

18-9056

No. _____

Supreme Court, U.S.
FILED

APR 03 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Calvin David Fox PETITIONER
(Your Name)

The State of Florida Bar Association vs. — RESPONDENT(S)
ASSOCIATION,

ON PETITION FOR A WRIT OF CERTIORARI TO

The Florida Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Calvin David Fox
(Your Name)

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(Address)

Lake Worth, Florida 33463
(City, State, Zip Code)

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(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

The due process clause of the Fourteenth Amendment to the United States Constitution provides that:

“No State shall . . .deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Rule 5-1.2(f)(1) Fla Bar Trust Accounting Rules, for prosecuting attorneys, provides. inter alia, that:

“Members of the bar . . . may not assert any privilege personal to the lawyer . . .”

Rule 5-1.2(f) Florida Trust Accounting Rules and its predecessors corrupts trust proceedings against the Petitioner and all Florida Bar Members, because it absolutely denies the Petitioner and all members of the Florida Bar, the right to assert any personal privilege just because of our status as attorneys and serves the corrupt purpose of 1.) no supervision of disciplinary counsel's misconduct and 2.) making her misconduct unreviewable, which is an unlawful purpose, causes arbitrary and capricious results, and a denial of fundamental due process and equal protection.

LIST OF PARTIES

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

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

No petition for rehearing was timely filed in my case.

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

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

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: January 3 2019, and a copy of the order denying rehearing appears at Appendix _____.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The due process clause of the Fourteenth Amendment to the United States Constitution provides that:

“No State shall . . .deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Rule 5-1.2(f)(1) Fla Bar Trust Accounting Rules, for prosecuting attorneys, provides. inter alia, that:

“Members of the bar . . . may not assert any privilege personal to the lawyer . . .”

STATEMENT OF THE CASE

Preliminary Statement

This cause arises from the Florida Bar's demands that the undersigned release documents to defend this cause disclosing the previous beatings and rapes of Bess Serbin, by the Florida Bar's complaining witness, Jon Serbin, since Bess was nine (9) years old. As reflected in the memorandum of agreement on November 23, 1992 and closing statement on August 4, 1993, representing Linda and Bess Serbin on several matters---not involving Jon Serbin, Linda knew of the rapes and beatings of Bess Serbin, and Linda and Bess refused to release me from my attorney/client confidentiality which would have enabled me to defend this cause but would have disclosed these crimes. **Exhibit A.**

1.) That none of the present members of the Florida Court were involved with the temporary order in this cause. This cause has languished, destroying lives, pending upon a **temporary** suspension order from the Court to produce records which is dated on Thanksgiving, **November 24, 1999.** **Exhibit B.** Furthermore, the temporary order herein provides that any dispute about satisfactory compliance (which occurred at the grievance committee hearing on February 29, 2000), **shall** be decided by the Referee, and not by Sankel or the Florida Court:

“Any dispute as to whether compliance is satisfactory shall be determined by the referee.” Exhibit B.

Prosecutor Sankel prepared this order. This Cause should therefore be remanded to a referee for a fair decision consistent with the hearing before Grievance Committee 11I on February 29, 2000, when my trust records were produced and the Committee reported that there was no probable cause to find that Calvin D. Fox had done anything improper, and there have not been any other complaints.

2.) Furthermore, the Florida Court by its order of December 10, 2018 specifically denies the Respondent's, "Petition for Appointment of Special Master" and the Respondent's, "Motion to Compel, Notice of No Service, Preliminary Response." However, the Court has overlooked and not considered the Respondent's **comprehensive principal pleading** entitled, "Reply to: . . .2.) Florida Bar's Response to Statement of Compliance and Unjust Hardship." The Petitioner believes that the Florida Court's unfair and poorly reasoned review of the permanent death penalty against the Petitioner's law license over unspecified missing trust forms has failed to consider that under Bar Guidelines this cause should have resulted in only a three (3) month suspension. **See, e.g., The Florida Bar v. Dunagan**, 731 So.2d 1237 (Fla. 1999), instead of 18 years.

3.) That the Florida Court has apparently overlooked and misunderstood that the transcript of February 29, 2000 reflects that the grievance committee 11I with chairman Karr (who also was Vice Chair on the **ex parte** grievance

committee which found probable cause), heard all witnesses and the Petitioner and had all Fox trust records, and Ruga the Bar auditor say he could find nothing wrong with the Petitioner's trust records. Therefore Grievance Committee 11I found "**no probable cause**" on **February 29, 2000**:

"You are advised that [the complaint against Calvin D. Fox] has been investigated and considered by this Committee. It is our decision that there is **insufficient evidence to support a finding of probable cause.**" [emphasis added].

Because the Petitioner has No rights under Rule 5-1.2(f), the Florida Court failed to consider that the prosecutor, Sankel, has **falsely** marked and signed the "Fox" file jacket herein that, "**probable cause was found on 2/29/00**" by Grievance Committee 11I. **Exhibit C.** Because the Petitioner has no rights, the Florida court ignored that Sankel falsified the file and is unable to fairly address this cause, and cannot conceal her personal rage against the Petitioner as reported by attorneys Andrew Berman and Mark Linowitz, and explained in Respondent's pleading, "Reply to . . . 2.) Florida Bar's Response to Statement of Compliance and Unjust Hardship." Para. 2.

Additionally, Todd Aronovitz, when he was President of the Florida Bar, met with then Disciplinary Director Tony Boggs to settle this cause and to find out exactly what documents were needed to comply herein. Boggs promised to give us

exactly what was needed and that he would “get back with” Todd and the undersigned as to exactly what was needed, but has never done so.

4.) Because the Petitioner has no rights, the Florida Court has overlooked and refused to consider that neither this cause nor any cause may be properly, reasonably, and fairly considered without the Florida Court’s judicial oversight of its employee, Sankel, who is fond of falsely announcing on the record herein that she is the “Voice of the Supreme Court.”

5.) That because the Petitioner has no rights, Sankel pleaded with Attorney Mark Linowitz to make a complaint against the undersigned and told Linowitz that the Petitioner was (illicitly) listed on a blackboard at the offices of the Florida Bar in Miami, as a “target” of the Florida Bar Disciplinary office. Director Tony Boggs told then President Aronovitz of the Florida Bar that listing the Petitioner as a “target” was improper, because there was no reason nor authorization to “target” the Petitioner and Boggs ordered the targeting of the Petitioner to cease.

6.) That because the Petitioner has no rights, the Florida Court has refused to consider that Sankel has been able to impose an extremely excessive 18 years of punishment (instead of 3 months), and because the Petitioner has no rights, the Florida court has refused to consider the prosecutor, Sankel’s abusive political revenge upon the Petitioner by forcing the death penalty of the Petitioner’s law

license, despite the prosecutor's multiple gross improprieties in this cause listed throughout the Petitioner's pleadings, without consequence or supervision Of prosecutor Sankel, solely because the Petitioner has no rights under Florida Rule 5-1.2(f) reenacted on February 1, 2010 as Rule 3-7,11(d)(7)(b), which unconstitutionally deprives more than 80,000 Florida attorneys of any personal rights solely because they are attorneys:

“Members of the bar . . . may not assert any privilege personal to the lawyer”

The Florida Court by refusing to supervise its Prosecutor's abusive, malicious use of Rule 5-1.2(f) herein her blind rage against the Petitioner for standing up and risking everything 1.) to defend his client's attorney client confidences and complicity in the rape of her daughter; 2.) to jail the thieves and liars in the “Court Broom’ Scandal, and 3.) to stop the illicit execution of an innocent man, Roy Allen Stewart, whom he had prosecuted. This Court must accept this case for the more than 80,000 lawyers of the Florida Bar who naively believe that we did not check our rights at the door when we became attorneys.

As reflected in this cause, Rule 5-1.2(f) in all its iterations is an affront to all that we do and represent in the oath we took as attorneys. In this cause, Prosecutor Sankel used it to shred Linda Serbin's attorney client privilege by harassing Linda

Serbin for two (2) years to make a complaint which Linda resisted for two years as against her will and intent. This Court should strike Rule 5-1.2(f) to ensure it is not used to deny fundamental due process anymore, and so that it does not get misused to trample the attorney/client privilege as prosecutor Sankel did here.

7.) That the Florida Court ignored that a most respected Chief Judge of the Court, Arthur England, responded to a letter lamenting the Petitioner's abuse and mistreatment in this cause and responding simply:

“Dear Calvin, I do not know why you are being treated so badly.”

Exhibit D. At the very least out of respect for a great jurist, the Petitioner requested that the Florida Court conduct oral argument on this cause as to why a three month suspension for maybe five (5) trust checks has been converted by the prosecutor under Rule 5-1.2(f) into a family and life-destroying eighteen (18) year permanent death penalty against the law license of the Petitioner. Because the Petitioner has no rights, the Florida court did not extend that courtesy.

8.) Because the Petitioner has no rights, the prosecutor ignored that the bizarre Jon Serbin complaint was rejected three (3) times by three (3) Grievance committees which refused to enforce the Florida Bar's two 1987 subpoenas for trust records by the 11th Circuit and 17th Circuit Committees and again on February 29, 2000 by the same 11th Circuit Committee which initially found probable cause

after Sankel's illicit forum shopping. See, **Martinez v. Martinez**, 153 Fla. 753, 15 So.2d 842 (1943), approved, **Mabie v. Garden Street Management**, 397 So.2d 920 (1981) (forum where jurisdiction is first acquired is where cause is decided).

MEMORANDUM SUPPORTING JURISDICTION

The circumstance herein is unconscionable in that it is utterly contrary to the justice of this cause and all Bar guidelines and precedent. In **The Florida Bar v. Cox**, 794 So.2d 1278, 1282 (Fla. 2001) the Court explained that prosecutors must be held to the highest standards because of their unique powers and responsibilities. In **United States v. Berger**, 295 U.S. 78, at 88 (1935) the Court explained that it is the duty of the Florida Court to act in the face of the chronic, misconduct of prosecutor Sankel where she falsely marked the file jacket:

“[W]hile [a prosecutor] may strike hard blows, [s]he is not at liberty to strike foul ones. It is as much h[er] duty to refrain from improper methods calculated to produce a wrongful conviction, as it is to use every legitimate means to bring about a just one.”

Prosecutor Sankel misstated and falsified the record of this case to the Florida Court, but since the Petitioner has no rights under rule 5-1.2(f)(1) THE Florida court refused to act. Prosecutor Sankel pointedly refused her duty to allow any fair or reasonable resolution of this cause: The Jon Serbin Complaint was first filed in 1996 by Bar counsel Elena Evans, with the 11I Grievance Committee which asked

for and received my response to Jon Serbin's Complaint. As reflected in my contract with Linda Serbin, Jon Serbin had been beating and raping their daughter Bess Serbin since she was nine years old with Linda's passive acquiescence and silence. **Exhibit A** (Contract for Legal Services and Closing Statement). In 1996, I therefore responded to the 11th Circuit Grievance Committee that Jon Serbin was not my client, Linda Serbin did not waive her attorney client privilege, and Linda Serbin refused to make any complaint against me. After receiving my Response, the Eleventh Circuit Grievance Committee **refused** to proceed.

Prosecutor Sankel, then illicitly shopped for a Grievance Committee which would proceed and transferred Jon Serbin's complaint to a 17th Circuit Committee, which issued a subpoena for my Serbin records. When I responded as indicated above, the 17th Circuit Grievance Committee closed its file, **refused** to proceed, and returned the file to Sankel. In sum, the only reason the third Grievance Committee proceeded herein was Sankel made this a death penalty for my law license. The only reason that the third Grievance Committee proceeded was that my repeated requests to reschedule because of a conflicting federal proceeding was unethically ignored by and therefore the previous proceeding was **ex parte, off the record**, and in the absence of the other fourteen (14) Committee members.

The Petitioner is seventy-one (71) years old and was admitted to the Florida Bar on **May 22, 1975**. In this cause, on **November 24, 1999**, the Florida Court

issued an interim order suspending the Petitioner temporarily until Petitioner's trust records were produced. As reflected in the transcript of proceedings, Petitioner's trust records and the Serbin trust records were produced at the 11I grievance committee hearing conducted on February 29, 2000 and the SAME 11I Grievance Committee which had previously found probable cause. However, upon hearing all witnesses on February 29, 2000, the same Committee found no probable cause to proceed like the previous 11I and 17th Circuit Grievance Committee had done----closing the file.

REASONS FOR GRANTING THE PETITION

Rule 5-1.2(f) shields the unsupervised Florida Bar prosecutor's gross due process rights abuse herein at every step of the way herein, and conceals and protects the misconduct of the Florida bar prosecutor AS POLITICAL REVENGE AGAINST Calvin David fox at every step complained of herein, denying the Petitioner's right to fundamental due process to stop the death penalty against his law license to punish him for stepping forward, even in the face of threats, to cause the FBI to bring the "Court Broom" Case: the greatest judicial corruption case in the history of the United States to stop Roy Gelber and his band of thugs; and to punish Calvin for stopping the unconstitutional execution by the State of Florida, of an innocent man, Roy Allen Stewart, whom Calvin As Florida's best death penalty Assistant Attorney General, had prosecuted (See, Exhibit D, pp 6-14).

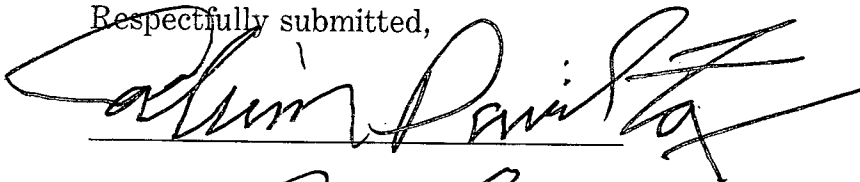
Ten (10) states: California, Wyoming, Tennessee, Missouri, Arizona, Nevada, North Carolina, Kansas, Louisiana, and West Virginia have responded in writing that they do not have a "no rights/no defense" rule like Florida's Rule 5-1.2(f).

Three (3) states: North Dakota (Rule 1.15, N.D. Rules of Professional Conduct); South Carolina (rule 471(a)(1)("no defense depending upon information received); and Montana (Rule 1.18(c) Rules of Professional Conduct), have a version of Florida's absolute, unconditional "no rights/no defense rule for attorneys.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date:

April 22 2019