ORIGINAL

No. 24-308

In The Supreme Court of the United States

In Re: Levi Rudder,
Petitioner.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

PETITITON FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

(This is believed to be a case of first impression, according to Mr. Rudder's extensive research there has never been a challenge that has raised a circumvention of the procedural protections provided by Article V of the U.S. Constitution.)

1) Does the federal government's exercise of unenumerated powers—reflected in the actions of this Court, the trial court, and the circuit court—violate the procedures prescribed in Article V of the U.S. Constitution by infringing upon Mr. Rudder's enumerated and unenumerated rights, and by not adhering to the Constitution's strict separation of powers without the explicit consent required for such amendments (ratification by 3/4ths of the States)?

2) Was either *Marbury v. Madison*, 5 U.S. 137 (1803), or *McCulloch v. Maryland*, 17 U.S. 316 (1819), wrongly decided? Specifically, if *Marbury*'s reasoning is correct in strictly denying any departure from constitutional requirements, doesn't that definitively conclude that *McCulloch* was wrongly decided for permitting federal authority to enact legislation that is not strictly necessary and proper, without first amending the Constitution to authorize such authority?

3) Given that the First Amendment prohibits Congress from restricting the free exercise of religion, does the federal judiciary have the authority to prohibit Mr. Rudder's exercise of religion and personal autonomy? Alternatively, are Mr. Rudder's enumerated and unenumerated rights to religious exercise and personal autonomy (to earn a living or use his knowledge and abilities to help others,

without first seeking governmental authorization) protected by the Ninth Amendment, and the Tenth Amendment's explicit denial of unenumerated federal powers, being circumvented by the judiciary in violation of the Article V amendment process?

4) Is the exercise of unenumerated power by the federal judiciary to infringe on Mr. Rudder's rights, a violation of Article V, the Ninth Amendment and the Tenth Amendment?

PARTIES TO THE CASE

Levi Rudder – Petitioner
U.S. Government – Interested Party

RELATED PROCEEDINGS

United States District Court (N.D. Tex.):
In re: Levi Rudder, No. 5:23-MC-004-H (June 9,2023)

United States District Court (N.D. Tex.):
In re: Levi Rudder, No. 5:23-MC-005-H (May 25,2023)

United States Court of Appeals (5th Cir.):
In re: Levi Rudder, No. 23-10725 (April 30, 2024)

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PETITITON FOR A WRIT OF CERTIORARI

Perhaps the single most important unresolved question about the constitution is why the constitution's Article V amendment process not undergone ***prior*** to this Court, the lower courts, and the rest of the federal government exercising unconsented to and constitutionally unsanctioned authority.

This illegal exercise of arbitrary authority has led to numerous rights of Mr. Rudder's being violated under the guise of "inherent" and/or "implied" power (which is just another way of saying *unenumerated power*). As the administrative state has been allowed to slowly creep in and suffocate nearly all manner in individual liberty because of the failure to require the Legislative, Executive, and Judicial branches to first be properly vested with either broad or narrow authority to do that which they are currently doing without constitutionally sanctioned authority.

Petitioner, Levi Rudder, as compelled by God, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case, and for Declaratory and Injunctive relief.

OPINION BELOW

Petition for Rehearing Denied. (App., infra, 1a).

The opinion of the court of appeals affirmed the trial courts decision, and asserted that the district court did not abuse its discretion. (App., infra, 2a-6a).

The opinion of the trial court was that Mr. Rudder did not show good cause for engaging in the unauthorized practice of law and interfering with an ongoing criminal proceeding. (App., infra, 7a-8a)

JURISDICTION

The judgment of the court of appeals was entered on April 30, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1), 28 U.S.C. § 2201, and 28 U.S.C. §2202.

The order of the court of appeals, denying petition for rehearing, was entered on May 31, 2024.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. Preamble

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

U.S. Const. art. I, § 1 ("All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.")

U.S. Const. art. I, § 8 ("To make Rules for the Government")

U.S. Const. art. II, § 3 ("he shall take Care that the Laws be faithfully executed,")

U.S. Const. art. III, § 1 ("The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts []. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour,")

U.S. Const. art. V, in toto:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

U.S. Const. art. VI, § 4 ("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;")

U.S. Const. amend. V ("nor be deprived of life, liberty, or property, without due process of law;")

U.S. Const. amend. IX ("The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.")

U.S. Const. amend. X ("The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.")

Judiciary Act of 1789 § 17

> ("And be it further enacted, That all the said courts of the United States shall have power to grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law; and shall have power to impose and administer all necessary oaths or affirmations, and to punish by fine or imprisonment, at the discretion of said courts, all contempts of authority in any cause or hearing before the same; and to make and establish all necessary rules for the orderly conducting business in the said courts, provided such rules are not repugnant to the laws of the United States.")

STATEMENT

It is well known that people in positions of authority rarely relinquish power, except by the tip of the sword or by death. George Washington is one of the few exceptions who relinquished power voluntarily after the Revolutionary War. This *petition for a writ of certiorari;* and, *motion for declaratory and injunctive relief* is submitted by Levi Rudder for the humble purpose of restoring the constitutional form of government prescribed by the U.S. Constitution, to better protect his ability to exercise his religious duties. This can only be done by confining the judiciary to its constitutional sphere of authority, and not allowing it to take a single step beyond. For:

> [W]hen a strict [application] of the Constitution[ ] is abandoned, and the theoretical opinions of individuals are allowed to control its meaning, we have no longer a Constitution; we are under the government of individual men [and women], who for the time being have power to declare what the Constitution is, according to their own views of what it ought to mean. When such a method of [applying] the Constitution obtains, in place of a republican Government, with limited and defined powers, we have a Government which is merely an exponent of the will of Congress; or what, in my opinion, would not be preferable, an exponent of the individual political opinions of the members of this court.

Dred Scott v. Sandford, 60 U.S. 393, 621 (1856).

The formation of a society ruled by "philosopher-king judges" Neil M. Gorsuch, A Republic, If You Can Keep It 113 (Crown Forum 2019), has replaced the limited Republic and Rule of Law consented to by the People, because of the judiciaries failure to apply the Constitution as-written. The Constitution requires the People to decide what, and how, authority can safely be vested into some part of the federal government.

Mr. Rudder felt called (and sometimes coerced) by God to search for the cause of how our Country has strayed from a Constitution Form of Government; and feels obliged to inform the Court on why the federal government totally lacks authority to enact restrictions on who may practice law in federal courts, and seek redress from the illegal judicial action taken against him. This absolute lack of constitutional authority is due to Congress's failure to properly request that Congress, or the courts, be vested with authority over an individual's choice (an unenumerated right and undelegated power) to appoint the person of their own choosing to represent them in a judicial proceeding, as prescribed by U.S. Const. Art. V. The answer was discerned, in-part, from a quote by an Associate Justice, Mr. Frankfurter, in *Youngstown Co. v. Sawyer,* 343 U.S. 579, 594 (1952)

> The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked ***disregard of the restrictions*** [such as Art. V] that fence in even the most disinterested assertion of authority.

When both the judges of the Trial and Circuit courts refuse to address a constitutional challenge to the arbitrary exercise of unenumerated power, especially when the challenge being raised has never been properly adjudicated, this Court must address the challenge, or this Court would be admitting by omission that it will not fulfill its constitutional duty to act as a circuit breaker between the People and the federal government's illegal power being exerted upon them. I hope the Judges of this Court are honorable enough to disavow the further exercise of unenumerated power by the Federal government, its Officers, Employees, etc. acting under color of Law, Office, and/or Authority.

Background

Mr. Rudder unexpectedly felt what he believes was God calling him to help a criminal defendant who was facing the wrath of the Leviathan (aka the United States Government). Mr. Rudder went to watch the proceedings that day as he had not witnessed an arraignment, and was doing research on the judicial process. Mr. Rudder saw CJ (the criminal defendant) walk into the courtroom with tears in his eyes and looking scared. When CJ's family came in a few minutes later, CJ repeatedly turned around and mouthed the words "I love you" and "I'm Sorry". After seeing that CJ was unrepresented and his demeanor, Mr. Rudder felt God urge him to try and help. Mr. Rudder never wanted to fully represent CJ (but was willing to if needed).

Mr. Rudder approached the family to offer his assistance after the hearing and disclosed that he was

not licensed, college trained, nor authorized by any court (State or Federal) to practice law on someone else's behalf, but that textually speaking, it was CJ's ultimate choice and not the court's. The family asked to pay Mr. Rudder and he refused their offer and asked that they just cover any expenses associated with his help (ex. out of town travel, etc.). They were encouraged to find an attorney to head the case since Mr. Rudder was not well versed in the procedural steps of criminal trials and he would prefer to work in the background with the lead attorney, to avoid complicating CJ's defense. The family wanted Mr. Rudder to help, took his advice to hire an attorney to represent CJ, and personally told the attorney that they wanted him to work with Mr. Rudder.

CJ was contacted, informed of the same disclosures stated above, and ultimately wanted Mr. Rudder's help. CJ, after Mr. Rudder sent him the heated email exchange between Mr. Rudder and the attorney, said that he wanted Mr. Rudder's help even if the attorney was not on board. CJ then authorized Mr. Rudder to start working on his behalf.

Based on statements made by CJ to Mr. Rudder, Mr. Rudder became aware of injustices being done by the originally appointed attorney and the attorney hired by CJ's family. CJ was charged with possession of a machinegun (which on August 21, 2024, U.S. District Judge John W. Broomes of the District of Kansas ruled that the federal prohibition on the possession of machine guns, specifically under 18 U.S.C. § 922(o), is unconstitutional in *United States v. Morgan*, No. 23-10047-JWB (D. Kan. Aug. 21, 2024), and specifically what Mr. Rudder was trying to help with)

and his hired defense attorney told Mr. Rudder that he did not care about the constitutional arguments, because he (the attorney) did not care to have people walking around the streets with machineguns.

Mr. Rudder then went to the Clerk's office to try and get word to the Judge handling the case (and the same one who sanctioned Mr. Rudder) that the attorneys failed to inform CJ of what he was waiving by signing the waiver of Preliminary Hearing and waiver of Detention Hearing. CJ wanted Mr. Rudder to take this action on his behalf. While there one of the employees directed Mr. Rudder to write a note to the Judge and they would give it to him, but said the Judge may or may not file it in the case.

While sitting at a desk in the public area of the Clerk's office writing the note as instructed, a show of force of 3 armed personnel surrounded Mr. Rudder and removed him from the building.

A day or so later, Mr. Rudder paid another attorney to do a consultation with CJ to see if she would take the case on, and the next day received a call that the attorney was refunding the $100 consultation fee that Mr. Rudder paid, and that she would not be doing a consultation with CJ.

The next day, give or take, Mr. Rudder went back to the Clerk's office (this time he had to wait in the lobby down stairs for an armed escort to go with him to the Clerk's office, unaware of what was going to happen next) and paid to file a miscellaneous motion (with a totally separate case number) to be recognized as part of CJ's legal counsel (as authorized by CJ).

While there, 2 U.S. Marshalls approached Mr. Rudder, while he was waiting on his receipt, and served him with a summons to show cause. The Marshall that officially served Mr. Rudder was overly aggressive in his approach, getting within inches (< 1') of Mr. Rudder, to hand him the summons. This did scare Mr. Rudder, his hands began shaking afterwards while waiting on the receipt, as he had never acted aggressively or anything less than respectful towards the 2 U.S. Marshalls and everyone else in the building.

Unable to obtain his own representation, Mr. Rudder started to work on his own case. The Monday before the Friday show cause hearing, Mr. Rudder went to obtain subpoenas from the Clerk's office, but what was otherwise mandated by court rules for issuing subpoenas generally, Mr. Rudder was told that he must seek special permission from the Judge first (unequal application). Mr. Rudder was then forced to decide to use what limited time he had on drafting a motion for subpoenas, which were left to the arbitrary discretion of the same Judge who was targeting him, or continue to gather statutes and other documents to assist in showing why he should not be sanctioned, with the plan to call/subpoena witnesses that could testify on his behalf during the show cause hearing. CJ's Uncle had promised to be there and to testify, but ultimately did not show.

Mr. Rudder tried to call CJ; the attorney who filed the motion to show cause; and an employee in the Clerk's office to testify. All requests were denied, and all were believed to be able to testify as to the consistent

assertions that Mr. Rudder made about taking the actions he had based on his religious exercise.

The Judge refused to address the constitutional challenges repeatedly, and even refused to take judicial notice of the text of the U.S. Constitution until Mr. Rudder recited the FRCP that mandates a judge take judicial notice if offered proof, which Mr. Rudder then did. After which, the Judge finally took said notice.

Mr. Rudder was denied being able to bring his phone in with him to the hearing even after explaining that it is a controller of a medical device he uses to help keep him calm when he gets overly stimulated, as he has Asperger's. This is believed to be the cause of the failure to offer any of the evidence that he had prepared and laid out on the table.

No evidence was presented by the Judge, nor the attorney who filed the motion to show cause, to contradict Mr. Rudder's testimony that he was exercising his religion, and out of sheer arbitrariness the Judge denied and disparaged his right to freely exercise his religious duty, by claiming his explanation of why he was doing what he had, was not credible.

SUMMARY OF THE ARGUMENT

The petitioner, Levi Rudder, acknowledges the inherent rigidity and significant burden imposed by the constitutional amendment process under Article V, but emphasizes that this process is a fundamental safeguard designed to protect the integrity and

foundational principles of the U.S. Constitution. While this process is arduous, it is deliberately designed to ensure that only amendments with broad and deep support become part of the Constitution, reflecting the will of the People and the States.

However, the Constitution is the supreme law of the land, crafted to prevent arbitrary expansions of power and to protect individual rights. The framers instituted a rigorous amendment process to guarantee that any changes to the distribution or exercise of governmental power are thoroughly considered and broadly deemed acceptable by the People and the States. This principle is crucial, as evidenced by the strict application of constitutional limits in cases such as *Marbury v. Madison* (1803), where this Court refrained from allowing a congressional expansion of the judiciary's original jurisdiction, and *McCulloch v. Maryland* (1819), where a departure from strict constitutional limits set a dangerous precedent for the expansion of federal power.

Constitutional Authority and Judicial Limits:
The Constitution only authorizes the judiciary to exercise judgment and appoint inferior officers if Congress vests such power in the courts. Any procedural rule-making authority that attempts to proscribe actions of citizens must align strictly with constitutional authority. Historical practices, while longstanding, do not override constitutional provisions. Therefore, adherence to constitutional authority necessitates amendments for procedural rule-making. This is beyond question because the Constitution explicitly limits the judiciary's powers,

as illustrated by the judiciary's improper reliance on unenumerated powers through mechanisms like the Judiciary Act of 1789.

Judicial Efficiency vs. Constitutional Compliance:
While the efficient functioning of the judiciary is reasonably beneficial, it must not come at the expense of constitutional fidelity. Efficiency cannot justify disregarding constitutional mandates. The court's role is not to weigh efficiency against constitutional mandates but to ensure that all actions comply with the Constitution. Thus, the argument stands firm on the need for constitutional amendments for any procedural rule changes affecting citizens. The amendment process serves as a crucial check on government authority, ensuring that any expansion of power is made with the consent of the governed through proper constitutional channels.

Separation of Powers and Judicial Independence:
Judicial rule-making inherently biases judges and conflicts with the constitutional role of the judiciary. The Constitution explicitly separates legislative and judicial powers to prevent conflicts of interest, ensuring that judges focus solely on adjudication rather than creating the rules they must later interpret. Maintaining judicial independence in judgment does not equate to granting self-governance in procedural rule-making. This separation is crucial to prevent conflicts of interest and uphold constitutional integrity, as seen in the potential conflicts that arise when attorneys are designated as

"Officers of the Court," which can compromise their duty to their clients.

Delegated Authority and Congressional Limits:
Congress does not have the authority to delegate broad legislative powers, including rule-making that applies to citizens, without a constitutional amendment. Any expansion of Congress's authority to delegate procedural rule-making powers must be done through a constitutional amendment. This ensures that all such delegations are constitutionally valid and aligned with the foundational principles of the Constitution.

Role of Congress and the People:
It is for Congress and the People to decide whether to vest additional authority in the government through the constitutional amendment process. The court's responsibility is to apply the Constitution as it is (not amend it through "interpretations"). Any changes to the constitutional framework, including procedural rule-making authority, should be decided by the legislative process involving the People's consent through amendments.

Personal Experience and Real-World Implications:
The petitioner's experience highlights the real-world consequences of the judiciary's overreach. When Mr. Rudder attempted to assist a criminal defendant, he encountered judicial actions that disregarded constitutional limits, leading to his own legal struggles. These experiences underscore the urgent need for this Court to reaffirm the constitutional

boundaries that protect individual rights and prevent the arbitrary exercise of power.

Therefore, the petitioner urges this Court to uphold the procedural protections and constitutional processes enshrined in Article V, ensuring that any exercise of power by the judiciary or any branch of the federal government has the explicit consent of the People through a constitutionally sanctioned amendment. The judiciary's role is limited to exercising judgment and appointing inferior officers if Congress vests such power. Any authority beyond this scope, including procedural rule-making that affects citizens, must be constitutionally sanctioned.

The necessity for amendments is clear and non-negotiable: for the judiciary or any branch of the federal government to exercise qualification setting authority over who may practice, a constitutional amendment is required. This approach maintains the integrity of the constitutional framework and ensures that all governmental powers are exercised within their constitutionally defined limits. The role of the judiciary, and indeed all branches of the federal government, is to uphold the Constitution, not to seek efficiency or convenience at the expense of constitutional mandates.

This was not an "Abuse of Discretion" challenge as there is no discretion vested, over the rights involved, to a judge to deny or disparage. This is an *absolute scrutiny* (stricter than "strict scrutiny", and in which the government has no interest which can be relied on to justify taking the actions that it has, until the U.S. Constitution is properly amended to authorize

such action) challenge to the arbitrary authority being exercised by the federal judiciary.

Therefore, the petitioner seeks a declaration that any exercise of constitutionally unsanctioned authority—whether by the judiciary, the legislature, or the executive branch—is void and should be permanently enjoined. This relief is necessary to protect the fundamental rights at stake and to ensure that the federal government operates strictly within the bounds of the Constitution as written and ratified by the People and the States.

REASONS FOR GRANTING THE PETITION

The Article *V Amendment Process has been circumvented by Judges limiting* ***WHO may practice law before them.***

The Art. V amendment process is the only proper way of vesting the federal government with authority to regulate or proscribe, that which was omitted by the drafters of the Constitution.

The Art. V amendment process was properly used to extend the federal government's authority regarding the prohibitions surrounding intoxicating liquors, by U.S. Const. Amend. 18; but not for the federal courts general prohibitions and regulations of the practice of law in federal courts.

A question of constitutional power can hardly be made to depend on a question of more or less. If the Courts/Judges may establish Legislation/Rules of general applicability, there is no constitutional

limitation, only the judge's own discretion; and the People, therefore, must depend on the discretion of the judge for their ability to petition the Government for a redress of their grievances, especially when the grievance is cause by the very people exercising governmental authority absent Constitutional Sanction. This consequence is logically inevitable.

This Court and inferior courts are exercising authority in a way that regulates who may practice law before them on behalf of others, as proved by the events of this case and others cited in it; and, the Court's Rules in toto pertaining to who may file what, all without Congress first going through the burdensome process of proposing an Amendment to the Constitution, to ask for the consent of the People themselves, as to whether or not they want to delegate to unelected and unaccountable judges, their (the People's) discretion to choose who will represent their own interest before a court. As such, the federal government is actively circumventing the Constitution, specifically the Art. V amendment process; and therefore, the exercise of "inherent" and/or unenumerated powers must be declared the exercise of constitutionally unsanctioned authority and permanently enjoined.

The amendment process is to protect a minority's interest from the tyrannical control of an impassioned majority, or minority group in power, and ensure any such change is well reasoned and obtains the consent of an overwhelming majority of the People, who are the ultimate sovereigns and from which the government's authority originates.

"[T]he [proposal and ratification] clauses [are] no harder to apply than the requirement that the President must be thirty-five years old." *U.S. v. Hagen*, 711 F. Supp. 879, 883 (S.D. Tex. 1989)

Five examples of amendments, if previously ratified, could have vested the federal government with the authority to have reached Mr. Rudder in this case:

1. "Congress, or a judge (or panel of judges and or others) of its choosing, may determine classes of people who may, or may not, be permitted to practice law in the various federal courts."
2. "Congress may regulate the Practice of Law as they see fit."
3. "Congress may by Law vest legislative authority, as they think proper, in any of the Art. III Judges or Courts."
4. "Congress may, in the name of the public good, make all laws that have enough support to pass, by a bare majority of a quorum of members, of both houses of Congress, with the President's consent, by signing such into law."
5. "Judges of the federal courts may regulate, by enacting qualifications, which people are permitted to practice law before them. But the Supreme Court Justices shall have authority to veto any qualifications that are deemed to violate the U.S. Constitution, or are considered unjust by at least one third of the Justices."

As the examples above show, it would not be impossible to amend the Constitution (per Art. V) to permit Congress or Judges to regulate who may practice law on behalf of others, and to reach the

underlying conduct involved in this case, and others (with no limitations whatsoever, or in very limited circumstances). But the main issue is that the People (and the States) were never permitted to give, deny, or limit their consent to such an expansion of the federal government's authority. ***If such consent to authority is not required to be given at this point***, it means that either the People originally established an Authoritarian and/or Totalitarian Kritarchic government (which the text of the Constitution does not support); or, the government has usurped Authoritarian/Totalitarian authority (which in actuality is what has happened), ***and the Constitution is no longer the controlling law*** of the federal government, Judges are.

Section 17, of the Judiciary Act of 1789, vested the courts of the United States with arbitrary discretion to fine or imprison for contempts of authority; and to make and establish rules, provided such rules are not repugnant to the laws of the United States (which includes the U.S. Constitution). This act was declared unconstitutional in-part by *Marbury v. Madison*, 5 U.S. 137 (1803), and is not beyond reproach, as age of a statute does not qualify it as being constitutionally valid.

On February 5, 1790, the Supreme Court/Justices propagated (presumably under Section 17) qualifications to practice before the Justices thereof. This practice of setting qualifications, and establishing a "Bar", is exercising Constitutionally Unsanctioned authority because it is an act that technically establishes illegal/invalid classes of People and legislation which is applicable to the

People generally, and not merely applicable to Officers and Employees of the Government.

Attorneys and Counselors (Collectively Attorneys) for a non-governmental body, are solely agents of the Individuals or association of Individuals (company, group, etc.) that they have some sort of mutually voluntary relationship with, and not an Officer of the United State. As the Courts are part of the U.S. Government, a supposed Officer of the Court would be in-fact an Officer of the United States. Turning all attorneys into "Officers of the Court" makes it where the Attorneys have a conflict of interest between their client's interest and their own interest.

If an attorney is dependent on staying in the good graces of a Judge to continue to provide for their own living, attorneys will weigh their interests against their client's interest when it comes to presenting arguments that would likely benefit the client, but may cause the Judge to retaliate against the attorney in some manner. This is not a hypothetical, Mr. Rudder has actually been told that due to the amount of work a law firm does before particular courts/judges, that they would not take the case for fear of retaliation. This was communicated to Mr. Rudder, when he was seeking representation relating to this case, by an employee of the firm after being informed of what would need to be challenged. Additionally, looking at the recent events pertaining to Brian Steel's representation of a criminal defendant, where the judge tried to coerce Mr. Steel into violating his duty to his client, it is evident that the independence of attorneys to represent their clients must be beyond the discretion of a judge.

In *Marbury v. Madison*, 5 U.S. 137 (1803), the federal government tried to expand this Courts Original jurisdiction by an ordinary act of Congress. The members of this Court, at that time, honorably refrained from allowing such an innocuous deviation from the, text of the written and ratified, Constitution to be permitted to stand, as it would require ignoring a clause in the Constitution. However, in *McCulloch v. Maryland*, 17 U.S. 316 (1819) the Court abandoned the strict application of the Constitution as-written, and started exercising Kritarchic authority by disparaging the "necessary" requirement contained in U.S. Const. art. I, § 8, to bless Congress's exercise of unenumerated authority to do something less than "necessary". In the Case at hand, to allow such an ordinary act of Congress/Judges to stand would be to consciously turn one's eyes away from the constitutionally prescribed process, Article V, to vest the federal government with the constitutional authority to do that which is being done here.

Although *Marbury* had its own flaws, *McCulloch* was grossly flawed. In *Marbury,* at least the Court did not give consent to expand federal authority beyond the enumerated powers.

CONCLUSION

Mr. Rudder understands why courts would be hesitant to declare their own actions as Constitutionally Unsanctioned, as it could be perceived to undermine the respectability of the Court if the Court cannot properly police its own actions; and the reluctance to accept a hole in both the power vested to the federal government and in the

current legislation that will likely cause some amount of turmoil. But, Mr. Rudder would suggest that there is very little that is more respectable than the acknowledgment of an unintentional error, and subsequently correcting it. Additionally, like this Court recently pointed out, that "A law [in this case a clause in the Constitution] is not useless merely because it draws a line more narrowly than one of its conceivable [constitutional] purposes might suggest." *Garland v. Cargill*, No. 22-976, at *22 (June 14, 2024), and, "it is never our [the Court's] job to rewrite . . . [the text of the Constitution] under the banner of speculation about what [the Founders] might have done." *Henson v. Santander Consumer USA Inc.*, 582 U.S. 79, 89 (2017).

This case presents the Court with a valuable opportunity to guide the lower federal courts, and state courts, in applying the U.S. Constitution's text, **as written and ratified**, when assessing the constitutionality of the federal government's, as a whole, exercise of unenumerated power. In resolving this case, Mr. Rudder urges the Court to enforce the procedural protections and process provided by the Constitution's Art. V Amendment process, and declare that the federal governments exercise of authority under the Judiciary Act of 1789 §17, its progeny, and unenumerated power, is the exercise of Constitutionally Unsanctioned authority, and any exercise of such Constitutionally Unsanctioned authority is hereafter permanently enjoined, as it would be in violation of U.S. Const. Art. V. Doing so will avoid the cherry-picking and manipulation that is inherent in the current approach, which ignore the amendment process, and will lead to more consistent

jurisprudential analyses and outcomes in cases raising constitutional challenges. Congress can propose Amendments to the Constitution, which can be ratified, "—and perhaps would have done so already if [the courts, and the Government as a whole] had stuck with [only exercising Constitutionally Sanctioned authority]." Garland v. Cargill, No. 22-976, at *24 (June 14, 2024)

Mr. Rudder, as a matter of constitutional law, is entitled to a declaration that: the actions taken by the Judge of the district court were Constitutionally Unsanctioned and therefore void, as a Judge, or any part of the federal government, is not permitted to exercise unenumerated authority, under the guise of inherent power or otherwise, which was the express basis of authority relied on to justify his actions. (App-8c, Transcript Excerpts Pg. 21 lines 1-22)

Dated: August 28, 2024

Respectfully submitted,
/s/ Levi Rudder

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