

1/8/25

No. 24-763

In The
Supreme Court of the United States

In re BO ZOU—Petitioner

ON PETITION FOR WRIT OF PROHIBITION AND/OR
WRIT OF MANDAMUS TO THE UNITED STATES
COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITION FOR WRIT OF
PROHIBITION/MANDAMUS

BO ZOU
3500 SW 29th Street. #88
Topeka, KS 66614
Phone: 713-835-8655



QUESTION(S) PRESENTED

1. Whether district judge John D. Russell may hear his Client's Case after he left his former law firm only one month.
2. Whether the panel of the Tenth Circuit Court of Appeals may wrongfully explain the caselaw and never address the most important facts of high degree of antagonism to deny Petitioner's appeal.
3. Whether the Tenth Circuit Court of Appeals may knowingly depart from the course of the judicial proceedings over and over.

LIST OF PARTIES

[X] Petitioner appears in the caption of the case on the cover page.

[X] Respondent is judge John D. Russell or U.S. District Court for the Northern District of Oklahoma.

RELATED CASES

Bo Zou v. Linde Engineering North America, Inc., No. 19-CV-554, U.S. District Court for the Northern District of Oklahoma. Order to deny Plaintiff's Motion to disqualify district judge John D. Russell entered September 25, 2024.

Bo Zou v. Linde Engineering North America, Inc., No. 24-5119, U.S. Court of Appeals for the Tenth Circuit. Order to deny Petition for Writ of Prohibition and/or Writ of Mandamus entered November 4, 2024.

Bo Zou v. Linde Engineering North America, Inc., No. 24-5119, U.S. Court of Appeals for the Tenth Circuit. Order to deny Petition for Panel Rehearing and Rehearing En Banc Under Fed. R. App. P. 40(a) and 35(b) entered November 26, 2024.

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
RELIEF SOUGHT.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	3
STATEMENT OF THE CASE AND FACTS.....	5
REASONS FOR GRANTING THE WRIT	9
CONCLUSION.....	20

APPENDIX

Appendix A: Order of U.S. Court of Appeals for the Tenth Circuit to deny Rehearing and Rehearing En Banc (November 26, 2024).....	1a
Appendix B: Order of U.S. Court of Appeals for the Tenth Circuit to deny Petition for Writ of Prohibition and/or Writ of Mandamus (November 4, 2024).....	3a
Appendix C: Order by District Judge John D. Russell of U.S. District Court for the Northern District of Oklahoma (September 25, 2024).....	9a

TABLE OF AUTHORITIES CITED

Cases

<i>Cf. United States v. Detemple,</i> 162 F.3d 279, 287 (4th Cir. 1979).....	9, 14-15
<i>Mallard,</i> 490 U.S. at 309.....	16
<i>In re Weston,</i> 18 F.3d at 864.....	16
<i>Liljeberg v. Health Servs. Acquisition Corp.</i> 486 U.S. 847, 860 (1988).....	16
<i>Glass,</i> 849 F.2d at 1268 (internal quotation marks omitted)	16
<i>United States v. Cooley,</i> 1 F.3d 985, 993 (10th Cir. 1993).....	16
<i>Price v. Philpot,</i> 420 F.3d 1158, 1167 n.9 (10th Cir. 2005).....	17
<i>Wagoner v. Wagoner,</i> 938 F.2d 1120, 1122 n.1 (10th Cir. 1991).....	17
<i>Allison v. Bank One-Denver,</i> 289 F.3d 1223, 1247 (10th Cir. 2002).....	17

- Rimbert v. Eli Lilly & Co.*
647 F.3d 1247, 1251 (10th Cir. 2011).....17

STATUTES AND RULES

- 28 U.S.C. § 636 (e)(4).....3, 6, 18
28 U.S.C. § 636 (b)(1)(A).....3, 6, 18
28 U.S.C. § 455(a).....4, 15-16
Fed. R. Civ. P. 30(a).....4, 7

STATE OPINION

- New York State Unified Court System Opinion 24-62.....13, 15

PETITION FOR WRIT OF
PROHIBITION/MANDAMUS

Petitioner respectfully petitions this Court for a writ of prohibition/mandamus and prays that a writ of prohibition/mandamus issue to review the opinions below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States Court of Appeals for the Tenth Circuit appears at **Appendix B**, to the petition and is

reported at ; or,

has been designated for publication but is not yet reported; or,

unpublished.

The opinion of the United States district court appears at **Appendix C**, to the petition and is

reported at; or,

has been designated for publication but is not yet reported; or,

unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals for the Tenth Circuit decided the case was November 4, 2024.

No petition for rehearing was timely filed in the case.

A timely petition for rehearing was denied by the United States Court of Appeals on the date: November 26, 2024, and a copy of the order denying rehearing appears at **Appendix A**.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on in Application No.

_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1651(a).

RELIEF SOUGHT

An order directing District judge John D. Russell to be prohibited from hearing Petitioner's case in the matter of *Bo Zou v. Linde Engineering North America, Inc.*, Case No. 4:19-cv-00554-JDR-JFJ.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S. Code § 636 (e)(4) provides:

(4) CIVIL CONTEMPT AUTHORITY IN CIVIL
CONSENT AND MISDEMEANOR CASES.—

In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This paragraph shall not be construed to limit the authority of a magistrate judge to order sanctions under any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

28 U.S. Code § 636 (b)(1)(A) provides:

(1) Notwithstanding any provision of law to the
contrary—

(A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge's order is clearly erroneous or

contrary to law.

28 U.S.C. § 455(a) provides:

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

Fed. R. Civ. P. 30(a) provides:

(a) When a Deposition May Be Taken.

(1) Without Leave. A party may, by oral questions, depose any person, including a party, without leave of court except as provided in Rule 30(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) With Leave. A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third-party defendants;

.....

STATEMENT OF THE CASE AND FACTS

Petitioner, Bo Zou, sued Defendant, Linde Engineering North America, Inc. for race and age discrimination under the Title VII of the Civil Rights Act of 1964 and ADEA on October 18, 2019.

During the proceedings, Defendant refused to produce a lot of key documents relevant to the race and age discrimination, including the documents Defendant admitted withholding. In the proceedings, the district court is even to the extent to permit Defendant decides whether to produce documents (*See* Dkt. No. 220, Pg. 3). As a result, Defendant absolutely refused to produce documents (*See* Dkt. No. 221), even if Defendant admitted the documents existed. *See* Dkt. No. 216, Exhibit “3”, Pgs. 24-25.

Moreover, Defendant blatantly refused to produce the documents ordered by magistrate judge. *See* Dkt. No. 37, Pgs. 3-7. Defendant committed contempt of the court due to its refusal to abide by the court order. However, Defendant’s refusal and contempt were supported by the district court without sanctioning. In contrast, Petitioner was sanctioned to be prohibited from filing any motions for sanctions and contempt. *See* Dkt. No. 108, Pgs. 9-11. All Petitioner’s requests to compel for production were denied by the district court.

Furthermore, Defendant committed perjury over and over by declaring under oath that young engineers Kenny Sharp and Dustin Duncan’s job positions were piping engineers. *See* Dkt. 231,

Exhibit "30", Pg. 110; or Dkt. No. 30, EXHIBIT "2", Pg. 6; or Dkt. No. 177, EXHIBIT "2", Pg. 8. But, Defendant was never sanctioned by its perjury. The district court even never mentioned or addressed the facts and evidence of Defendant's perjury, but instead, directly and conclusively denied. *See* Dkt. No. 108, Pg. 5.

Also, Defendant blatantly falsified a lot of documents without sanctioning. The district court never mentioned or addressed Defendant's falsification of documents even if Petitioner requested the district court ruled on Defendant's falsification of documents over and over. *See* Dkt. Nos. 60, 86, 104, 173, 180, 200.

But, magistrate judge Jodi F. Jayne granted Defendant not to answer Defendant's perjury, falsification on documents and contempt of the court by the extremely **absurd pretext** avoiding so-called unnecessary litigation expense. *See* Dkt. No. 95. And then, magistrate judge Jodi F. Jayne ignored or conclusively denied Plaintiff's motions for sanction and contempt without addressing the facts and evidence to cover up Defendant's criminal acts on perjury, falsification of documents and contempt of the court. *See* Dkt. No. 108, Pgs. 4-5.

Magistrate judge Jodi F. Jayne arbitrarily violated 28 U.S.C. § 636 (e)(4) to rule on "*Petitioner's motion for contempt*" without both parties' consent. Also, magistrate judge arbitrarily violated 28 U.S.C. § 636 (b)(1)(A) to issue injunctions to prohibit Petitioner from filing motion for sanction and contempt, and limit Petitioner to depose only 4 fact

witnesses in violation of Fed. R. Civ. P. 30(a) and joint status report. *See* Dkt. No. 108, Pgs. 9-11.

The district court stayed the case more than three (3) years, from November 13, 2020 to December 19, 2023 without a reason.

On December 19, 2023, the case was reopened. On February 7, 2024, the case was reassigned to district judge John D. Russell, who just swore as district judge on January 6, 2024.

Before swearing as a judge, judge Russell was a shareholder and director of the law firm Gable & Gotwals in Tulsa, OK from 2015 until early January, 2024. As a shareholder and the director, judge Russell owned and managed Gable & Gotwals.

The Defendant, Linde Engineering North America, Inc., has been the client of Gable & Gotwals since 1990's or much earlier. Gable & Gotwals in Tulsa office has represented Defendant in all employment discrimination cases against Defendant in Tulsa and throughout the Nation, solely except this Case.

Judge John D. Russell, as the shareholder and director of Gable & Gotwals to manage the law firm, should know Defendant, Linde Engineering North America, Inc. Judge Russell should have the personal knowledge of Linde Engineering North America, Inc. because around the same time of the Case filed, Gable & Gotwals represented Defendant's two other employment cases in September, 2019 and December,

2019, and later the third case in September, 2020.

Judge John D. Russell left Gable & Gotwals in early January, 2024, and was assigned to the Case on February 7, 2024, it is only one month for judge John D. Russell to hear the case involving in his former client as Defendant.

After the case was assigned to judge John D. Russell, judge John D. Russell did not disclose his relationship with Defendant when he worked at Gable & Gotwals.

Petitioner filed “*Plaintiff’s motion to compel Production of Documents and disclose Defendant’s parent companies and correct Defendant’s business entity name*” (Dkt. No. 208) on July 29, 2024 to remind the district court to check whether the judges possess the stock of Defendant’s parent company “Linde PLC” because Defendant in bad faith did not disclose its parent company “Linde PLC” in its Corporate Disclosure Statement, and whether to exist the conflict of interest because of the Gable & Gotwals law firm. But, judge Russell does not actively recuse and step down from the Case.

On September 16, 2024, Petitioner filed “*Plaintiff’s Motion to disqualify district judge John D. Russell*” to the district court to disqualify judge John D. Russell based on the conflict of interest and his high degree of antagonism against Petitioner as would make fair judgment impossible. *See* Dkt. No. 223.

On September 25, 2024, judge John D. Russell

issued the order to refuse to disqualify himself. *See Appendix “C”.*

Petitioner timely files the Petition for writ of Prohibition and/or writ of Mandamus to the Tenth Circuit Court of Appeals.

The panel of the Tenth Circuit Court of Appeals wrongfully explained caselaw *Cf. United States v. Detemple*, 162 F.3d 279, 287 (4th Cir. 1979) and never addressed the most important facts of high degree of antagonism against Petitioner to deny Petitioner’s appeal case, and knowingly did not sign the denial order and never posted the denial order on the website of the Tenth Circuit Court of Appeals to stop public from knowing the appeal case once again.

Petitioner timely files Petitioner’s motion for Panel Rehearing and Rehearing En Banc on November 13, 2024.

On November 26, 2024, the Tenth Circuit Court of Appeals denied Petitioner’s motion for rehearing and rehearing en banc without a reason and without any judge’s signature.

Petitioner timely files the Petition for Writ of Prohibition/Mandamus to this Court.

REASONS FOR GRANTING THE PETITION

Petitioner’s petition for Writ of Prohibition/Mandamus should be granted by the U.S. Supreme Court. The reasons are as follows:

I. There are significant appearance of impropriety and the conflict of interest existing for judge John D. Russell to hear his former client's case.

A judge is generally disqualified from hearing cases involving a client of his former law firm, as it creates a potential conflict of interest due to the judge's prior access to confidential information about the client, potentially impacting their ability to remain impartial in the current case; and could appear to be biased, and even if the judge had no direct involvement in the specific case while at the firm; this is often referred to as "imputed disqualification". Even if the judge does not consciously use confidential information, the mere appearance of a conflict of interest can undermine public trust in the judicial system.

1. Judge John D. Russell was a shareholder and director of Gable & Gotwals in Tulsa, OK from 2015 until early January, 2024. Defendant has been the client of Gable & Gotwals since 1990's or much earlier. Gable & Gotwals has represented Defendant in all employment discrimination cases against Defendant in Tulsa and throughout the Nation, solely except this Case.

Especially, Gable & Gotwals represented Defendant for two other employment discrimination cases against Defendant under Title VII and ADEA around the same time the Case was filed in 2019 and the third case in September, 2020.

(a). *Angelica Gilmore v. Linde Engineering North*

America Inc. 4:19-cv-00502-JDE-JFJ at the Oklahoma Northern District Court.

(b). *Moustafa Alkholy v. Linde Engineering North America Inc., et al.* 2:19-cv-06195-JS at the U.S. Eastern District of Pennsylvania (Philadelphia)

(c). *Moustafa Alkholy v. Linde Engineering North America Inc., et al.* 2:20-cv-04808-JS at the U.S. Eastern District of Pennsylvania (Philadelphia)

Above two cases (a) and (b) were filed before and after the Case. One case was filed in September, 2019, and the other case in December, 2019. Plaintiff filed the Case in October, 2019.

As a shareholder and director of Gable & Gotwals to manage Gable & Gotwals' business and daily operation, judge John D. Russell should know Defendant, Linde Engineering North America, Inc., and its cases represented by Gable & Gotwals. Defendant is an international company and has business all over the world. As one of the biggest companies in Tulsa, OK, Defendant is one of Gable & Gotwals' main clients. Judge Russell should know Defendant "the Client" as the director to manage the law firm.

Judge John D. Russell had gotten the finical benefits from Defendant by the above three cases represented by Gable & Gotwals. As a shareholder and director to operate Gable & Gotwals, judge John D. Russell knew Defendant and the finical benefits were from Defendant.

Petitioner's Case against Defendant was filed in

October, 2019. The law firm Littler Mendelson P.C. in Texas represented Defendant for the Case, rather than by Gable & Gotwals, the sole legal representative of Defendant.

Based on attorney representation agreement between Gable & Gotwals and Defendant, Gable & Gotwals should have represented Defendant for the Case like three other employment cases against Defendant because Gable & Gotwals is the sole legal representative of Defendant and especially the Case is in Tulsa, OK. Judge John D. Russell should know why Gable & Gotwals did not represent Petitioner's discrimination case against Defendant as the director of Gable & Gotwals to manage Gable & Gotwals' business and daily operation. As the sole legal representative of Defendant so many years, Gable & Gotwals should be notified by Defendant why the Case was given to Littler Mendelson P.C., rather than Gable & Gotwals, based on the attorney representation agreement. Gable & Gotwals should agree and permit Littler Mendelson P.C. to represent Defendant for the Case. As the director of Gable & Gotwals, Judge John D. Russell should know why this Case was represented by Littler Mendelson P.C. in Texas, rather than by Gable & Gotwals or a local law firm in Tulsa, OK.

Littler Mendelson P.C. even does not have an office in Oklahoma State. It should have a very abnormal and specific reason for Defendant to make the decision. Gable & Gotwals as Defendant's sole lawyer law firm was definitely told and knew the reason. As the director of Gable & Gotwals to manage the law firm, judge John D. Russell should

know the reason.

So, judge John D. Russell has the knowledge of disputed evidentiary facts in this Case concerning the proceeding.

Judges may not hear cases in which they have either personal knowledge of the disputed facts, or a personal bias concerning a party to the Case. Judge John D. Russell must disqualify himself from the case as the trial judge.

Even if the judge did not personally handle the client's case while at the firm, the mere association with the former client could lead to the perception of bias, which is enough to warrant disqualification.

2. Some States' rules and opinions support judge John D. Russell's disqualification. This Court should also make a rule based on this Case.

New York State Unified Court System Opinion 24-62 issued March 24, 2024, provides that "*For two years from the date that the relationship between a judge and their former law firm completely ends, the judge is disqualified from all matters involving a party the judge recognizes as a current or former client of the law firm, even though a different law firm is representing the client.*" (Opinion 16-36; see also Opinion 17-100).

Essentially, the judge's prior relationship with the firm creates a potential conflict of interest that necessitates disqualification, even if the client is not directly involved with the former firm at the time of

the case; this is to maintain public confidence in the impartiality of the court.

It is only one month for judge John D. Russell leaving his former law firm and then hearing the Case involving in his former client as Defendant.

Due to the potential for a conflict of interest and the significant appearance of impropriety, judge John D. Russell cannot hear the Case and must step down from this Case.

II. The panel of the 10th Circuit Court of Appeals wrongfully explained the caselaw and never addressed the most important high degree of antagonism against Petitioner by judge Russell.

1. The Panel of the Tenth Circuit Court of Appeals erred by wrongfully explaining caselaw *Cf. United States v. Detemple*, 162 F.3d 279, 287 (4th Cir. 1979) and ignoring the significant appearance of impropriety and conflict of interest resulting in judge's impartiality might reasonably be questioned due to his relationship with Defendant, who has been the Client of his former law firm since 1990s, and judge Russell just left his former law firm only one month.

In *Cf. United States v. Detemple*, the judge Stamp did not recuse himself because "**Judge Stamp last represented Contractors Supply almost two years before DeTemple filed for personal bankruptcy and five years prior to his**

indictments." It is entirely different from judge John D. Russell who just left his former law firm only one month and immediately heard the Client's case of his former law firm. Judge John D. Russell hearing the case constitutes the significant appearance of impropriety and conflict of interest. The case was filed five years ago when judge Russell was working at the law firm Gable & Gotwals, who represented Defendant's three other employment discrimination cases. Judge Russell just left his former law firm in early January, 2024 and then was assigned the case on February 7, 2024 to hear the Client's case of his former law firm. A reasonable outside observer, aware of all the facts and circumstance of this case, would harbor doubts about the impartiality of Judge John D. Russell. Because judge Russell's "impartiality might reasonably be questioned" in the Case, 28 U.S.C. § 455(a) mandates judge Russell's recusal.

Petitioner had provided for this Court that New York State Unified Court System Opinion 24-62 issued March 24, 2024, which states that *'For two years from the date that the relationship between a judge and their former law firm completely ends, the judge is disqualified from all matters "involving a party the judge recognizes as a current or former client of the law firm, even though a different law firm is representing the client"* (Opinion 16-36; see also Opinion 17-100). Judge Stamp in caselaw *Cf. United States v. Detemple*, 162 F.3d 279, 287 (4th Cir. 1979) met with the requirement of two years' relationship between judge Stamp and his former law firm. But, judge John D. Russell never meets with the requirement and must disqualify.

Petitioner has satisfied the demanding standard for prohibition/mandamus relief and has established a clear and indisputable right to relief. *See Mallard*, 490 U.S. at 309; *In re Weston*, 18 F.3d at 864.

Further, Petitioner has no adequate alternative means to obtain the relief he seeks. *See Mallard*, 490 U.S. at 309. Consequently, Petitioner has discharged his burden of proving he can be entitled to writ of prohibition/mandamus.

2. The panel of the Tenth Circuit Court of Appeals did not address the most important high-degree antagonism against Defendant by judge Russell.

Title 28 U.S.C. § 455(a) provides that a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The goal of this provision is to avoid even the appearance of partiality. *See Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 860 (1988). Pursuant to § 455, a court is not required to accept the factual allegations as true "and the test is whether a reasonable person, knowing all the relevant facts, would harbor doubts about the judge's impartiality." *Glass*, 849 F.2d at 1268 (internal quotation marks omitted). The standard is objective, and the inquiry is limited to outward manifestations and reasonable inferences drawn therefrom. *See United States v. Cooley*, 1 F.3d 985, 993 (10th Cir. 1993). High degree of antagonism can be from judges' ruling and opinions. The most important high-degree antagonism against Petitioner is stated as follows:

(a). Petitioner requested judge John D. Russell re-ruled Petitioner's motions for sanctions and contempt, impose severe sanctions on Defendant's perjuries, falsification of documents and contempt, and enter a judgment. *See* Dkt. No. 200. But judge Russell declined to re-rule on Defendant's perjury, falsification of documents and contempt of the court without addressing the facts and evidence. But instead, judge Russell asserted that Petitioner's request is in violation of the limited protective order and the issues have already been addressed by the Court. *See* Dkt. No. 204, Pg. 7. But, Petitioner's requests are in compliance with the Court rules and caselaw.

"every order short of a final decree is subject to reopening" at the district court's discretion. *Price v. Philpot*, 420 F.3d 1158, 1167 n.9 (10th Cir. 2005); *Wagoner v. Wagoner*, 938 F.2d 1120, 1122 n.1 (10th Cir. 1991). A motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law. A district court has the discretion "to depart from its own prior rulings," *Allison v. Bank One-Denver*, 289 F.3d 1223, 1247 (10th Cir. 2002). A district court may revisit its prior interlocutory ruling without applying the three circumstances generally warranting departure from the prior ruling: "(1) new and different evidence; (2) intervening controlling authority; or (3) a clearly erroneous prior decision which would work a manifest injustice." *Rimbert v. Eli Lilly & Co.*, 647 F.3d 1247, 1251 (10th Cir. 2011).

Judge John D. Russell should know perjury, falsification of documents are criminal acts based on

U.S. laws. Judge Russell should know any Court orders cannot be above the U.S. laws. Judge Russell has revealed his high degree of antagonism against Plaintiff in ignoring and declining to re-rule Defendant's perjury, falsification of documents and contempt of the court that would make fair judgment impossible.

Moreover, Petitioner has also provided Defendant's new perjuries (See Dkt. No. 180, Pgs. 2-6, and Dkt. No. 216, Pg. 4), and new falsified evidence, Linde [Zou] 002830, Linde [Zou] 002832 Linde [Zou] 000294 (See Dkt. No. 180, Pgs. 16 & 20, Dkt. No. 200, Pg. 16) for the district court. However, judge John D. Russell never addressed these new perjury and new evidence in violation of the court rules and caselaw and revealed his high degree antagonism against Petitioner.

Furthermore, judge Russell ignored and never mentioned that magistrate judge usurped judicial jurisdiction to rule on "*Plaintiff's motion for contempt*" (Dkt. No. 89) in violation of 28 U.S.C. § 636 (e)(4), and issued injunctions to limit Petitioner from filing motions for sanctions and contempt, and limit Petitioner to depose only four (4) fact witnesses in violation of 28 U.S. Code § 636 (b)(1)(A) and, respectively. So, judge John D. Russell's high degree of antagonism against Plaintiff as would make fair judgment impossible.

In the order of the Tenth Circuit Court of Appeals (**Appendix B**), the Tenth Circuit Court of Appeals did not address or mention the most important high degree of antagonism against

Petitioner by judge Russell, even if Petitioner submitted the facts and evidence to the Tenth Circuit Court of Appeals. *See* Appellate Case: 24-5119, Document 1-1 at 16-17.

Defendant's Perjury, falsification of documents and contempt of the court are the most important evidence to demonstrate Defendant's criminal acts and misconducts. The district court should have sanctioned Defendant and entered a summary judgement against Defendant. But, the district court never do it. That judge Russell declined to review or re-address Petitioner's motions for sanctions and contempt has demonstrated judge Russell's high degree of antagonism against Petitioner in the proceedings.

III. The 10th Circuit Court of Appeals knowingly depart from the course of the judicial proceedings over and over.

(1). The judges in the panels of the Tenth Circuit Court of Appeals violated Federal Appellate Court Rules and never signed their names in their erroneous decisions in Petitioner's four appeal cases in case Public and law experts find their erroneous decisions and their extreme unfairness and bias. All the four erroneous decisions were signed by the electronic signatures of the Clerk.

(2). The 10th Circuit Court of Appeals knowingly departed from the course of judicial proceedings by hiding the denial order not to release the judges' erroneous decisions on the website of the

10th Circuit Court of Appeals to stop the Public and law experts from knowing their erroneous decisions. Petitioner's four appeal cases were dismissed or denied without posting on the website of the 10th Circuit Court of Appeals.

This Court must take measures to supervise and force the Tenth Circuit Court of Appeals to abide by the U.S. laws and court rules to make public keep confidence on the U.S. judicial system.

IV. CONCLUSION

There are significant appearance of impropriety and the conflict of interest existing for district judge John D. Russell to hear his former Client's case only one month after he left his former law firm. The denial decision of the 10th Circuit Court of Appeals is extremely erroneous by wrongfully explaining the caselaw and without considering the significant appearance of impropriety and the conflict of interest and without addressing the most important high degree antagonism against Petitioner by judge Russell.

The Petition for Writ of Prohibition/Mandamus should be granted by this Court.

Respectfully submitted,


Date: January 3, 2025