each sanction was "narrowly tailored to serve" public "interests" that are "compelling." *Id.* at 163.

In "First Amendment cases," each "court is obligated" to conduct an "independent examination of the whole record" to "make sure that" any purported "judgment does not constitute a forbidden intrusion on the field of free expression." *Snyder*, 562 U.S. at 454. "It is imperative that, when the effective exercise of" First Amendment "rights is claimed to be abridged," all "courts" must "weigh the circumstances" and "appraise the substantiality of the reasons advanced" (by anyone else) "in support of the challenged" punishment. *Thornhill*, 310 U.S. at 96. "[W]hen it is claimed that" First Amendment "liberties

have been abridged," each court "cannot allow a" mere "presumption of validity of the exercise of" any prior judge's "power to interfere with" the subsequent court's "close examination of the substantive [constitutional] claim presented." *Wood v. Georgia*, 370 U.S. 375, 386 (1962).

Due process of law means much more than judges' mere empty "enunciation of a constitutionally acceptable standard" merely purportedly "describing the effect of" judges' or attorneys' "conduct." *Id.* Moreover, any prior judge's mere conclusion "may not preclude" (or diminish) each court's "responsibility to examine" all relevant "evidence to see whether" admissible admitted evidence "furnishes a rational basis for the characterization" that prior judges "put on it." *Id.*

## VII. Federal Courts Must Address the Law Protecting Attorney Speech about Judicial Misconduct.

America's "interest" in ensuring that "public confidence in the fairness and integrity" of "judges" is *justified* is "vital," *i.e.*, "of the highest order." *Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 445-446 (2015). Judges must be required to prove their decisions disbarring Petitioner (or allowing Petitioner's disbarment) were not intentionally unconstitutional and anti-constitutional.

Judicial decisions depriving people of life, liberty or property without reasoned justification (by mere fiat) are unconstitutional and dangerously anti-constitutional. With such conduct, judges act like common con men (confidence men playing confidence games), priests in a state-established religion or tyrants. Such judges abuse their silence and public confidence to undermine and attack our

Constitution (systems of law and government). Far too often, judges imply Americans must have blind confidence (literally mere faith) that judges did not violate law, lie or commit crimes. Such blind faith and confidence was not intended by the Framers of the original Constitution, the Bill of Rights or the Fourteenth Amendment.

"Article III of the Constitution establishe[d]" a "Judiciary" that must be "independent" of all except the law and which has the "duty to say what the law is" in "particular cases and controversies;" judges "who apply [a] rule to particular cases, must of necessity expound and interpret that rule." *Bank Markazi v. Peterson*, 578 U.S. 212, 225 (2016). *Accord Rucho v. Common Cause*, 588 U.S. 684, 750 (2019) (Kagan, Ginsburg, Breyer, Sotomayor, JJ., dissenting). "When faced" with the "constitutional wrongs" that judges inflicted here, "courts must intervene." *Id.*

"Jurists presiding over cases at every level have a [constitutional] duty" to "say what the law is." *Acheson Hotels, LLC v. Laufer*, 601 U.S. 1, 17 (2023) (Thomas, J., concurring). It "emphatically" is the constitutional "duty of" judges to "say what the law is," not merely dictate consequences. *Marbury*, 5 U.S. at 177. *Accord Bond v. United States*, 572 U.S. 844, 867 (2014) (Scalia, Thomas, Alito, JJ., concurring). "[C]ourts" must not "shirk their duty to say what the law is." *Thryv, Inc. v. Click-To-Call Techs.*, LP, 590 U.S. 45, 82 (2020) (Gorsuch, J., dissenting).

Expecting unquestioning "deference" to unjustified "decisions" regarding constitutional rights is "inconsistent with [judges'] duty to say what the law is in the cases that come before them" and "relegat[es higher] courts" (and Americans, generally) "to the status of potted plants."

*Turkiye Halk Bankasi A.S. v. United States*, 598 U.S. 264, 286 (2023) (Gorsuch, Alito, JJ., dissenting).

Each "Judge" is "required to declare the law" because if he "states it erroneously, his opinion" must "be revised; and if it can have had any influence on the" judgment, it must "be set aside." *Etting v. U.S. Bank*, 24 U.S. 59, 75 (1826) (Marshall, C.J.). Clearly, "judicial discretion is not the power to 'alter' the law" but "the duty to correctly 'expound' it." *Gamble v. United States*, 587 U.S. 678, 714 (2019) (Thomas, J., concurring) (quoting Madison).

SCOTUS' "responsibility" is "to say what the law is and afford the people the neutral forum for their disputes that they expect and deserve." *Kisor v. Wilkie*, 588 U.S. 558, 631 (2019) (Roberts, C.J., concurring). "*Those who apply the rule to particular cases*, must of necessity expound and interpret that rule." *United States v. Windsor*, 570 U.S. 744, 787 (2013) (Roberts, C.J., dissenting). SCOTUS' "duty" is "to pronounce the law" "when" adjudicating any "controversy that [is SCOTUS'] business to resolve under Article III." *Id.*

Every judge on every court "must abide by" the "supreme Law of the Land" and "by the opinions of [SCOTUS] interpreting that law." *Nitro-Lift Techs., L.L.C. v. Howard*, 568 U.S. 17, 21 (2012). "It is [SCOTUS'] responsibility to say what" our Constitution "means, and once [SCOTUS] has spoken, it is the duty of " all "courts to respect that understanding." *Id.*

Judges on "state courts" (and lower federal courts) are being "permitted to disregard" SCOTUS "rulings" regarding Americans' First Amendment rights and

freedoms, so federal "laws" and "constitution" are utterly ineffective or radically "different in different states" (and federal circuits) and have nowhere near "the same construction, obligation, or efficacy, in" all "states" (or federal circuits). *James v. City of Boise*, 577 U.S. 306, 307 (2016). "The public mischiefs" flowing therefrom are "truly deplorable." *Id.* (quoting *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 348 (1816)).

## CONCLUSION

Many judges on this nation's most powerful and influential courts (federal and state) are knowingly violating our Constitution for no better reason than that they want to and they expect SCOTUS justices will let them. They are promoting the dangerous and corrosive pretense that judges are an aristocratic order above the law, above our Constitution, above the people. They are hiding behind their robes and their silence while attacking and undermining—and helping other judges undermine and attack—the most fundamental and vital aspects of our Constitution. This petition should be granted to stop such dangerous judicial misconduct.

Respectfully submitted,

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