ORIGINAL

No. 24-280

IN THE
Supreme Court of the United States

STANLEY CICHOWSKI, KEVIN CICHOWSKI,
Petitioners,

V.

The Florida Bar, Andrea K. Totten
Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

Kevin Cichowski **Stanley Cichowski**
Pro se Petitioners September 1,2024
cvslawsuitflorida@gmail.com 37
Cleveland court
Plam Coast Florida 32137

I

QUESTION PRESENTED

A pro se can conduct their own case under 28 U.S.C. § 1654, however, because the practice of law is ill defined, and often varies from venue to venue. has caused the pro se's to not be able to conduct their case. Florida's state bar goes as far as to have a restriction on the freedom to be able to talk about your case. Just talking about your case to another person '**even outside of court'** can make you a felon in Florida, hence the emergency appeal.

The question presented is:

Can State immunity be overruled in order to enforce the status que of conduct in 28 U.S.C. § 1654 & 1St Amendment speech, and in the ADA..

PARTIES TO THE PROCEEDINGS

Petitioners are Cichowski, Kevin &
Cichowski, Stanley –
Pro se, Plaintiff/Appellant/Petitioners.

Respondents are The Florida Bar, an official arm of the state of Florida. Entasked with the job of overseeing the courts, and court related rules and procedures. "The boss, of all judges in the state of Florida"

&

Her Honorable, Judge Andrea Totten,
Defendant/Appellee/Respondent.

CORPORATE DISCLOSURE STATEMENT

Because no petitioner is a corporation, a corporate disclosure statement is not required under Supreme Court Rule 29.6.

IV

RELATED PROCEEDINGS IN APPEALS

Case Number Title	Opening Date	Party	Last Docket Entry	Originating Case Number Origin
24-10154 Kevin Cichowski, et al v. Discover Bank	01/17/2024	Kevin Cichowski	08/20/2024 15:54:53	113A-3 : 3:23-cv-00992-WWB-LLL Middle District of Florida
24-10154 Kevin Cichowski, et al v. Discover Bank	01/17/2024	Stanley Cichowski, Jr.	08/20/2024 15:54:53	113A-3 : 3:23-cv-00992-WWB-LLL Middle District of Florida
24-10183 Christine Cichowski, et al v. Kes, et al	01/19/2024	Christine V. Cichowski	08/06/2024 09:26:14	113A-3 : 3:22-cv-00599-TJC-PDB Middle District of Florida
24-10183 Christine Cichowski, et al v. Kes, et al	01/19/2024	Christine Cichowski	08/06/2024 09:26:14	113A-3 : 3:22-cv-00599-TJC-PDB Middle

				District of Florida
24-10183 Christine Cichowski, et al v. Kes, et al	01/19/2024	Kevin Cichowski	08/06/2024 09:26:14	113A-3 : 3:22-cv-00599-TJC-PDB Middle District of Florida
24-10183 Christine Cichowski, et al v. Kes, et al	01/19/2024	Stanley Cichowski, Jr.	08/06/2024 09:26:14	113A-3 : 3:22-cv-00599-TJC-PDB Middle District of Florida
24-10195 Kevin Cichowski, et al v. Andrea Totten, et al	01/22/2024	Kevin Cichowski	06/13/2024 07:55:03	113A-3 : 3:23-cv-01181-TJC-MCR Middle District of Florida
24-10195 Kevin Cichowski, et al v. Andrea Totten, et al	01/22/2024	Stanley Cichowski, Jr.	06/13/2024 07:55:03	113A-3 : 3:23-cv-01181-TJC-MCR Middle District of Florida
24-90005 Kevin Cichowski, et al v. City of Palm Coast, et al	04/15/2024	Christine Cichowski	07/03/2024 17:13:16	113A-3 : 3:23-cv-01506-HES-MCR Middle District of Florida

24-90005 Kevin Cichowski, et al v. City of Palm Coast, et al	04/15/2024	Kevin Cichowski	07/03/2024 17:13:16	113A-3 : 3:23-cv-01506-HES-MCR Middle District of Florida
24-90005 Kevin Cichowski, et al v. City of Palm Coast, et al	04/15/2024	Stanley Cichowski, Jr.	07/03/2024 17:13:16	113A-3 : 3:23-cv-01506-HES-MCR Middle District of Florida
24-11965 Kevin Cichowski, et al v. City of Palm Coast, et al	06/13/2024	Christine Cichowski	07/11/2024 16:54:49	113A-3 : 3:23-cv-01506-HES-MCR Middle District of Florida
24-11965 Kevin Cichowski, et al v. City of Palm Coast, et al	06/13/2024	Kevin Cichowski	07/11/2024 16:54:49	113A-3 : 3:23-cv-01506-HES-MCR Middle District of Florida
24-11965 Kevin Cichowski, et al v. City of Palm Coast, et al	06/13/2024	Stanley Cichowski, Jr.	07/11/2024 16:54:49	113A-3 : 3:23-cv-01506-HES-MCR Middle District of Florida

VII

RELATED PROCEEDINGS In District Court

3:22cv-00599-TJC-PDB	Cichowski Family v. CVS Health Corporation, CVS Health Solutions, LLC, CVS Pharmacy, Inc., CVS RX Services, Inc.	filed 05/31/22	closed 01/19/24
3:23-cv-00992-WWB-LLL	Cichowski et al v. Discover Bank	filed 08/23/23	closed 01/05/24
3:23-cv-01181-TJCMCR	Cichowski et al v. Totten et al	filed 10/06/23	closed 01/18/24

VIII

	Cichowski et al v.
3:23cv-	City of Palm
01506-	Coast, Code
HES-	Enforcement filed 12/22/23

The one case is about notices from district court, even small claims courts notify litigants electronically vs serving only my mail, "as district court do" while the mail has slowed down via the operational changes at the U.S.P.S. The first phase to slow down rural mail was put in place in 2021, the next phase in late 2024. The appeal is about the district court keeping up with these changes and notifying pro ses by electronic means. The current system puts the pro se at a heavy disadvantage, only getting notifications when the paper copy arrives. District courts have tight windows, often needing to respond in 10 or 20 days.

In the code enforcement case, the method of being served is being challenged, with usps changes made in 2021, and coming soon more in late 2024, to slow up mail in rural areas further.

And the third case, a pharmacist also working as a debt spy, asking the appellate court to make an exception in the 1886 impact rule.

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TABLE OF AUTHORITIES

Not all authorities all used, but seen as important

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We recognize that in some colonies where the Quaker influence predominated, the right to plead pro se or by a friend was permitted. However, there is no suggestion in the ratifying debates that there was an intention to preserve this Quaker practice. To the contrary, the predominant historical practice of representation before English and colonial courts, as well as the First Congress' passage of § 35 of the Judiciary Act of 1789, makes clear that the Sixth Amendment was not intended to guarantee defendants the right to be represented by friends who are not trained in the law nor authorized to practice before a particular court. Professional qualifications were assumed of all "counsel" chosen to represent defendants in criminal proceedings. Defendants have cited to us no authority to the contrary other than the sincerity of their beliefs. Thus, we join with the impressive array of United States Courts of Appeals that have uniformly rejected the contention that criminal defendants have a constitutional right to be represented by a friend who is neither a law school graduate nor a member of the bar. We note that the defendants in the case at hand were informed of their now well established Sixth Amendment rights to be represented by court-appointed counsel if indigent or to represent themselves.

TABLE OF AUTHORITIES -continued

U.S. ex rel. Mergent Servs. v. Flaherty,
540 F.3d 89, 92 (2d Cir. 2008)

("[A]n individual who is not licensed as an attorney may not appear on another person's behalf in the other's cause." (internal quotation marks and citation omitted));

Iannaccone v. Law,
142 F.3d 553, 558 (2d Cir. 1998)

("[B]ecause pro se means to appear for one's self, a person may not appear on another person's behalf in the other's cause."

United States v. Wilhelm
570 F.2d 461 (3d Cir. 1978)

The transcript of the arraignment on December 1, 1976, includes the following wording,

"The Court: You've been advised that Mr. Bomar [sic] will not be permitted to represent you in this Courtroom. Mr. Bomar, of course, can accompany you to the Courtroom, and he will be permitted to sit at the counsel table, although in each individual case that will be up to the Judge trying the case

TABLE OF AUTHORITIES -continued

1 st Amendment US Constitution
"Congress shall make no law... abridging... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Pulliam v. Allen, 466 U.S.
522(1984)
"there is no support for a conclusion that Congress intended to limit the injunctive relief available under § 1983 in a way that would prevent federal injunctive relief against a state judge."

Harrell V. Florida Bar 2010 Page12
jurisdiction applies.

Parker V. Williams 11th Cir 1989
A state can be held liable in spite of the eleventh amendment when sued for injunctive (prospective) relief. See Edelman v. Jordan,1974) (only prospective relief available for state officials' violation of federal statute).

TABLE OF AUTHORITIES -continued

Chavez v. Schwartz, 10th Cir. 2012

"Generally speaking, the only type of relief available to a plaintiff who sues a judicial officer is declaratory relief."

Bauer v. State Page 5,12
610 So. 2d 1326 (Fla. Dist. Ct. App. 1992)

In Florida the unauthorized practice of law is forbidden by statute. § 454.23, Fla. Stat. (1991). With limited exceptions not applicable here, only "persons in good standing as members of the Florida Bar shall be permitted to practice in Florida." Fla.R.Jud. Admin. 2.060(a). Bauer contends these and similar provisions violate rights guaranteed to him under the United States Constitution. A review of case law interpreting the extent of the constitutional right to counsel, such as that conducted by the trial court in its thoroughly researched and detailed 18 13 order, indicates that Bauer is mistaken in believing that a criminal defendant has a right to the assistance of lay ***"counsel."***

TABLE OF AUTHORITIES -continued

Petitioner sought a writ of certiorari from this Court under Section 237(b) of the Judicial Code to review the action of the Supreme Court of Illinois in denying petitioner's prayer for admission to the ***practice of law*** in that state.

TABLE OF AUTHORITIES -continued

Surrick v. Killion Page 4
Civil Action No. 04-5668 (E.D. Pa. Apr. 18, 2005)
The practice of law, according to the Pennsylvania Supreme Court, entails the "holding out of oneself to the public as competent to exercise legal judgment and being competent in the law" such as "advising clients on their rights and responsibilities" and "the maintenance of a law office." Id. at 660.

Real Estate Bar Ass. v. National Real Estate Inf. Serv
609 F. Supp. 20 135 (D. Mass. 2009)
The Massachusetts Supreme Judicial Court has stated, "It is not easy to define the practice of law." The SJC has addressed the question of what constitutes the practice of law on a case-by-case basis, explaining that "[t]o a large extent each case must be decided upon its own particular facts." Indeed, the SJC has found it "impossible to frame any comprehensive and satisfactory definition of what constitutes the **practice of law."**

TABLE OF AUTHORITIES -continued

In reversing the District Court, the Court of Appeals relied on the power of the State to restrict the practice of law to licensed attorneys as a source of authority for the prison regulation. The power of the States to control the practice of law cannot be exercised so as to abrogate federally protected rights. NAACP v. Button,

371 U.S. 415 (1963); Sperry v. Florida, 373 U.S. 379 (1963). In any event, the type of activity involved here - preparation of petitions for post-conviction relief - though historically and traditionally one which may benefit from the services of a trained and dedicated lawyer, is a function often, perhaps generally, performed by laymen. Title 28 U.S.C. § 2242 apparently contemplates that in many situations petitions for federal habeas corpus relief will be prepared by laymen.

TABLE OF AUTHORITIES -continued

(stating that "suits against state officials seeking prospective equitable relief for on-going violations of federal law are not barred by the Eleventh Amendment

TABLE OF AUTHORITIES -continued

STATUTES

42 U.S.C. § 1983
"[I]n any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable."

42 U.S.C. § 1988
prohibiting fee and cost awards against judges unless their actions were "in excess of such officer's jurisdiction."

28 U.S.C. § 1654
In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

28 U.S.C. § 1331
The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

42 U.S. Code § 12101
Continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal

basis and to pursue those opportunities for which our free society is justifiably famous.

Rules

Florida's Rule 10-2-2

RULE 10-2.2. FORM COMPLETION BY A NONLAWYER

(a) Supreme Court Approved Forms. It shall not constitute the unlicensed practice of law for a nonlawyer to engage in limited oral communication to assist a self-represented person in the completion of blanks on a Supreme Court Approved Form. In assisting in the completion of the form, oral communication by nonlawyers is restricted to those communications reasonably necessary to elicit factual information to complete the blanks on the form and inform the self- represented person how to file the form. The nonlawyer may not give legal advice or give advice on remedies or courses of action. Legal forms approved by the Supreme Court of Florida which may be completed as set forth herein shall only include and are limited to the following forms, and any other legal form whether promulgated or approved by the Supreme Court is not a Supreme Court Approved Form for the purposes of this rule:

PETITION FOR A WRIT OF CENRTIORARI

Petitioners Stanley Cichowski, And Kevin Cichowski, together, respectfully petition for a writ of certiorari to review immunity.

OPINIONS BELOW

Opinion issued by court as to Appellants Kevin Cichowski and Stanley Cichowski, Jr.. Decision: Affirmed. Opinion type: Non-Published. Opinion method: Per Curiam. The opinion is also available through the Court's Opinions page at this link http://www.ca11.uscourts.gov/opinions. [Entered: 05/15/2024 Appendix A

District Court Appendix B.

JURISDICTION

The judgment of the Federal court of appeals was Entered: May 15, 2024 This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1) Only the Supreme Court can answer a question like this.

STATUTORY AND REGULATORY PROVISIONS INVOLVED

28 U.S.C. § 1654

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.,

1ST amendment, Florida Bar Rule 10-2.2., ADA.

STATEMENT OF THE CASE

1. The Cichowskis allege that the Florida Bar's rules concerning legal speech are unconstitutionally vague.

2. Cichowskis allege that the Judge violated the Americans with Disabilities Act by not allowing Kevin (Stanley's son) to help Stanley put on his civil small claims case."he has social anxiety"

3. Cichowskis also allege an undefined "practice of law definition, violates the First and Fourteenth Amendments, along with 28 U.S.C. § 1654. it violates this, by not being allowed to conduct a case even in a basic way, because it might later be considered the practice of law.

4. In case 3:22-cv-00599-TJC-PDB kevin cichowski was put in a direct disadvantage. During a hearing mr cichowski conducting his own case wasn't allowed to take the podium, because it may be the practice of law to do even that, while the other side enjoyed that privilege simultaneously.

The district court dismissed the amended complaint with prejudice, ruling that the Judge had absolute judicial immunity and that the Florida Bar had Eleventh Amendment immunity. *Appendix A* and appellate court dismissed over immunity *Appendix B.*

REASONS FOR GRANTING THE PETITION

No courts lower than the supreme court can come anywhere close to defining the practice of law.

In *Givens v Oenga,* the judge says, the "definition of the practice of law varies from jurisdiction to another. *Flowler V, Wirtz* mimics givens "it is impossible to lay down a definition of the practice of law" as well as *Mayer v. Lindenwood*, "our courts have struggled to formulate a precise and comprehensive definition of the practice of law" Real Estate Bar v nation real estate "it is impossible to frame any comprehensive definition"

B, **Could the practice of law be a profession.**

Some Courts like Surrick v. Killion consider the practice of law to be a profession" holding out of oneself to the public as a competent to exercise legal judgment and being competent in the law" and goes on to say "advising clients on their rights" and "the maintenance of a law office" id. At 660.

Griswold v. Connecticut talks about the practice of law being a "occupation" its goes on to say that to be able to practice law a state can

require good moral character or proficiency for the occupation of the practice of law. Doughlas c noble, 261 U.S. 165: Cummings P505v Missouri 4 Wall 277, 319-320 CF. Nebbia v. New York, 291 U.S. 502

C. **Further proof the practice of law is an occupation.**

In *Bauer v. State of Florida*, Florida courts say, "ONLY persons in good standing as members of the Florida Bar shall be permitted to practice in Florida"

D. **If the Practice a law is an occupation, then conducting a case under 28 U.S.C. § 1654 isn't practicing law.**

E. States absolutely have a story to regulate professional occupational of practice of law.

St. Unauthorized Practice of law v. Pail mason Texas 1993, the courts recognizing "the of Texas substantial interest in regulating the practice of law within the state." Similar language appears in Baird v. State bar of Arizona "recognizing that a state "has a legitimate interest in determining whether {a bar applicant} has the qualities of character and the **professional** competence requisite of the practice of law"

F. **What the Court system doesn't consider the practice of law.**

Well according to Dietrich corp v. king resources co. 1979 consulting services provided by a professor in a state other than the one he was licensed in was not unethical because it did not amount to the "practice of law"

Pro se's "parties aggrieved" can go as far as full representation and appearance of another person under 20 U.S.C. §1415 without it being considered the practice of law, even as a pro se, Maroni v. Pemi-Baker Regional school Dist 2003.

"writ-writers" were allowed when other means where not available. Johnson v. Avery. Writ writers are inmates that are laymen that traditionally wrote petitions for federal habeas corpus relief for use by other inmates.

But more importantly Johnson, went on to say "The power of the States to control the practice of law cannot be exercised so as to abrogate federally

protected rights. Sperry v. Florida 373 U.S. 379 1963

Besides Johnson and Sperry, bates v. states bar of Arizona says, "meaningful access to the courts is protected under the First Amendment.

G. **The States are all over the place with the definition of practice of law, that it destroys the pro ses case.**

Its not like Judge totten did an evil act, shes a human being who, because the practice of law is not defined is afraid that if she allows mr cichowski to conduct his case, that she the judge will suffer her own consequences in front of the bar.

In case 3:22-cv-00599-TJC-PDB that the cichowskis are part of, and what is now in appeal for the definition of the duty of care in pharmacies.

In the one hearing in the case, the Federal Judge also nervous to allow kevin to stand at the podium to present the case while the other side was allowed to.

Kevin, for the simple reason of not being a lawyer was not allowed access to the podium and had to sit down to present his side of his case .(standing at the podium is considered the practice of law"

Going forward, this would absolutely affect the jury's perception of the case.

H. **IF this court can not define the practice of law, then define what isn't.**

I. Some of the thing's I'd like to do as a pro so to conduct my case.

- Have a close friend or family help, not as council, but with all the other jobs it takes to put on a case. For instance, some jobs would, include, helping looking up and print cases, as lawyers usually do. Help with folders, case laws, the normal assistance that's clerical in nature and not legal.
- I'm not asking to be provided anything by the court asking to not have the court interfere with my ability to do that.
- Prose's family and friend, must still follow the rules of the court, act

behaved, still able to receive contempt same as a misbehaving lawyer does.

-
- To be able to do motions and objections in open court, and not have it considered the practice of law.
- Objections like here say, leading the witness, that's not in evidence. Etc. Sidebars with the judge.
- The ability to use the podetium.
- The ability to stand near the jury when giving closing and opening arguments, cross examination, depositions, as the bar lawyers do, and not have this considered the practice of law.
- I want to be able to talk about my case and talk about a course of legal action with my family and friends, and not have it considered a felony as it is under RULE 10-2-2. Of the Florida bar. What about that part, isn't that a First Amendment violation.
- I want to pass notes to my family up at the council table, in proper fashion as lawyers do, notes like "don't forget

to ask them _____ on the stand" or "I found that caselaw you wanted"

- I want to be able to have a court-approved computer and printer, for the same reason the other side needs it. The court doesn't have to provide it just not stop me from conducting my case and that being part of conducting my case if need be.
- During questioning of the jury this also should not be considered practicing law but essential part of putting a trial together.
- During a deposition and within the courts rules have lay assistance that isn't counsel because there are a lot of clerical jobs involved in this as well.
- ADA for social anxiety while the person named in the action is appearing in court allowing a layman that's an **expression** of the person named and the action to present their case to the jury and the judge but not represent nor make an appearance for them and not as a profession as such cannot accept money for such actions.

Video Argument presented in district court

This link better Explains things, this is from the district court filling. Link and QR code are both the same.

https://www.youtube.com/watch?v=EHzru1gzVg4

Eleventh Amendment and Absolute judicial immunity

Neither one of them have absolute immunity they both have 98% immunity. Both the judge and the bar can be sued in limited circumstances, extremely limited circumstances.

First the Bar, in Summers 325 U.S. 561 (1945) held that admission to the state bar and denial is a case or controversy that may be reviewed when federal questions are raised. No on is this case is trying to join the bar, but already its established in Summers that it's not 100% absolute immunity. Connecticut wasn't immune in Griswold versus Connecticut. Neigher was bauer v. state. Or in the wave of attorney advertising lawsuits against their state bars in all 50 states like Harrell versus the Florida bar.

Bates v. State Bar of Arizona like the other attorneys able to sue there state bars for first amendment speech, just like cichowkis and laymans rules 10-2-2.

Georgia and California are both on the same page on this, the Georgia constitution art LVIII 1777 says the unauthorized practice of law were not "not intended

to exclude any person from the inherent privilege to plead their own cause" faretta v. California 1975 agrees.

Bates V. state bar of Arizona says "meaningful access to the court is protected under the First Amendment.

Hans v. Louisiana says as broad immunity that the states have it's not unlimited. In marie O. edgar state officials are not immune from suits for ongoing violations of federal law.

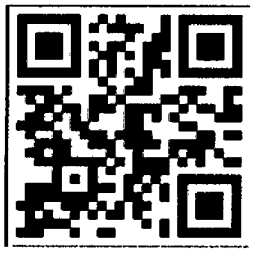
By defining what is or what isn't practice of law and further define what conducting your own case implies and both protects the lay man the lawyer and the judge. Protects the judge because they don't have to answer to the bar because what is and what isn't allowed in the courtroom by a non-laywer would already be set out by this courts ruling.

This is on going in all cases the cichowski's are involved in because no judges define unauthorized practice of law, or practice of law itself, so they default to the minimum. Robbing you of the ability to conduct and manage your case. Without guidance to fall back on.

Statement on oral argument

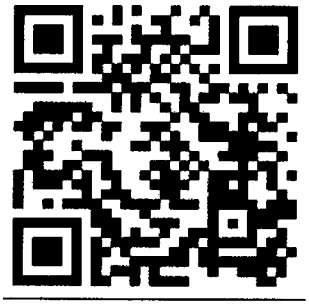
Since pro se's can not argue in front of the supreme court a video argument was made.

First QR and link go to argument for this court.



https://youtu.be/0j4uIv2oy-I

The second link and QR code are from district courts argument.



https://youtu.be/EHzru1gzVg4?si=Gf8pdk0rLlgBiOTT

Conclusion

After watching the oral argument, the court should consider the points I brought up.

A, The legal speech,

B, kevin speaking for stanley "much like how this was presented to the supreme court"

C, talking to the jury, using the podium, conducting my case,

Protect both pro ses and judges from vague state bar rules. This would apply to civil cases only. And send this back to district court, with 11th amendment immunity overridden.

Respectfully submitted

/S/ Kevin Cichowski

/S/ Stanley Cichowski

8-29-24

Update

Update 9-1-2024

Case

2021 SC 000904 - DISCOVER BANK vs. CICHOWSKI, STANLEY J in the Circuit court for the Seventh Judicial circuit, for Flagler County Florida.

5DCA#: 5D2024-2304 The Fifth District Court of Appeal has received a Notice of Appeal reflecting a filing date of August 16, 2024.

In 2021 SC 000904 Stanley Cichowski, was unable to properly conduct his case, and because of this, has ended up in appeal, where he still will not be able to conduct his case for the reasons addressed in the writ.

When Mr Cichowski, needed to say, *there where material facts in dispute,* and he *wanted a trial,* he could not be heard by the judge property because of his social anxiety, leading to the other side wining summery judgment.