No.

IN THE

SUPREME COURT OF THE UNITED STATES

Misop Baynun — Petitioner

VS.

Bruce Hiltunen, et al. — Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO

THE COMMONWEALTH OF MASSACHUSETTS APPEALS COURT

PETITION FOR WRIT OF CERTIORARI

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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?

LIST OF PARTIES

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

RELATED CASES

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR 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 in Appendix A of the petition and is reported at 103 Mass. App. Ct. 1110.

The lower court's opinion appears in Appendix B of the petition and is unpublished.

Appendix A: Appeals Court Summary Decision | Entry Date: October 19, 2023

Appendix B: Lower Court Memorandum of Decision And Order | Entry Date: August 11, 2020

Appendix C: Notice Of Denial Of Application For Further Appellate Review | Entry Date: December 15, 2023

Appendix D: Denial Of Motion For Reconsideration | Entry Date: November 6, 2023 (yet not delivered to Petitioner until January 19, 2024)

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.

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 is included in this filing.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Provisions:

Federal Provisions:

Statutory Provisions:

Supreme Court Rules:

Other Authorities:

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 "Will" (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 "Will" (Wil-One). The "Will" (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, February 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. Code § 1692(e)(9), 18 U.S. Code § 1001 (a)(3), and 42 U.S. Code § 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 WRIT

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 "Wil1" (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:

1. 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 appeals "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 Representatives (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.

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?

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.

<u>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</u>

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 "Will" (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.

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?

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 p64], not compliant with Federal Statutes 15 U.S. Code § 1692(e)(9), 18 U.S. Code §1001 (a)(3), and 42 U.S. Code § 1986 [Appendix p62–63], 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 p62].

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 "Will" (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 "Will" (Wil-One) Used In Place Of The Required Word "Will" Issue

Claiming the undefined non-word "Will" (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. Code § 1692(e)(9) [False or Misleading representations] and 18 U.S. Code §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. Code § 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 Wil1" (Wil-One).

Treating the non-word "Wil1" (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.

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?

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.

5. 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 "Will" (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,

/s/ Misop Baynun

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Date: 7/18/2024

APPENDIX

APPENDIX A: APPELAS COURT SUMMARY DECISION
[COMMONWEALTH OF MASSACHUSETTS APPEALS COURT, IN THE MATTER OF THE ESTATE OF BRUCE F. MILLER (Docket Number 2022-P-0901), October 19, 2023, MEMORANDUM AND ORDER PURSUANT TO RULE 23.0, Page 1 of 8]
1
NOTICE: Summary decisions issued by the Appeals Court pursuant to M.A.C. Rule 23.0, as appearing in 97 Mass. App. Ct. 1017 (2020) (formerly known as rule 1:28, as amended by 73 Mass. App. Ct. 1001 [2009]), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 23.0 or rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).
COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT
22-P-901
IN THE MATTER OF THE ESTATE OF BRUCE F. MILLER.
MEMORANDUM AND ORDER PURSUANT TO RULE 23.0
Misop Baynun appeals from a decree and order of formal probate, arguing that the judge erred in allowing the motion by the petitioners to (1) strike Baynun's three notices of appearance and objection dated January 27, 2020, February 7, 2020, and August 10, 2020, and (2) appoint the petitioners as personal representatives.1 We affirm. Baynun's father, Bruce Miller, died on November 28, 2019. Following Miller's death, a copy of his will dated January 24, 2006, was found among his personal effects. The will appointed Miller's two nephews, Bruce Hiltunen and Robert Hiltunen (the petitioners), as executors, and left Miller's estate to his two sons as follows:
"1. I give all such property to my children, Jeffrey Martin Miller and Scott Douglas Miller a.k.a. Misop Baynum
1 Although Baynun states in his brief that his appeal is joined by his mother, Sandra Miller, Miller did not file a notice of appeal and is not a party to this appeal.
[Page 2 of 8 of Massachusetts Appeals Court Memorandum and Order Pursuant To Rule 23.0]
2

[sic], in equal shares, however all such property shall be held in TRUST, in accordance with the provisions herein.
"A. It is my desire to provide for and/or assist in my children's retirement, and hereby appoint my nephews, Bruce Hiltunen and Robert Hiltunen, JOINTLY as trustees. Said TRUSTEES shall hold, manage, invest, reinvest, administer, and eventually terminate and distribute the proceeds in accordance with my wishes as stated above. The TRUSTEES shall be paid from the trust $200.00 (Two Hundred Dollars) each, per year.
"B. Distributions under the TRUST shall be made to my children, equally, beginning on March 8, 2023 and shall be made at a rate of 10% (Ten Percent) per annum based upon the total assets held in trust."
On January 9, 2020, the petitioners filed a petition to admit the will to formal probate and for appointment as personal representatives of the estate. The petitioners also sought authority to conduct a search of Miller's safe deposit box to locate the original will. On January 27, 2020, Baynun filed a motion to have himself appointed special personal representative for purposes of accessing Miller's safe deposit box to search for an original will.
Also on January 27, 2020, Baynun filed a notice of appearance and objection, together with an affidavit asserting that the copy of the will found among Miller's personal effects was an "invalid will."2 More specifically, Baynun claimed that the copy of the will was invalid because (1) it was not an original; (2) the witnesses' attestation clause was not written
2 This was not docketed by the Register until February 5, 2020.
3
in the first person; (3) it was "fraudulent" because "will" was misspelled as "wil1" in the attestation; and (4) there was a double space in the attestation clause. Baynun also claimed that although Miller "was very intelligent and often very sociably pleasant, he was regarded to not be of sound mind as his depressive paranoia affected his judgment severely, possibly up until the last three weeks of his life, when it is believed his eyes were open[]ed."
Publication pursuant to the citation on petition for formal adjudication was made on January 30, 2020, in the Quincy Sun, and was mailed on January 22, 2020, to (among others) Miller's two sons. The return date on the citation was February 12, 2020. A judge of the Probate and Family Court appointed one of Miller's nephews, Robert Hiltunen, as special personal representative with authority limited to conducting a search of Miller's safe deposit box to search for the original will, in the presence of his attorney and Miller's two sons. That search located the

original will, which was the same as the copy previously filed with the court. The original will was filed with the court on February 13, 2020. On February 7, 2020, Baynun filed another notice of appearance and objection, identical to his previous filing.3

3 This second appearance and objection was docketed on February 11, 2020.

4

Thereafter, on August 10, 2020, Baynun filed a third notice of appearance and objection.

4 The third notice of appearance and objection was untimely because it was filed more than thirty days after the return date. See G. L. c. 190B, § 1-401 (e).

On April 23, 2020, the petitioners moved to strike Baynun's notices of appearance and objection. After hearing, the motion was allowed on August 11, 2020, and the petitioners were appointed as personal representatives of the estate. It is these rulings that are before us now. 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. Second, he argues that the attestation provisions of the will did not sufficiently track the language for self-proved wills contained in G. L. c. 192, § 2, as in effect prior to St. 2008, c. 521, § 12, nor was the will executed under seal as required under that statute. Third, Baynun argues his father lacked testamentary capacity. Fourth, Baynun argues that his father was under undue influence by the petitioners, as demonstrated by deviation from the requirements of G. L. c. 192, § 2. Fifth, Baynun argues that the petitioners

4 This was docketed on August 17, 2020.

5

have mismanaged the estate by not timely delivering title to an automobile, by not providing a full accounting, and by not disclosing to him before his father's death that they were named as executors in the will. Finally, Baynun argues that the judge should have exercised "authority in this case to encourage the development of maximum self-reliance and independence of the [d]ecedent's two sons who are also beneficiaries."

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. 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" [citation

omitted]). Nor do we consider any issue raised for the first time in Baynun's third notice of appearance and objection, since it was properly struck as untimely. 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).

First, Baynun objected that the copy of the will found among Miller's personal effects was not the original and therefore should not be admitted to probate. As the judge correctly noted, this objection was mooted by the discovery of

6

the original will in Miller's safe deposit box and its subsequent filing with the court.

Second, Baynun objected to the will as "invalid" or "fraudulent" on the grounds that the witnesses' attestation clause was not written in the first person, the word "will" was spelled "wil1" in the attestation, and there was a double space in the attestation clause. Together, Baynun argues that these irregularities mean that the will did not satisfy G. L. c. 192, § 2, in effect in 2006 when the will was executed.5 To begin with, we note that Baynun conflates the concepts of the validity of a will with the question whether the will is self-proved. A will may be valid even if not self-proved. Indeed, to be properly executed in 2006, a will needed only to meet the requirement of G. L. c. 191, § 1, as in effect prior to St. 2008, c. 521, § 10, that it be signed before two competent attesting and subscribing witnesses.6 Baynun did not, and does not, allege that the requirement was not met.

5 Baynun did not cite to G. L. c. 192, § 2, below, but pointed instead to the requirements for self-proved wills contained in G. L. c. 190B, § 2-504, which was not enacted until 2008 as part of the Massachusetts Uniform Probate Code.

6 The statute provided, "Every person eighteen years of age or older and of sound mind may by his last will in writing, signed by him or by a person in his presence and by his express direction, and attested and subscribed in his presence by two or more competent witnesses, dispose of his property, real and personal, except an estate tail, and except as is provided in this chapter and in chapters one hundred and eighty-eight and

7

In any event, none of the three supposed irregularities raised by Baynun has any merit. As to the use of the third person in the attestation, we note that the attestation language of the will tracks in all pertinent respects that contained in G. L. c. 192, § 2, which, as the statute itself stated, needed only be "substantially" tracked. As to the

presence of an extra space and a mistyped letter "l," we need note only that neither rises to the level of stating a ground for contesting a will offered for probate. See Matter of the Estate of Nevers, 100 Mass. App. Ct. at 868 ("In ruling on a motion to strike an affidavit of objections, the motion judge must take the sworn assertions made in the affidavits of objection as true and determine whether they aver 'allegations, in verified form, of specific subsidiary facts that, if proved by a preponderance of the evidence, state grounds for contesting the will offered for probate'" [citation omitted]).

Finally, Baynun's naked assertion that Miller suffered from depressive paranoia was not sufficient to raise a question that Miller lacked testamentary capacity at the time he executed his will. See Haddad v. Haddad, 99 Mass. App. Ct. 59, 68-69 (2021) (elements of testamentary capacity). There was nothing to indicate that Miller did not understand the will or that he did

one hundred and eighty-nine and in section one of chapter two hundred and nine."

8

not know the natural objects of his bounty. Indeed, the will itself demonstrates the contrary in that Miller left his estate to his two sons equally.

For these reasons, we affirm the August 11, 2020, decree and order of formal probate allowing the petitioners' motion to strike Baynun's notices of appearance and objection and to appoint them as personal representatives of Miller's estate. In addition, we allow the petitioners' request for attorney's fees and costs on appeal. In accordance with the procedure specified in Fabre v. Walton, 441 Mass. 9, 10-11 (2004), the petitioners may, within fourteen days of the issuance of the rescript of this decision, submit an application for appellate attorney's fees and costs with the appropriate supporting materials. Baynun shall have fourteen days thereafter to respond.

So ordered.

By the Court (Wolohojian, Shin & Ditkoff, JJ.7),

Clerk

Entered: October 19, 2023.

7 The panelists are listed in order of seniority.

APPENDIX B: LOWER COURT MEMORANDUM OF DECISION AND ORDER [COMMONWEALTH OF MASSACHUSETTS NORFOLK DIVISION, IN RE ESTATE OF BRUCE F. MILLER (Docket Number NO20P0037EA), August 11, 2020, MEMORANDUM OF DECISION AND ORDER, Page 1 of 4]

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

NORFOLK DIVISION DOCKET NO. NO20P0037EA
IN RE ESTATE OF BRUCE F. MILLER

MEMORANDUM OF DECISION and ORDER
(On Petitioner's Motion to Strike Appearance and Objection and to Appoint Personal Representatives filed April 23, 2020[1])

This matter came before the Court (Peterson, J.) for a telephone hearing on August 11, 2020. The petitioners, Bruce Hiltunen and Robert Hiltunen (hereinafter "Petitioners"), were represented by Attorney Elizabeth A. Caruso. The objecting party, Scott Douglas-Miller a.k.a. Misop Baynun (hereinafter "the Objector"), who is one of the Testator's two sons, represented himself. After hearing and upon consideration of the affidavits of objection, the Court hereby enters the following Memorandum of Decision and Order:

MEMORANDUM OF DECISION

Background
On January 9, 2020, Petitioners filed a "Petition for Formal Probate of a Will and Appointment of a Personal Representative and Appointment of Special Personal Representative" with regard to the estate of their late uncle Bruce F. Miller (hereinafter "the Testator"), who died on November 28, 2019. Petitioners seek to probate a will executed by the Testator on January 24, 2006, and to have themselves appointed as personal representatives of the Testator's estate. The will in question names Petitioners as the Testator's executors. Based upon a copy of the Testator's will the Petitioners obtained an appointment from this Court for purposes of searching for his original will in his two (2) safe deposit boxes: A search of the Testator's two (2) safe deposit boxes resulted in locating the Testator's original will that was filed with this Court on February 13, 2020. At the time of the Testator's death, he was divorced and had two adult sons. Jeffrey Martin Miller, who has not filed an objection and the Objector.

On January 27, 2020, the Objector, representing himself, filed a "Notice of Appearance and Objection" and "Affidavit" that crosses the word "oath" out replacing it with the word "affirmation" citing to a Notice of Appearance and Objection that he filed with the court

objecting to the probate of the will and to the appointment of Petitioners as personal representatives.

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1 A separate "Affidavit" and "Notice of Appearance and Objection," was filed January 27, 2020, a Notice of Appearance and Objection attaching the identical Notice of Appearance and Objection was filed on February 11, 2020 & four (4) other Notices of Appearance and Objections were filed with the court on August 10, 2020. The August 10, 2020 Objections and accompanying documents were not timely filed with this Court and are stricken as a result.

MEMORANDUM OF DECISION AND ORDER
[Norfolk Probate and Family Court, IN THE MATTER OF THE ESTATE OF BRUCE F. MILLER (Docket No. NO20P0037EA), August 11, 2020, Memorandum of Decision and Order, Page 1 or 4]

On February 11, 2020, Attorney George G. Burke2 filed a Notice of Appearance and Objection and attached an identical copy of the "Notice of Appearance and Objection" ("Affidavit") that the Objector filed on January 27, 2020.

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.

The Affidavit also claims that part of the will was not written in the first person, this objection is incorrect, applies to one portion of the will that the witnesses executed and does not invalidate the will.

The Affidavit claims that the will is "fraudulent" because there were typographical errors in the will. There is a number 1 instead of a letter 1 after the letters "wil" and a double space on page 6 where the witnesses signed. The Court does not find these typographical errors a basis to object to or invalidate the will because they do not change the meaning of the language in the will.

On April 23, 2020, Petitioners filed a "Motion to Strike Notice of Appearance and Objection." A hearing on the motion was held before the Court (Peterson, J.) on August 11, 2020.

Discussion

1. Petitioner's Motion to Strike the Notice of Appearance and Objection

An affidavit of objections must "state specific facts and grounds upon which the objection is based," and may be struck on motion if it fails to do so. G. L. c. 190B, § 1-401 (e)(f). In deciding whether an affidavit states "specific facts and grounds" sufficient to withstand a motion to

strike, the Court "considers only the affidavit of objections, accepting all of its facts as true, and may not consider any affidavits or other evidence submitted by the proponent" of the will. O'Rourke v. Hunter, 446 Mass. 814, 818 (2006). The specificity requirement is "no more burdensome than court rules in other areas of the law requiring a plaintiff to assert with specificity in his complaint (or other pleading) allegations which, if proved, would entitle him to prevail." Id. (quoting Wimberly v. Jones, 26 Mass. App. Ct. 944, 946 (1988)). Therefore, a motion to strike an affidavit may only be allowed when it is clear that even if all "the facts set forth in the affidavit, and all fair inferences therefrom" could be proved, the objector would not be entitled to the relief that he seeks. Baxter v. Grasso, 50 Mass. App. Ct. 692, 697 (2001).

In this matter, the Objector objects both to the probate of the will and to the appointment of Petitioners as personal representatives. Whether the affidavits provide "sufficient facts and grounds" to support each of these objections is discussed below.

a. Objections to the Probate of the Will

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2 At the hearing on August 10, 2020, the Objector requested to represent himself at the hearing.

The Objectors' objections to the probate of the will are based on his belief that the Petitioners have produced a fraudulent, invalid will. However, the affidavits of objection do not provide any facts to support his belief. Bald assertions of belief, unsupported by any personal knowledge, are not sufficient for an affidavit to withstand a motion to strike. See, e.g., Ware v. Stanton, 72 Mass. App. Ct. 1115, *1 (2008) (unpublished memorandum and order issued pursuant to rule 1:28) ("statements [that] are vague and based on unsupported belief as opposed to personal observation" do not meet specificity requirement).

The only facts provided in the Affidavit suggest reasons why the Testator "suffered deeply from a crazy form of depressive paranoia that was hidden from many who knew him" and that the Testator "was very intelligent and often very sociably pleasant, he was regarded to not be of sound mind as his depressive paranoia effected his judgment severely, possibly up until the last three weeks of his life, when it is believed his eyes were open[sic]ed." The Objector further objects that his inheritance is placed into trust. However, none of these facts indicate that the Testator lacked capacity when he executed the will on January 24, 2006 or that he executed an invalid will. While great detail is not required in an affidavit of objections, the affidavit must demonstrate some connection between the facts alleged and the legal

elements or conclusions that the objector would ultimately need to establish to prevail. See, e.g., Wimberly v. Jones, supra at 946 (holding that motion to strike affidavit of objections was properly allowed where affidavit failed to establish a connection between the fact that testator was "to undergo a life-endangering operation the next day," and her alleged lac of testamentary capacity). Here the Objector has failed to make any connection between the facts alleged and his conclusion that the Testator executed an invalid will.

b. Objections to the Appointment of Petitioner as Personal Representative

Where a will has been admitted to probate and the will names a person to serve as personal representative of the estate, "the judge is obliged to appoint" the nominated person if he or she is "suitable." Grossman v. Grossman, 343 Mass. 565, 568 (1962). See also G. L. c. 191B, § 12 (a) ("The person named in the will as personal representative or trustee shall be entitled to serve, if qualified, as personal representative or trustee"). A person is suitable if he or she has "the capacity and the will to discharge the duties in the particular case with fidelity and efficiency." Grossman v. Grossman, supra at 568. While the judge has some discretion in deciding whether an individual is suitable, the suitability standard is not meant to be a high bar—it has been said that "it requires a pretty strong objection" to find someone unsuitable and therefore refuse the testator's appointment. Lindsey v. Ogden, 10 Mass. App. Ct. 142, 146 (1980) (quoting 1 Newhall, Settlement of Estates§ 46, at 164 (4th ed. 1958)).

Here, Petitioners were nominated as executors in the Testator's will so if the will is admitted to probate, the Court is obliged to appoint them as personal representatives unless they are not suitable. The only allegations in the Affidavit possibly relevant to Petitioners' suitability to serye as personal representative are that the Objector is "next of kin of the Decedent, the others applying for appointment for Special Personal Representative(s) are not." Looking only

to the affidavit, and accepting all the statements therein as true, it does not appear that the Objector would be able to prove Petitioners' unsuitability.

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.

ORDER

1. Petitioners' motion is ALLOWED as to their request to strike the Notice of Appearance and Objection.

2. Petitioners' request to be appointed personal representatives of the estate is ALLOWED.

Date: August 11, 2020

Lee Peterson,
Justice of the Probate and Family Court

[Page 4 of 4 of Memorandum of Decision and Order]

APPENDIX C: NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

[Supreme Judicial Court for the Commonwealth of Massachusetts, IN THE MATTER OF THE ESTATE OF BRUCE F. MILLER (Docket No. FAR-29572), December 15, 2023, NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW, Page 1 of 1]
Supreme Judicial Court for the Commonwealth of Massachusetts

RE: Docket No. FAR-29572

IN THE MATTER OF THE ESTATE OF BRUCE F. MILLER

Norfolk Probate & Family No. NO20P0037EA
A.C. No. 2022-P-0901

NOTICE OF DENIAL OF APPLICATION FOR FURTHER APPELLATE REVIEW

Please take note that on December 15, 2023, the application for further appellate review was denied.

Francis V. Kenneally Clerk

Dated: December 15, 2023

To: Elizabeth Ann Caruso, Esquire
Paul N. Barbadoro, Esquire
Susan M. Molinari, Esquire
Misop Baynun
Sandra Miller

APPENDIX D: DENIAL OF MOTION FOR RECONSIDERATION
[Massachusetts Appeals Court, BRUCE HILTUNEN & another vs. MISOP BAYNUN (Docket Number: 2022-P-0901), November 6, 2023 (yet not delivered to Petitioner until January 19, 2024), Denial of Petitioner's Motion for Reconsideration, Page 1 of 1]
--COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT CLERK'S OFFICE

Dated: January19,2024

RE: No. 2022-P-0901
Lower Court No: NO20P0037EA

BRUCE HILTUNEN & another vs. MISOP BAYNUN

NOTICE OF DOCKET ENTRY

Please take note that, with respect to the Motion for Reconsideration or modification of decision filed by Misop Baynun. (Paper #22), on November 6, 2023, the following order was entered on the docket:

RE#22: After consideration, the motion filed pursuant to Rule 27 is denied. (Wolohojian, Shin, Ditkoff, JJ.) *Notice

TABLE OF AUTHORITIES

U.S. CONSTITUTION AMENDMENT I [RELIGION AND EXPRESSION]
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. CONSTITUTION AMENDMENT I ANNOTATION 5 [FREE EXERCISE OF RELIGION]
The Free Exercise Clause . . . withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure religious liberty in the individual by prohibiting any invasions there by civil authority." 178 It bars "governmental regulation of religious beliefs as such," 179 prohibiting misuse of secular governmental programs "to impede the observance of one or all religions or . . . to discriminate invidiously between religions . . . even though the burden may be characterized as being only indirect." 180 Freedom of conscience is the basis of the free exercise clause, and government may not penalize or discriminate against an individual or a group of individuals because of their religious views nor may it compel persons to affirm any particular beliefs. ...

15 U.S. CODE § 1692(E)(9) [FALSE OR MISLEADING REPRESENTATIONS]
"(9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State. or which creates a false impression as to its source, authorization, or approval."

18 U.S. CODE §1001 (A)(3) [STATEMENTS OR ENTRIES GENERALLY] (FALSE WRITING)
"(a)(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years."

42 U.S. CODE § 1986 [ACTION FOR NEGLECT TO PREVENT]
"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action;...."

MASSACHUSETTS CONSTITUTION AMENDMENTS ARTICLE XVIII § 1
No law shall be passed prohibiting the free exercise of religion.

MASSACHUSETTS COURT RULES | RULE 12: DEFENSES AND OBJECTIONS | (F) MOTION TO STRIKE
Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may after hearing order stricken from any pleading any insufficient defense, or any redundant, immaterial, impertinent, or scandalous matter.

M.G.L. C. 190B, § 5-313 [RELIGIOUS FREEDOM OF INCAPACITATED PERSON]
It shall be the duty of all guardians appointed under this Article to protect and preserve the incapacitated person's right of freedom of religion and religious practice.

M.G.L. c. 191, § 1 [CHAPTER 191 WILLS] [SECTION 1 PERSONS AUTHORIZED TO MAKE WILLS; CAPACITY; EXECUTION]
Universal Citation: MA Gen L ch 191 § 1
[Text of Section effective until March 31, 2012. Repealed by 2008, 521, Sec. 10. See 2008, 521, Sec. 44 as amended by 2010, 409, Sec. 23 and 2011, 224.]
Section 1. Every person eighteen years of age or older and of sound mind may by his last will in writing, signed by him or by a person in his presence and by his express direction, and attested and subscribed in his presence by two or more competent witnesses, dispose of his property, real and personal, except an estate tail, and except as is provided in this chapter and in chapters one hundred and eighty-eight and one hundred and eighty-nine and in section one of chapter two hundred and nine.

M.G.L. c. 192, § 2 [PROBATE OF WILLS AND APPOINTMENT OF EXECUTORS] [PROOF OF WILL IN UNCONTESTED PROCEEDINGS; WAIVER OF PROOF]
Section 2. If it appears to the probate court, by the consent in writing of the heirs, or by other satisfactory evidence, that no person interested in the estate of deceased person intends to object to the probate of an instrument purporting to be the will of such deceased, the court may grant probate thereof; (i) upon the testimony of one of the subscribing witnesses; and the affidavit of such witness taken before the register or an assistant register of probate may be received as evidence; (ii) without testimony if it is self-proved by affidavits of the testator and of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where executed, under official seal, in form and content substantially as follows: State of _____, County of _____, before me, the undersigned authority on this day personally appeared the testator and the witnesses whose names are signed to the attached or foregoing instrument, and, all of these persons being by me duly sworn; the testator declared to me and to the witnesses in my presence that the instrument is his last will and that he had willingly signed or directed another to sign for him, and that he executed it as his free and voluntary act for the purposes therein expressed; and each of the witnesses stated to me, in the presence of the testator, that he signed the will as witness and that to the best of his knowledge the testator was eighteen years of age or over, of sound mind and under no constraint or undue influence. _____ (Testator), _____ (Witness), _____ (Witness). Subscribed and sworn to before me by the said testator and the said witnesses, this _____ day of _____ A.D. (signed) _____ (SEAL) official capacity of officer; (iii) without testimony if it is executed,

attested and made self-proved by affidavits of the testator and the witnesses, each affidavit being made before an officer authorized to administer oaths under the laws of the state where executed, and under official seal. The same signature shall be sufficient for the execution, or attestation and the affidavit. The form and content shall be substantially as follows:

I, the undersigned testator, do hereby declare that I sign (or direct another to sign for me) and execute this instrument as my last will, that I sign it willingly (or willingly direct another to sign for me) in the presence of each of said witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed.

_____

Testator

We, the undersigned witnesses, each do hereby declare in the presence of the aforesaid testator that the testator signed (or directed another to sign for him and said person signed for him) and executed this instrument as his last will in the presence of each of us, that he signed it willingly (or willingly directed another to sign it for him), that each of us hereby signs this will as witness in the presence of the testator, and that to the best of our knowledge the testator is eighteen (18) years of age or over, of sound mind, and under no constraint or undue influence.

_____

(Witness)

_____

(Witness)

STATE OF _____

COUNTY OF _____

Subscribed, sworn to and acknowledged before me by the said testator and witnesses this _____ day of _____ A.D.

(Signed) _____

(Seal) _____

Official Capacity

; or (iv) without testimony if the probate of such instrument is assented to in writing by the widow or husband of the deceased, if any, and by all the heirs at law and next of kin.

M.G.L c. 231, § 6F [COSTS, EXPENSES AND INTEREST FOR INSUBSTANTIAL, FRIVOLOUS OR BAD FAITH CLAIMS OR DEFENSES]

Section 6F. Upon motion of any party in any civil action in which a finding, verdict, decision, award, order or judgment has been made by a judge or justice or by a jury, auditor, master or other finder of fact, the court may determine, after a hearing, as a separate and distinct

finding, that all or substantially all of the claims, defenses, setoffs or counterclaims, whether of a factual, legal or mixed nature, made by any party who was represented by counsel during most or all of the proceeding, were wholly insubstantial, frivolous and not advanced in good faith. The court shall include in such finding the specific facts and reasons on which the finding is based.

If such a finding is made with respect to a party's claims, the court shall award to each party against whom such claims were asserted an amount representing the reasonable counsel fees and other costs and expenses incurred in defending against such claims. If the party against whom such claims were asserted was not represented by counsel, the court shall award to such party an amount representing his reasonable costs, expenses and effort in defending against such claims. If such a finding is made with respect to a party's defenses, setoffs or counterclaims, the court shall award to each party against whom such defenses, setoffs or counterclaims were asserted (1) interest on the unpaid portion of the monetary claim at issue in such defense, setoff or counterclaim at one hundred and fifty per cent of the rate set in section six C from the date when the claim was due to the claimant pursuant to the substantive rules of law pertaining thereto, which date shall be stated in the award, until the claim is paid in full; and (2) an amount representing the reasonable counsel fees, costs and expenses of the claimant in prosecuting his claims or in defending against those setoffs or counterclaims found to have been wholly insubstantial, frivolous and not advanced in good faith.

Apart from any award made pursuant to the preceding paragraph, if the court finds that all or substantially all of the defenses, setoffs or counterclaims to any portion of a monetary claim made by any party who was represented by counsel during most or all of the proceeding were wholly insubstantial, frivolous and not advanced in good faith, the court shall award interest to the claimant on that portion of the claim according to the provisions of the preceding paragraph.

In any award made pursuant to either of the preceding paragraphs, the court shall specify in reasonable detail the method by which the amount of the award was computed and the calculation thereof.

No finding shall be made that any claim, defense, setoff or counterclaim was wholly insubstantial, frivolous and not advanced in good faith solely because a novel or unusual argument or principle of law was advanced in support thereof. No such finding shall be made in any action in which judgment was entered by default without an appearance having been entered by the defendant. The authority granted to a court by this section shall be in addition to, and not in limitation of, that already established by law.

If any parties to a civil action shall settle the dispute which was the subject thereof and shall file in the appropriate court documents setting forth such settlement, the court shall not make any finding or award pursuant to this section with respect to such parties. If an award had previously been made pursuant to this section, such award shall be vacated unless the parties shall agree otherwise.

In proceedings under this section in any action which has been heard by the medical malpractice tribunal established pursuant to section sixty B, the decision of the tribunal may be introduced as evidence relevant to whether a claim was wholly insubstantial, frivolous and not advanced in good faith.

Upon receiving an inmate's complaint and affidavit of indigency, the court may, at any time, upon motion or sua sponte: (1) dismiss a claim or any action without a hearing if satisfied that the claim or action is frivolous or in bad faith; or (2) conduct a hearing presided over by the court or an appointed master, which shall be held telephonically unless the court finds that a hearing in court is necessary, to determine whether the inmate's action is frivolous and in bad faith.

If the court finds that the claim or action is frivolous or in bad faith, the court shall dismiss the claim or action but if, after hearing, the court finds that the claim is both frivolous and in bad faith in order to abuse the judicial process, the court shall, in addition to dismissing such claim or action, order that the inmate lose up to 60 days of good conduct credit earned or to be earned pursuant to section 129C or 129D of chapter 127.

If the court finds at any time that the inmate has repeatedly abused the integrity of the judicial system through frivolous filings, the court may order that the inmate be barred from filing future actions without leave of court. In determining whether a claim or action is frivolous or in bad faith, the court may consider several factors including, but not limited to, the following:- (a) whether the claim or action has no arguable basis in law or in fact; (b) the claim or action is substantially similar to a previous claim in that it is brought by and against the same parties and in that the claim arises from the same operative facts of the previous claim.

No finding shall be made that a claim or action is frivolous or in bad faith solely because a novel or unusual argument or principle of law was advanced in support thereof.

RULE 10. CONSIDERATIONS GOVERNING REVIEW ON WRIT OF CERTIORARI

Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for

compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

- (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or 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;
- (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
- (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

NUMBERS 27:6–11 KJV
6And the LORD spake unto Moses, saying, 7The daughters of Zelophehad speak right: thou shalt surely give them a possession of an inheritance among their father's brethren; and thou shalt cause the inheritance of their father to pass unto them. 8And thou shalt speak unto the children of Israel, saying, If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter. 9And if he have no daughter, then ye shall give his inheritance unto his brethren. 10And if he have no brethren, then ye shall give his inheritance unto his father's brethren. 11And if his father have no brethren, then ye shall give his inheritance unto his kinsman that is next to him of his family, and he shall possess it: and it shall be unto the children of Israel a statute of judgment, as the LORD commanded Moses.

LUKE 6:31 KJV
31And as ye would that men should do to you, do ye also to them likewise.

2 CORINTHIANS 6:14–18 KJV
Entanglements

[14]Be ye not unequally yoked together with unbelievers: for what
fellowship hath righteousness with unrighteousness? and what
communion hath light with darkness? [15]And what concord hath Christ
with Belial? or what part hath he that believeth with an infidel? [16]And
what agreement hath the temple of God with idols? for ye are the
temple of the living God; as God hath said, I will dwell in them, and
walk in them; and I will be their God, and they shall be my people.
[17]Wherefore
Come out from among them, and be ye separate,
saith the Lord,
And touch not the unclean thing;
And I will receive you,
[18]And will be a Father unto you,
And ye shall be my sons and daughters,
saith the Lord Almighty.