No. 24-600

In the Supreme Court of the United States

MISOP BAYNUN,

Petitioner,

v.

BRUCE HILTUNEN, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the Commonwealth of Massachusetts Appeals Court

PETITION FOR A WRIT OF CERTIORARI

Misop Baynun
Petitioner Pro Se
91 Clay Street, Suite 210
Quincy, MA 02170
(617) 269-6237
MisopBaynun@MagPro.com

July 18, 2024

QUESTIONS PRESENTED

In accord with Supreme Court Rule 10(c), since a state court "has decided an important federal question in a way that conflicts with relevant decisions of this Court" and in accordance with Supreme Court Rule 10(a), since a lower court and an Appeals Court "has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power" the Petitioner seeks this Court's answer to the following questions:

1. Were the constitutionally protected First Amendment (Amendment I) religious freedom or freedom of faith rights of the Petitioner breached?

2. Did the Appeals Court sanction things done in the lower court proceedings that so far departed from the accepted and usual course of judicial procedure as to call for an exercise of this Court's supervisory power?

3. Was the implementation of the purported will that resulted in the violation of the Petitioner's religious freedom or freedom of faith rights done so in violation of Federal and State law?

4. Was the Massachusetts Appeals Court's award to the Respondents of $10,000 of legal fees from the Petitioner unfair and not in compliance with State law?

5. Would keeping the lower court's Decision as it stands now be unjust and unfair to everyone?

PARTIES TO THE PROCEEDINGS

All parties do not appear on the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgement is the subject of this petition is as follows:

Petitioner:

Misop Baynun: Who is the second born son of the Decedent and one of the two beneficiaries

Respondents:

Bruce Hiltunen and Robert Hiltunen: Who are the nephews of the Decedent, cousins of the beneficiaries, and the named Executors in the considered by the Petitioner invalid will, that the Petitioner refers to as the "Wil1" (Wil-One), and who are the currently appointed Personal Representatives of the Estate of Bruce F. Miller

Other Parties of Interest:

Jeff Miller: Who is the first born son of the Decedent and the other of the two beneficiaries, along with the Partitioner and

Sandra Miller: Who is the ex-wife of the Decedent, who had been married to him for over 10 years, and female parent of her and the Decedent's two sons and beneficiaries of the Estate, Jeff Miller and Misop Baynun

LIST OF PROCEEDINGS

Supreme Judicial Court of Massachusetts

Docket No. FAR-29572

In the Matter of the Estate of Bruce F. Miller

Denial of Further Appellate Review: December 15, 2023

Appeals Court of Massachusetts

Docket No. 2022-P-0901

In the Matter of the Estate of Bruce F. Miller

Opinion: October 19, 2023

Commonwealth of Massachusetts Probate and Family Court, Norfolk Division

Docket No. NO20P0037EA

In Re Estate of Bruce F. Miller

Memorandum Decision and Order: August 11, 2020

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PETITION FOR A WRIT OF CERTIORARI

The Petitioner respectfully requests that a writ of certiorari be issued to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix A at App.1a of the petition and is reported at 103 Mass. App. Ct. 1110.

The unpublished opinion of Massachusetts Probate and Family Court appears in Appendix B at App.12a.

The Massachusetts Supreme Judicial Court denial of further judicial review appears in Appendix C at App.19a.

JURISDICTION

The date on which the highest state court decided this case was October 19, 2023. A copy of that decision appears in Appendix A.

A timely petition for rehearing was thereafter denied on the following date: December 15, 2023, and a copy of the order denying rehearing appears in Appendix C.

An Application (23A817) to extend the time to file a petition for a writ of certiorari from March 14, 2024

to May 13, 2024 was submitted to First Circuit Justice Jackson on February 29, 2024.

Application (23A817) granted by Justice Jackson extending the time to file until May 13, 2024 on March 5, 2024.

Petitioner filed A Writ of Certiorari promptly on May 13, 2024. Yet Supreme Court Clerk Stanton extended the time to file until 60 days after May 20, 2024 (or by July 19, 2024) on May 20, 2024, due to the Clerk's request for Petitioner to submit an affidavit in support of his Motion for Leave to Proceed as A Veteran. That affidavit was included in a previous filing. This motion was denied. The Petitioner was given until December 6, 2024 to refile a compliant petition under Rule 33.1.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following provisions are included in the appendix:

CONSTITUTIONAL PROVISIONS

- U.S. Constitution Amendment I (App.20a) with Annotation 5.

FEDERAL PROVISIONS

- 15 U.S.C. § 1692(e)(9) (App.21a)
  False or Misleading representations
- 18 U.S.C. § 1001(a)(3) (App.21a)
  Statements or entries generally (False writing)
- 42 U.S.C. § 1986 (App.21a)
  Action for neglect to prevent

STATE PROVISIONS

- Massachusetts Constitution Amendments Article XVIII, § 1 (App.22a)
- Massachusetts Court Rule 12 (App.22a)
  Defenses and objections | (f) Motion to strike
- M.G.L. c. 190B, § 5-313 (App.22a)
  Religious Freedom of Incapacitated Person
- M.G.L. c. 191, § 1 (App.23a)
  Chapter 191, Section 1. Persons authorized to make wills; capacity; execution

- M.G.L. c. 192, § 2 (App.23a)
  Probate of Wills and Appointment of Executors; Proof of will in uncontested proceedings; waiver of proof
- M.G.L. c. 231, § 6F (App.26a)
  Costs, expenses and interest for insubstantial, frivolous or bad faith claims or defenses

SUPREME COURT RULES

- Rule 10. Considerations Governing Review on Writ of Certiorari (App.30a)

KING JAMES BIBLE

- Numbers 27:6–11 KJV (App.45a)
- Luke 6:31 KJV (App.45a)
- 2 Corinthians 6:14-18 KJV (App.46a)

STATEMENT OF THE CASE

Bruce F. Miller, the Decedent, passed on with a recorded date of death of November 28, 2019.

The Respondents, using a copy given them by the Petitioner and his brother of the later discovered original "Will" (Wil-One), petitioned for formal probate of the Estate of Bruce F. Miller on January 9, 2020, against the wishes of the Petitioner, the at that time grieving second-born son of the Decedent due to the unexpected death of his beloved Pops, who wanted them to allow him even a tad bit more time for him to attempt to comprehend a little more such complex legal matters as presented by the "Will" (Will-One)

before proceeding. His concerns included his religious freedom or freedom of faith rights.

The document executed on 1/24/2006, which some have considered a valid will, uses the nonword "Wil1" (Wil-One) where the applicable Massachusetts statutes, M.G.L. c. 191 § 1 and M.G.L. c. 192, § 2, both indicate the word "will" should be used. Therefore, such has been previously referred to in documents submitted to the courts and is often referred to throughout this petition as the "Wil1" (Wil-One). The "Wil1" (Wil-One) issue is discussed further below in Reasons For Granting The Writ (RFGTW), subsection 3C.

Furthermore, Petitioner Misop Baynun objected to the Respondents hiring and using Estate money to fund the law firm that the Respondents proposed to use, the law firm that one of them worked for—Baker, Braverman & Barbadoro, P.C.—for Estate matters. A partner or partners from this firm also worked where the Probate hearings would take place. As such, the Petitioner hoped to prevent the Respondents from having an unfair advantage regarding decisions made about the Estate in the proceedings and to prevent potential prejudicial favoritism from seeping into the lower court's decisions, even if such merely slipped in subconsciously. The Petitioner also hoped to prevent the Respondents from unnecessarily draining the Estate in legal fees. Further, he hoped they would not use his rightful inheritance to violate anyone's freedom of faith rights, even his own. Yet this request was also denied the Petitioner by the Respondents.

The Norfolk Probate and Family Court held three hearings regarding the Estate of Bruce F. Miller, with Hon. Lee M. Peterson presiding, on January 28, Febru-

ary 13, and August 11, 2020—the last being a remote (telephone/computer) hearing.

After the 8/11/2020 hearing, the lower court allowed the Respondents' 4/23/2020 filed and docketed Motion to Strike (MTS) to strike the Petitioner's 1/27/2020 filed and 2/5/2020 docketed 1st Notice of Appearance and Objection (1st NAO), along with his 2nd NAO. Yet the Respondents filed their MTS too late, according to Massachusetts Court Rule 12(f); therefore, the lower court Shouldn't have allowed it. For more on why the MTS shouldn't have stricken Petitioner's 1st and 2nd NAOs, please see RFGTW, section 2, especially subsection 2B.

The entry date of the lower court Judge's Decision on this case was August 11, 2020.

Despite reasoning to the contrary in testimony and three Notices Of Appearance And Objection (two copies of the first, now called the 1st and 2nd NAO, and one copy of the second, now called the 3rd NAO, which the Petitioner believes the lower court should have accepted as an amendment to his first and an answer to the Motion to Strike, as discussed below in RFGTW, subsections 2C and 2D), the Judge deemed the "Will" (Wil-One) valid and put the considered by the Petitioner invalid "Will" (Wil-One) into effect and appointed the Respondents Bruce and Robert Hiltunen as the Personal Representatives of the Estate in violation of Misop Baynun's religious freedom or freedom of faith rights—as discussed below in RFGTW, section 1.

After the Petitioner appealed this case to the Massachusetts Appeals Court, the parties involved filed many documents with the Massachusetts Appeals Court regarding this case, including those in the Record

Appendix submitted by the Petitioner and those in the Supplemental Record Appendix submitted by the Respondents. Then, the Appeals Court upheld the lower court's Decision and the violation of the Petitioner's freedom of faith rights as protected by the First Amendment. It also affirmed the lower court's declaration that a will was valid even though it did not adhere to the applicable Massachusetts statutes (M.G.L. c. 191, § 1 and M.G.L. c. 192, § 2) and multiple federal statutes (15 U.S.C. § 1692(e)(9), 18 U.S.C. § 1001 (a)(3), and 42 U.S.C. § 1986) as discussed below in RFGTW, section 3, and awarded the Respondents $10,000 of legal fees in violation of M.G.L. c. 231, § 6F, as discussed further below in RFGTW, section 4, from a disabled veteran trying to protect his religious freedom or freedom of faith rights, and his financial autonomy, especially since he and his brother are both financially capable and reasonable adults who are roughly the same ages as the Respondents.

After the Appeals Court denied a Motion For Reconsideration and the Massachusetts Supreme Judicial Court denied an Application For Further Appellate Review, Misop Baynun, the Petitioner, is seeking reconsideration via his filing of this Writ Of Certiorari to this Supreme Court of the United States.

REASONS FOR GRANTING THE PETITION

INTRODUCTION

To violate the Petitioner's religious freedom or freedom of faith rights and not bring him justice in this matter, the Massachusetts lower court involved in this case so far departed from the accepted and usual course of judicial proceedings, and the Massachusetts Appeals Court sanctioned such a departure, as to call for an exercise of this Court's supervisory power. Supreme Court Rule 10(a) indicates that this is a valid reason for this Court to grant this writ. Further, because the lower court and the Appeals Court did not reasonably address the constitutionally protected First Amendment religious freedom or freedom of faith rights issue of the Petitioner, they violated his rights. What's more, the lower court and the Appeals Court have decided a substantial federal question in a way that conflicts with relevant decisions of this Court. Therefore, Supreme Court Rule 10(c) shows this is another valid reason for granting this writ.

The lower court and the Massachusetts Appeals Court did not protect the Petitioner's constitutionally protected religious freedom or freedom of faith rights. Nor was this issue addressed adequately, if at all, as it should have been in the lower court and the Appeals Court decisions, despite the Petitioner having sufficiently raised this issue in the lower court and the Appeals Court proceedings.

The Petitioner is convinced that the lower court Judge accepted the "Will" (Wil-One) when it did not comply with Massachusetts and Federal statutes and

appointed the Respondents as the Personal Representatives in violation of the First Amendment of the United States of America and other ordinances.

The Petitioner believes that without justifiable cause, the lower court allowed the Motion to Strike Misop's 1st Notice of Appearance and Objection. [Memorandum of Decision and Order—found in the Record Appendix that the Petitioner, who was the Appellant in that case, prepared for the Massachusetts Appeals Court, on pages 153 through 156 of that document—(RA/153–156), Motion to Strike (RA/54–65), and Misop Baynun's 1st Notice of Appearance and Objection (RA/36–45), respectively.]

Since the Massachusetts Court system did not adequately address many key issues, including the religious freedom or freedom of faith rights issue and others, that the Petitioner brought before it that could have resulted in a fair decision to all parties in this case, the Petitioner brings this case before this Supreme Court of the United States while hoping that it will continue its wise rulings regarding such matters as revealed in previous decisions by this Court in similar cases, including *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. (2017):

In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, this SCOTUS protected the religious freedom or freedom of faith rights of a small Christian school, which, before your ruling, the state of Missouri prevented from being able to apply for public funds without acting contrary to their spiritual beliefs. The Petitioner's case is similar in that the Petitioner wishes to receive his rightful inheritance without being forced to be included in a plan that does not align with his faith. The petitioner hopes that although certain

persons and his state's judicial system have not yet adequately protected them, this SCOTUS will not only fully protect them but also provide further clarity as to the importance of all states protecting the essential religious freedom or freedom of faith rights of the Petitioner and all citizens.

Please consider the following five questions regarding why this Supreme Court of the United States should grant this writ of certiorari, and then please decide this case in favor of the Petitioner to help bring unity between state rulings on religious freedom or freedom of faith rights issues and previous SCOTUS rulings on such and to protect the freedom of faith rights of the Petitioner and others who might be affected by this Court's Decision on this case.

I. Were the Constitutionally Protected First Amendment Religious Freedom or Freedom of Faith Rights of the Petitioner Breached?

A. The Applicability of Supreme Court Rule 10(C) to This Issue

Supreme Court Rule 10(c) states that if a state court or a United States court of appeal "has decided an important federal question in a way that conflicts with relevant decisions of this Court" the Supreme Court could grant review of that Decision. The following shows why this Supreme Court Rule 10(c) applies to this case:

B. How the Lower Court Violated the Petitioner's Freedom of Faith Rights

The lower court appointed two people not openly of the same faith as Misop as the Personal Represent-

atives (PRs)—over his and his brother's halves of the Estate. The current PRs not revealing to Misop that they have the same faith as him, with Misop being a Christian, leaves Misop subject to being "unequally yoked together with unbelievers:" (from 2 Corinthians 6:14), which goes against his faith. Further, this leaves the Petitioner ill-effected by his being "unequally yoked together with unbelievers:" since the Respondents have not allowed him to direct the investments made with his half of the assets in the Estate nor a guaranteed or equal say in how they invest his inheritance. Such has brought up conflict of interest issues and investment in things that Misop did not want his inheritance invested in, including their investment in legal services to aid Respondents in continuing their violation of his freedom of faith rights.

The Petitioner's first hope and desire is to realize the Respondents finding God's grace, peace, and eternal life for themselves through their faith in Christ one day, as well as all else in his family and the world who haven't yet discovered this, as the Decedent did not long before his passing. That would be spectacular, and, as a side note, this would also solve the unequally yoked with unbelievers issue.

Yet until that happens, by God's grace—God willing, which God's Word shows God is willing, and Respondents willing—the Petitioner is currently subject to being unequally yoked together with unbelievers. Therefore, his religious freedom or freedom of faith rights are being violated against his wishes. Protection from this from happening to him is enshrined in the United States Constitution in the First Amendment Free Exercise Clause and many other statutes.

C. How the Appeals Court Sanctioned the Violation of the Petitioner's Freedom of Faith Rights Despite the Petitioner Having Raised This Issue in the Lower Court Proceedings

Even though Misop raised the issue of religious freedom or freedom of faith rights below, the Appeals Court sanctioned the lower court's violation of those rights.

In the 10/19/2023 Appeals Court Summary Decision (ACSD), the Appeals Court stated the following regarding the religious freedom issue:

> "Baynun makes several arguments on appeal. First, he argues that his right to religious freedom is infringed by appointment of executors who may not hold his same religious beliefs or invest the estate's assets in a way that is consistent with his religious beliefs."

Yet beyond that, the ACSD did not much or at all address the religious freedom or freedom of faith rights issue.

The ACSD later stated the following regarding the first two of Baynun's notices of appearance and objection (which were the same document):

> "We begin by noting that many of Baynun's arguments on appeal were not raised in either of his two timely notices of appearance and objection."

Yet the Summary Decision did not state that Baynun did not raise the issue of religious freedom or freedom of faith rights below, as Baynun raised this

issue below. Yet the lower court did not address this issue in its Decision. Nor did the Appeals Court weigh in on this in its Summary Decision beyond stating why it did not address things raised for the first time, yet while not distinctively saying why it did not address the issue of religious freedom or freedom of faith rights, as Baynun was not raising this issue for the first time since he raised this issue below in a hearing before the lower court.

Regarding any issue raised for the first time, the ACSD stated this:

> "We do not consider any issue raised for the first time on appeal, as any such issues have been waived. *See Carey v. New England Organ Bank*, 446 Mass. 270, 285 (2006) ('issue not raised or argued below may not be argued for the first time on appeal' . . .)."

The Appeals Court stated it refrained from addressing matters raised for the first time. Yet, the Petitioner was not raising this issue for the first time as he had previously raised the issue of religious liberty or freedom of faith rights during the lower court proceedings.

Furthermore, *Carey v. New England Organ Bank* does not correlate well with this case, as in this one, the religious freedom or freedom of faith rights issue was "raised or argued" below, while in *Carey v. New England Bank*, a particular issue it seemed was not.

Carey v. New England Organ Bank does not exclude a lower court Judge adjudicating that case from considering an issue about which there was testimony in a lower court hearing from being considered by that Judge, nor does it prevent an appeals court

from deciding an appeal of that lower court's Decision regarding an issue raised before a lower court yet one that the lower court neglected to address.

D. How the Petitioner Raised the Freedom of Faith Rights Issue Below

The words spoken in the Motion to Strike hearing in the lower court became a document known as the transcript, which the Appeals Court required the Appellant to produce, arguably, to consider in its Decision regarding the appeal. An issue raised or argued in a lower court hearing should count as an issue raised or argued below.

Furthermore, the religious freedom rights issue was raised before the hearing, including in the Petitioner's 3rd Notice of Appearance and Objection which the Petitioner believes should have been considered an amendment to his 1st NAO or an answer to the Motion to Strike (this 3rd NAO was really his second, as the first two were the same document, one of which was submitted unnecessarily by ineffectual counsel), which the Petitioner believes should not have been struck, as discussed below in "2. Did the Appeals Court sanction things done in the lower court proceedings that so far departed from the accepted and usual course of judicial procedure as to call for an exercise of this Court's supervisory power?"

During the 2020 Motion to Strike hearing, Misop Baynun and the lower court Judge stated the following:

> "BAYNUN: But the religious freedom rights, there's probate rules that talk about the spirit of honoring the religious freedom rights of those in probate, and this would be going

> against my–I'd be basically unequally yoked with non-believers. I don't know if they're believers or not, but my religious freedom is to follow my God and invest the way I would like to."

And if I was put under the yoke of those who I–maybe they have the same faith as I do. Maybe they don't. That's up to them. That's between them and God. But to force me through an invalid will to be under the financial ruling of two people whom I'm not sure that I'm in align with spiritually would be unjust.

> "THE COURT: Does anyone else wish to be heard?" TRIII/p9, line 25–p10, line 13: RA 190–191.

As revealed, after Baynun raised and argued the religious freedom rights or the freedom of faith issue, the lower court Judge did not address this subject matter brought before her during that hearing, nor did she grant a hearing to discuss this and other topics further by denying the Motion to Strike, nor did she consider Misop's 3rd Notice of Appearance and Objection as an amendment to his 1st or as a response to the Motion to Strike, nor did the lower court Judge consider this document in her Decision as she seemed to indicate she would, nor did she address this issue in her Decision.

E. More Reasons Why This Supreme Court of The United States Should Protect the Freedom of Faith Rights of The Petitioner

Since the Constitution of the United States directs this country to protect the religious freedom or freedom of faith rights of all Americans, no matter what any

particular will instructs, shouldn't these rights always remain secure? Violating someone's religious liberty or freedom of faith rights is an essential issue that, at best, should not be allowed or encouraged by any court or any person.

Please consider if someone had said the following in a will: The Decedent's sons, to get their inheritances, had to serve their cousins as enslaved persons for ten years or that they were required to allow others to use their rightful inheritances to support a farm or some other company that supported slavery whether or not one or both of the sons' faiths led them to be against slavery and whether or not either or both of them did not want to be associated with such a practice in any way.

Since slavery is now illegal in this country, whether either of those two sons presented a timely notice of appearance and objection objecting to this provision in the will or not, shouldn't the justice system discourage and prevent slavery or the support of such from being forced on anyone to receive their rightful inheritance, even if the Decedent had wanted to do this and had made this clear in a will?

Although the abolition of slavery occurred after the institution of the Constitution and the protection of religious freedom or freedom of faith rights as shown in the First Amendment, shouldn't we all hold such adjuncts or reinforcements of freedom dear to us and support them in the courts? If so, shouldn't the courts also defend the previously codified religious liberty or freedom of faith rights of all people in Massachusetts or any state, regardless of any alleged timing issues during the lower court proceedings?

Yet, in this case, Petitioner Misop Baynun raised and argued the issue of religious freedom or freedom of faith rights below in the hearing on August 11, 2020, and before then. Baynun also discussed this in Item 32 (RA/119–122) of his considered unrightfully stricken 3rd NAO (which should have also been accepted as a response to the Motion to Strike). Baynun then expounded on this in the Appellant's Brief in Argument 1) Religious Freedom Rights Violation pp13–21, which the opposition responded to in the Appellee's Brief, and the Appellant further discussed in his Reply Brief in Reply 1 To Appellee's Brief IIB P40 RE Appellant's Brief Arg 1 Religious Freedom Rights Violation . . . pp12–15.

Yet the Appeals Court did not weigh in on this most crucial issue by stating whether it felt Baynun's religious freedom or freedom of faith rights were violated in this case or not in its Summary Decision, beyond noting that it considered some things, yet not specifically the freedom of faith rights issue, untimely.

In his Application For Further Appellate Review, Misop stated to the Massachusetts Supreme Judicial Court, "If this case proceeds from here to a higher court or to the United States Supreme Court, at which a recent Decision providing a precedent for this court to follow—*Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. (2017), as noted in detail in Argument 1 of the Appellant's Brief—and if this Appeals Court's addressing of The Religious Freedom Rights Issue did not result in a fair to all parties Decision being reached here, at least having it ruled on by this court, helping to reveal whether an appeal to a higher court if the Appellant's religious freedom rights were not protected here and seeing the reasons why

this court decided this, this could help to see if a higher court appeal might be appropriate depending on how this esteemed court decided and addressed it."

Yet the Massachusetts Supreme Judicial Court Denied hearing this case. Furthermore, as noted, all three, the lower court, the Massachusetts Appeals Court, and the Massachusetts Supreme Judicial Court, did not address this religious freedom or freedom of faith rights issue in detail or at all, yet instead passed on weighing in on it.

Indeed, a recent decision by this Supreme Court of the United States provided a precedent for state courts to follow—*Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. (2017)—as noted in detail in Argument 1 of the Appellant's Brief, which also includes some of Trinity's referenced cases, including *Allen v. Dalk*, 826 So.2d 245 (Fla. 2002), *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 546 (1993), *Commonwealth v. Hartsgrove*, 407 Mass. 441, 445 (1990), *Lyng v. Northwest Indian Cemetery*, 485 U.S. 450 (1988), *McDaniel v. Paty*, 435 U.S. 618 (1978), *McDaniel v. Paty*, 435 U.S. 627 (1978), and *McDaniel v. Paty*, 435 U.S. 628 (1978). Therefore, having SCOTUS accept this writ and decide this case would be helpful not only to all those involved in this case but also to the entire country.

If its decision regarding this case addressed the religious freedom or freedom of faith rights issue related to it, states could have even more clarity about how they should value this issue. Such could prevent these rights from being ignored or, metaphorically speaking, brushed under the carpet to save time in proceedings or for any other reason, as the lower court and Appeals Court seemed to do in this case. Such

personal freedom rights should be of the utmost importance to all courts.

Therefore, the Petitioner requests that this Supreme Court of the United States protect the Petitioner's religious freedom or freedom of faith rights.

II. Did the Appeals Court Sanction Things Done in the Lower Court Proceedings That So Far Departed from the Accepted and Usual Course of Judicial Procedure as to Call for an Exercise of This Court's Supervisory Power?

A. The Applicability of Supreme Court Rule 10(a) to This Issue

Supreme Court Rule 10(a) states that if a lower court or an Appeals Court "has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power" the Supreme Court could grant review of that Decision. The following shows why this Supreme Court Rule 10(a) applies to this case:

B. Why the Respondents Motion to Strike Should Not Have Been Allowed by the Lower Court Due to Its Untimeliness

The Petitioner filed his 1st Notice of Appearance and Objection on 1/27/2020; a duplicate of this, the 2nd NAO, was filed on 2/7/2020. Respondents filed their Motion to Strike this Notice of Appearance and Objection on 4/23/2020. Massachusetts Court Rule 12(f) states, " . . . upon motion made by a party within 20 days after the service of the pleading . . . the court

may after hearing order stricken from any pleading any insufficient defense, or any redundant, immaterial, impertinent, or scandalous matter." The Respondents' Motion to Strike was not filed within the Massachusetts Court Rule 12(f) time limit of 20 days; instead, they filed it over two months after the filing of the 1st Notice of Appearance and Objection—or 87 days after the 1st NAO, 78 days after its docketing, 76 days after the filing of the 2nd NAO, and 72 days after the docketing of the 2nd.

Despite the Respondents, the lower court, and the Appeals Court relegating most everything the Petitioner or Sandra Miller presented as untimely, the Respondents did not file their Motion to Strike promptly or within the time limit in keeping with applicable law. Therefore, according to the opinions of the Respondents and the Massachusetts courts involved in this case regarding timing issues—and according to a fair interpretation of applicable law—the Motion to Strike should not have been allowed.

C. Lower Court Clerk Said Documents Submitted 24 Hours Before Hearing Would Be Considered by the Court Yet Although Petitioner Submitted Five Documents Accordingly They Were Not Considered in the Decision

Rachel Kelley, a Norfolk Probate and Family Court Clerk, told Misop documents needed to arrive 24 hours before the hearing for the Court to consider them, and he delivered them accordingly. Misop Baynun submitted these documents more than 24 hours before the hearing, as was confirmed by the lower court docketing them on August 10, 2020, the

day before the Motion to Strike trial on August 11. Therefore, per what Rachel Kelley had told him, Misop submitted these documents in time for the Court to consider them. Whether this Clerk was correct about this or not, since the court told him this, shouldn't the lower court have considered them to show fairness to all parties?

The Judge could have appointed persons on both sides of the issues disputed as Special Personal Representatives to allow access to Estate money to pay expenses and then allow time for all parties to consider these documents. Or the lower court could have just considered them in its Decision. Yet the lower court did neither of these. Due to this and other reasons, Misop Baynun appealed the Decision.

Yet whether or not in its Decision this Supreme Court of the United States considers these documents delivered on August 10, 2020, there is enough reason to overturn the lower court's Decision with or without them, as noted throughout the Petitioner's 1st Notice of Appearance and Objection, the Petitioner's testimony during the August 11, 2020 Motion to Strike hearing, the Petitioner's Appellant's Brief, Reply Brief, Motion For Reconsideration, Application For Further Appellate Review, and this Writ Of Certiorari. However, Misop hopes that this SCOTUS will consider these documents in assessing whether or not to grant this writ of certiorari or that it at least decides this case in a way that protects his religious freedom or freedom of faith rights.

Please see Petitioner's Appellant's Brief pp13–21 and Reply Brief pp12–15 for more regarding why these documents submitted on August 10, 2020, should have been considered by the lower court and the Massachusetts Appeals Court and why this Supreme

Court of the United States should consider weighing them in its Decision regarding this case.

D. Lower Court Judge Agreed to Read (Consider) Five Documents Before Deciding the Case but Later Surprisingly Struck Them Instead

On August 11, 2020, during the Motion to Strike hearing, the lower court Judge did not mention that the five documents Misop Baynun and Sandy Miller submitted regarding the matter at hand would later be stricken (with a footnote). Memorandum of Decision and Order on page 1 (MDO/1): Record Appendix on page 153 (RA/153).

Over 100 pages of documents that took months to prepare, supporting the Petitioner and Sandy Miller's opinions regarding this case, were surprisingly stricken instead. The lower court Judge made it seem that she would consider these documents in her Decision by doing the following: 1) when Misop requested that no decision be made until those documents were read, this Judge seemed to agree to do this by responding affirmatively (which any reasonable person would likely believe this to mean that she would consider them in the Decision), and 2) seemingly to further reassure Misop of her willingness to consider them, this Judge described these documents and confirmed to Misop during the hearing of her receiving them and relayed to Misop of her holding of these in her hands (presumably, not to indicate her hopes to soon strike them without even bringing this up, nor of her even considering doing such a thing, but as could be reasonably expected, to show that she would consider them in her Decision).

Misop asked, "I'd just ask that no decision be made until those documents are read." The Judge responded, "All right. I have five in total with stamps on them." To which Misop replied, "Okay." Transcript Volume III (TRIII)/p3, line 18 through p4, line 14: RA/184-185. Yet the lower court Judge did not mention she was considering striking them, neither then nor later when they further discussed this: TRIII/p15, line 3–p16, line 7: RA: 196–197. Nor did she say she would strike them, as she did.

The lower court, considered by the Petitioner to have been done without justifiable cause, struck five documents (RA/153): A) Misop's 3rd Notice of Appearance and Objection and Motion to Appoint Personal Representative(s) (RA/76–145), as an amendment to his original objection and a response to the Motion to Strike; B) Sandra Miller's Notice of Appearance and Objection (RA/70–75); C) the Divorce Papers evidencing the Testator's mental illness, wherein that Court stated about Bruce Miller, "It appearing to the court that said Respondent is guilty of cruel and abusive treatment . . . " (RA/204); D) Misop's writing entitled About My Pops, giving information on the mental health of his Pops, who passed on enveloped in God's grace in 2019 (RA/206–227); and E) the condo issue info that's less pertinent now.

Indicating that you are going to do something before making a decision and then not doing that we might consider misleading and not fitting toward the seeking of justice.

E. Lower Court Judge Refused to Hear Decedent's Former Wife's Testimony During Hearing in Support of Her Son's 1st Notice of Appearance and Objection Point 2(G) Regarding Decedent's Mental Health Nor Did She Dismiss the Motion to Strike to Hear Her

Furthermore, the Judge would not hear the testimony of Sandra J. Miller, the Suffolk University Professor, Enrolled Agent, and 20+ year property manager of the 168-unit apartment complex called Wollaston Manor in Quincy, Massachusetts, regarding the Testator's mental illness. She offered such testimony to support her and her son Misop Baynun's objections to the implementation of the "Will" (Wil-One), and especially in support of Misop's objection as noted in subsection 2g of his 1st Notice of Appearance and Objection filed on 1/27/2020 and docketed on 2/5/2020 regarding the Decedent's court diagnosed case of depressive paranoia (aka Paranoid Personality Disorder) and its claiming him "guilty of cruel and abusive treatment" of his family in the divorce Decision.

Sandra Miller is the ex-wife of the Decedent and the female parent of her and the Decedent's two sons. She filed a Notice of Appearance and Objection in support of one of her son's, the Petitioner's, religious freedom or freedom of faith rights in the lower court proceedings on August 10, 2020, that detailed the mental illness of her ex-husband. In that document, she declared that Bruce F. Miller, after three visits with a Norfolk Probate and Family Court psychologist /psychiatrist, was diagnosed with depressive paranoia (Paranoid Personality Disorder) in 1976 during their divorce proceedings. That Court granted the divorce

because of the Decedent's "cruel and abusive treatment" of his then-wife, and such treatment was significantly due to his suffering from his untreated case of paranoia.

Not only was her Notice of Appearance and Objection surprisingly stricken after the hearing without warning, as noted above in section 2D, but the Judge also denied Sandra the opportunity to testify about the Decedent's lifelong struggles with paranoia via the Respondents' lawyer's suggesting the Judge not hear her at the Motion to Strike hearing and that Judge readily accepting her suggestion and not allowing her to speak during the hearing about one of the issues that Misop brought up and addressed in his 1st NAO, nor afterward, as she could have heard her after the Motion to Strike hearing by denying the Motion to Strike so Sandra could have been allowed to testify about this later.

Sandra Miller was also listed as a co-appellant with the Petitioner by the Appeals Court. Yet, the Massachusetts Appeals Court removed her as such after the Respondents opposed her appointment due to her not having filed a Notice of Appeal.

The lower court, considered by the Petitioner to have been done without justifiable cause, denied Sandra J. Miller the chance to testify in support of point 2(g) that Misop made on pages 5 and 6 of his 1st NAO (RA/40–41) about Bruce F. Miller's lifelong struggles with the mental illness he suffered from before, during, and after the faulty execution of the considered by the Petitioner invalid "Wil1" (Wil-One) on January 24, 2006. (Transcript III of August 11, 2020 Motion to Strike hearing in lower court from page 15 on line 14 through page 16 on line 6 of it) TRIII/p15, line 14–p16,

line 6: RA/196–197. Yet even though Misop had made this point in his 1st NAO, and this was a hearing about whether or not this 1st NAO should be stricken, the lower court Judge did not even listen to testimony in support of one of the many reasonable points Misop made regarding why the "Will" (Wil-One) should not be accepted as a valid will.

Then, after the hearing, the Judge also struck Sandra Miller's Notice of Appearance and Objection. She did this without mentioning she was or might be considering doing this during the hearing, so Sandra or Misop could have clarified that Sandra submitted it on time or that either of them would like to reschedule that hearing due to a one-time scheduled counsel not showing up or for any other reason. TRIII/p15, line 14–p16, line 6: RA/196–197 and MDO/1: RA/153.

III. Was the Implementation of the Purported Will That Resulted in the Violation of the Petitioner's Religious Freedom or Freedom of Faith Rights Done So in Violation of Federal and State Law?

A. The Applicability of Supreme Court Rule 10(a) to This Issue

The lower court Judge's Decision accepted the "Will" (Wil-One) as a valid will while it was not in the required form shown in the applicable Massachusetts Statutes M.G.L. c. 191, § 1 and M.G.L. c. 192, § 2 [Appendix p58–61], not compliant with Federal Statutes 15 U.S.C. § 1692(e)(9), 18 U.S.C. § 1001 (a)(3), and 42 U.S.C. § 1986 [Appendix p57], and while it violated Misop's religious freedom or freedom of faith rights protected by the U.S. Constitution in Amendment I

[Religion and Expression] and Amendment I Annotation 5 [FREE EXERCISE OF RELIGION] [Appendix p56].

Supreme Court Rule 10(a) states that if a lower court or an Appeals Court "has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power" the Supreme Court could grant review of that Decision. The following shows why this Supreme Court Rule 10(a) is applicable regarding this case:

B. The No Official Seal on Purported Will Issue

Neither the lower court Decision nor the Appeals Court Summary Decision (ACSD) addressed the missing required Official Seal from the purported Will issue. The ACSD noted the following:

> "With these caveats, we turn to Baynun's objections as presented in his first two notices of appearance and objection, which we review de novo. *See Matter of the Estate of Nevers*, 100 Mass. App. Ct. 861, 869 (2022)."

Regarding the Estate of Nevers, the Petitioner believes the case applies for different reasons. As in that case, the issues on appeal were considered de novo by the Appeals Court, yet they remanded it due to the potential faulty execution of the Will in question.

The No Official Seal On Purported Will Issue was raised or argued in Baynun's 1st Notice of Appearance and Objection and has been considered timely by everyone involved. Yet, the lower court did not address this critical issue, nor did the Appeals Court handle it.

Yet why the lower court did not address this issue could be due to confusion, as revealed in the wording used in the Memorandum of Decision and Order, wherein the lower court Judge stated the following: "In the Affidavit, the Objector initially objected that the original will with the 'official seal' had not been located prior to it being located in one of the Testator's safe deposit boxes. This objection is no longer applicable because the original will was ultimately located and filed with the court." RA/154

Furthermore, the lower court Decision also states, "The Affidavit in this matter fails to state specific facts sufficient to support either his objection to the probate of the will or objection to the appointment of Petitioners as personal representatives. Therefore the Court will allow Petitioner's motion to strike the affidavits of objections." RA/156.

Yet even after parties discovered the original Will at the Testator's safe deposit boxes, the specific fact that the "official seal" was not present on the "Will" (Wil-One) was not addressed or resolved because both the copy and the original did not have an "official seal" on them. By inspecting this document or any copy, anyone can easily prove that the original "Will" (Wil-One) has no official seal.

Baynun argued that there was no official seal on the purported will issue in Section 2a of his 1st Notice of Appearance and Objection. RA/37. He raised this issue again in Argument 3) Lack Of Proper Execution Of The Alleged Will of his Appellant's Brief, pp39–41. For example, on page 40 of the Appellant's Brief, the Appellant (who is the Petitioner in this petition) stated: "The Will (Wil-One) does not have attestations made

'under official seal,' which does not comply with G.L. c. 192, § 2; thus, it should be declared invalid."

Yet the lower court and the Appeals Court did not address this issue. The lower court and the Appeals missed many things that could have resulted in an intestate settlement of the Estate that did not violate the Petitioner's freedom of faith rights. Further, fairly applying the applicable laws that could have resulted in the protection of the Petitioner's freedom of faith rights and brought forth a fair decision for all parties seemed to be shied away from.

I ask this Supreme Court of the United States to please grant this writ and then finally make a ruling on this, especially if the religious freedom rights of the Petitioner were not protected for any of the other reasons presented, and to pronounce the "Wil1" (Wil-One) document purported to be a valid will by others invalid due to the lack of proper execution of it via it not having the required official seal element anywhere on it and therefore to settle the Estate intestate.

C. The Undefined Non-Word "Wil1" (Wil-One) Used in Place of the Required Word "Will" Issue

Claiming the undefined non-word "Wil1" (Wil-One) is equivalent to the M.G.L. c. 191 § 1 and the M.G.L. c. 192, § 2 referenced word "will" violates common sense and Federal Statutes 15 U.S.C. § 1692(e)(9) [False or Misleading representations] and 18 U.S.C. § 1001 (a)(3) [Statements or entries generally] (False writing), and conspiring to implement this document as a valid will is also in violation of Federal Statue 42 U.S.C. § 1986 [Action for neglect to prevent]. Thus,

the "Will" (Wil-One) should not be considered a valid will.

On page six of the "Will" (Wil-One) is written the following: " . . . the Testator declared to me and to the witnesses in my presence that the instrument is his Last Will . . . " yet it does not say it is his Last Will, therefore to substitute the word "will" there, as the word "will" being there is required by law, requires an assumption to be made that he meant this to be his Last Will despite the document saying that it is instead his "Last Will" (Wil-One).

Treating the non-word "Will" (Wil-One) as if it means the same thing as the required word "will" requires conjecture, and conjecture should not be used to interpret a legal document—for the voidance of perjury—as there is no valid way to interpret that one person's conjecture is more valid than another's.

Please see Misop Baynun's 1st NAO, subsection 2c (RA:38–39), Misop's 3rd NAO, section 21 (RA/107–108), Appellant's Brief pp22–39, and Appellant's Reply Brief pp15–19 for more regarding this issue.

IV. Was the Massachusetts Appeals Court's Award to the Respondents of $10,000 of Legal Fees from the Petitioner Unfair and Not in Compliance with State Law?

M.G.L. c. 231, § 6F shows that frivolous legal claims fees may only be awarded against "any party who was represented by counsel during most or all of the proceeding . . . ." Yet Misop Baynun was not once represented by counsel during the entire appeal. Furthermore, although such shouldn't apply regarding legal fees sought in an appeal, Baynun wrote all his legal papers during the lower court proceedings as he did

during the appeal—yet once, a lawyer faxed a court form and a document that Misop wrote to the lower court for him. Yet that lawyer never appeared at the three lower court hearings. Moreover, none of Baynun's claims were "wholly insubstantial, frivolous and not advanced in good faith" as M.G.L. c. 231, § 6F says they must be for a court to penalize someone for bringing something before it. Claiming a faith issue or the other important matters raised in that appeal "wholly insubstantial, frivolous, and not advanced in good faith" was untrue. Therefore, the Respondents shouldn't have been awarded any legal fees by law, as indicated in M.G.L. c. 231, § 6F.

V. Would Keeping the Lower Court's Decision as It Stands Now Be Unjust and Unfair to Everyone?

Even the beneficiaries' beloved Pops, who, due to his paranoia, withheld his sons' inheritance left to them from their Grandpops until he was legally required to give it to them when they reached the age of 25, would bend his paranoia to fit the rules. Therefore, let's follow the laws that show the "Will" (Wil-One) is invalid and the First Amendment to protect the Petitioner's freedom of faith rights, as even the Decedent has proven he would do this if the law supported such, as it does in this case. Let's follow the law and not ignore it in this case. Let's settle the Estate intestate, which would protect the Petitioner's freedom of faith rights, benefit all involved, and not harm anyone included in this case, including the Decedent and the Respondents.

The Respondents likely meant no harm to the beneficiaries in having made a secret agreement with someone they didn't know was diagnosed with depressive

paranoia to take away the financial autonomy of the Decedent's sons for no valid reason, just as the Decedent likely meant no harm to his sons in not getting treatment for his paranoia sooner, yet harm has come to them nonetheless. Yet the Decedent loved his children and would have never knowingly violated his son's freedom of faith rights if he knew he was doing so.

CONCLUSION

By Supreme Court Rules 10(a) and 10(c), the Supreme Court of the United States could grant this petition for a writ of certiorari, especially since religious freedom or freedom of faith rights are constitutionally protected. This Court has protected such rights in similar cases previously heard, including *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. and others.

The Petitioner asks this Court to grant this petition for a writ of certiorari and to vacate soon or reverse the lower court's Decision and appoint the only two sons of Bruce F. Miller as the Personal Representatives of their Pop's Estate or one or more persons of the same faith as Misop as the PR or PRs of his half, as it is their rightful inheritance, and preferably also to declare the "Wil1" (Wil-One) invalid for the reasons stated above. Yet if this Court does not see fit to protect the Petitioner's freedom of faith rights, he asks this Court to remove his name from the Estate so that his name would not be associated with something that goes against his faith and principles.

The freedom of faith issue provoked the Petitioner and his brother's ancestors to board the Mayflower and many others to travel to this land to secure their freedoms to follow their God as they saw fit, whose efforts God blessed. The Petitioner Misop Baynun is seeking the same freedom of faith rights the Pilgrims sought and acquired here in 1620. Thank you.

Respectfully submitted,

Misop Baynun
Counsel of Record
91 Clay Street, Suite 210
Quincy, MA 02170
(617) 269-6237
MisopBaynun@MagPro.com

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