

ORIGINAL

No. 23-1216

In the Supreme Court of the United States

MOLIERE DIMANCHE, PETITIONER

v.

**LOWNDES DROSDICK DOSTER KANTOR &
REED, ET AL., RESPONDENTS**

***ON PETITION FOR WRIT OF CERTIORARI TO
THE ELEVENTH CIRCUIT COURT OF APPEALS***

PETITION FOR WRIT OF CERTIORARI

MOLIERE DIMANCHE

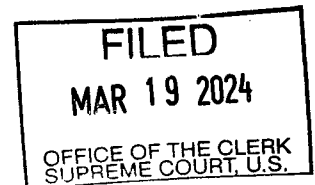
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QUESTIONS PRESENTED

The Eleventh Circuit Court of Appeals held that a Writ of Prohibition was frivolous that sought a change of venue and a prohibition on an unconsented-to magistrate judge and a district judge with conflicts of interests from further participation in the case. In this case, the unconsented-to magistrate judge made financial contributions to a fundraiser held by a defaulted defendant prior to taking full control of the entry of a clerk's default against the same defendant.

The magistrate judge is also a member of a group called the "Fabulous Friends" in which another defendant, the Mayor of the City of Orlando, is also a member, as well as counsel for separate defendants. The district judge and his court reporter falsified transcripts in a related proceeding that affected the validity of claims made by the Petitioner.

The questions presented are:

1. Did the Eleventh Circuit Court of Appeals err in holding that the Writ of Prohibition was frivolous?
2. Does the Federal Magistrate's Act contemplate allowing district courts to refer any part of a civil proceeding to a magistrate judge when all parties have expressed a rejection of the magistrate's civil-consent jurisdiction in writing? Specifically, if the parties state "the parties do not consent to a magistrate judge" in writing, is a district court's referral of a civil action to a magistrate judge for

- rulings on pretrial motions;
 - dispositive motions; and
 - issuing a report and recommendation a violation of the Federal Magistrate's Act and Article III of the Constitution?
3. Does a *void* conviction secured by an attorney who is not authorized to sign charging documents under the governing statutes of either state or federal law, qualify as "*a favorable termination of the underlying criminal prosecution*" under this Court's holding in *THOMPSON v. CLARK*?

STATEMENT OF RELATED CASES

The appeal giving rise to this Petition is case 23-13013-J. The criminal prosecution related to this case is 6:23-CR-31-CEM-DCI-1. An appeal in that criminal case was taken in case 23-11383-E. The action in the district court presents claims related to interference in the November 7th, 2023 Mayoral election in Orlando, Florida and a pending appeal in Florida's Sixth District Court of Appeal is active in case 6D24-0188.

PARTIES TO THE PROCEEDING

Petitioner Moliere Dimanche was the defendant in the criminal prosecution, the Plaintiff in the district court civil action, and the Petitioner in the Petition for Writ of Prohibition in the circuit court.

Respondents Julia L. Frey was the defendant in the district court civil action, and respondent-appellee in the circuit court.

Respondents Amy Mercado and Troy Stickle were the defendants in the district court civil action, and respondent-appellees in the circuit court.

Respondents City of Orlando, Rabih Tabbara, Takela Jackson, and Nicolas Luciano Montes were the defendants in the district court civil action, and respondent-appellees in the circuit court.

Respondents Terri Wilson, Rose Acosta, Debra Bradley and Phil Diamond were the defendants in the district court civil action, and respondent-appellees in the circuit court.

CORPORATE DISCLOSURE STATEMENT

Petitioner MOLIERE DIMANCHE is not aware of any publicly held companies that have an interest in this action.

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PETITION FOR WRIT OF CERTIORARI

Moliere Dimanche respectfully petitions this Court for a writ of certiorari to review the decision of the Eleventh Circuit Court of Appeals.

OPINIONS BELOW

The Eleventh Circuit Court of Appeals opinions finding the Petition for Writ of Prohibition to be frivolous and the denial of the rehearing are attached.

JURISDICTION

On January 9th, 2024 the Eleventh Circuit Court of Appeals denied Petitioner's *In Forma Pauperis* Motion and deemed the Petition for Writ of Prohibition frivolous. On February 7th, 2024 the Eleventh Circuit Court of Appeals denied the Petitioner's request for reconsideration and his request to vacate the Order denying denying him leave to proceed *In Forma Pauperis*. On March 1st, 2024 the Eleventh Circuit Court of Appeals dismissed the Petitioner's Petition for Writ of Prohibition at 17:06:14. This Court's supervisory jurisdiction is invoked pursuant to Supreme Court Rules, Rule 10(a).

CONSTITUTIONAL AND STATUTORY

PROVISIONS INVOLVED

The Supreme Court held in *Bolling v. Sharpe* (1954) that the Due Process Clause of the Fifth Amendment nonetheless requires equal protection

under the laws of the federal government via reverse incorporation.

The Federal Magistrate's Act of 1979 is involved as it poses a threat to the efficient dispatch of trial court proceedings by opening the door to intrusion on the jurisdiction of Article III judges, while imposing a separation of powers violation into trial court proceedings. It is unconstitutional and presents a persistent due process issue in all civil actions.

18 U.S.C. § 1519 is involved as this case involves a systematic practice of falsifying documents in judicial proceedings, rendering the trial court proceedings unfair and unjust.

18 U.S.C. § 208 is involved as this case presents conflicts of interest that render a fair trial impossible.

Rule 55 of the Federal Rules of Civil Procedure is involved as this Court should make it clear that jurisdiction to enter the clerk's default rests solely with the clerk, especially as many district courts have local rules conferring this authority onto magistrate judges, despite default judgments being dispositive in nature.

The Eighth Amendment protections against excessive bail are involved as the Petitioner was held in jail under a nonexistent court case and required to post bail for a case that did not exist.

STATEMENT OF THE CASE

A. Factual Background and Proceedings Below

“Right is still right, even if you stand by yourself.”
Justice Clarence Thomas at the Ronald Reagan International Trade Center, November 12th, 2007.

Since this issue arose, Petitioner Moliere Dimanche (“Dimanche”) has stood by himself on the right side of the law while those with a duty to do the same volunteered to stand on the wrong side of the law.

What began as a property dispute between Dimanche and an estate planning attorney known for writing herself into the estate planning instruments of elderly clients spiraled into complex litigation against the backdrop of a *bonfire* of intentional conflicts of interests. The estate planning attorney is Julia Lauren Frey.

It is clear and obvious that all people are entitled to be safe and secure in their homes. It is clear and obvious that lawyers are prohibited from embezzling and plundering the estates of their clients, especially the elderly. And it is especially clear that the courts are expected to be neutral and unbiased. Despite this, Dimanche was subjected to a home invasion without a warrant, and a kidnapping by way of a made-up court case number for which no court case actually exists. To justify this and cover up the kidnapping, a judge nominated to the bench by the estate planning attorney’s law firm, judge John D.W. Beamer, signed a warrant for the arrest

of Dimanche after Dimanche had already bonded out of jail for the charges.

Multiple judges recused themselves in the state court proceedings after their undisclosed ties to this estate planning attorney were revealed, and a prosecutor, Richard I. Wallsh, was disqualified after his undisclosed personal relationship to this same estate planning attorney was revealed and made known to the state bar association.

With so many undisclosed conflicts of interest, the integrity of the judiciary all but mandated a cessation to the criminal prosecution producing these conflicts. Unfortunately, it continued because the only attorney available to pursue the prosecution was not a prosecutor at all, but fraudulently used the seal of the Ninth Judicial Circuit State Attorney to pretend that he was designated to replace the disqualified prosecutor. That attorney is Andrew W. Edwards.

The goal of the prosecution was to prevent Dimanche's pursuit of justice in the underlying district court civil rights action in case 6:22-cv-2073-CEM-DCI.

As Dimanche effectively defeated the criminal allegations against, attorney Edwards and another judge with a conflict of interest, Luis Calderon, conspired to have Dimanche kidnapped for missing a court date that did not exist. As this plan was unfolding, a petition for writ of mandamus was pending with the Florida Supreme Court concerning attorney Edwards fraudulent portrayal as a state

prosecutor, and an appeal with the Eleventh Circuit Court of Appeal was pending in case 23-11383-E regarding Dimanche's efforts to remove the prosecution to federal court in order to evade the many friends of attorney Julia Frey. Unbeknownst to Dimanche, district judge Carlos E. Mendoza and his court reporter, Suzanne Trimble, had falsified the transcripts from the evidentiary hearing due to be reviewed in the Eleventh Circuit Court of Appeals.

While the capias for the non-existent court date was outstanding, attorney Edwards called Dimanche's phone and ordered Dimanche to dismiss the mandamus and the Eleventh Circuit appeal in case 23-11383-E so that Dimanche could avoid being jailed indefinitely. In exchange, Dimanche would not be given any jail time or face any consequences at all, as long as Dimanche entered a plea of guilty so as to assist attorney Frey in entering a "new set of facts" into the §1983 action pending in case 6:22-cv-2073-CEM-DCI.

Edwards reminded Dimanche of how bad an arrest would look as Dimanche was a candidate for Mayor of the City of Orlando. Dimanche subsequently dismissed the appeals and entered a plea of guilty for two misdemeanors after the initial felony counts were dismissed.

The §1983 action had been recommended to be stayed by a magistrate judge who is a member of a congregation of people known as the *Fabulous Friends*, to which defendants in the underlying civil rights action are also members.

The essential requirements of the law rooted in Constitutional protections were all but abandoned in a way that ensured the action to balloon as Dimanche did his best to hold onto what is guaranteed to him under the Constitution.

In our system of equal protection and due process of law guaranteed under the 4th, 5th and 14th Amendments, the prohibition on intentional conflicts of interest outlined in 18 U.S.C. § 208, the prohibition on falsifying documents outlined in 18 U.S.C. § 1519, and the right to an Article III judge, the district court proceedings constitute an *extreme* departure from the essential requirements of law.

These extreme departures from the essential requirements of law were brought to the attention of the Eleventh Circuit Court of Appeals in a Petition for Writ of Prohibition in appeal number 23-13013-J.

In that Petition, Dimanche explained how the attorney who fraudulently portrayed himself as a state prosecutor and who extorted Dimanche into a guilty plea explained that it was the district judge, Carlos E. Mendoza who sought the dismissal of the appeal in case 23-11383-E, and that the magistrate judge, Daniel C. Irick sought the stay so that Dimanche's Civil Right's action would fail.

The circuit court deemed the appeal frivolous, reaffirmed this decision after rehearing, and the appeal was dismissed for failure to pay the filing fee.

This manner of disposition in the Eleventh Circuit Court of Appeals has sanctioned conduct so far departed from the accepted and usual course of

judicial proceedings as to call for an exercise of this Court's supervisory power.

In depriving Dimanche of an opportunity to completely brief the issues, Dimanche was deprived of an opportunity to demonstrate that the district judge and his court reporter falsified the transcripts in the record on appeal, and sought the extortion of Dimanche so as to cover up the fact that they had falsified the transcripts, in violation of U.S.C. § 1519.

In depriving Dimanche of an opportunity to completely brief the issues, Dimanche was deprived of an opportunity to demonstrate that repeated violations of the Federal Magistrate's Act impeded the prompt and efficient dispatch of the trial court proceedings. This is an action wherein all parties *rejected* the civil-consent jurisdiction of the magistrate judge in writing and the magistrate judge, not only entered more than 10 orders and reports and recommendations *after* the rejection was signed by all parties, the magistrate judge usurped the jurisdiction of the clerk of court and denied dispositive motions by denying both the entry of a clerk's default *and* a Motion for Default Judgment when the *Fabulous Friends* defendants failed to adhere to the time limitations imposed by law.

In depriving Dimanche of an opportunity to completely brief the issues, Dimanche was deprived of an opportunity to demonstrate that another egregious violation of the Magistrate's Act had taken place when Dimanche was retaliated against by the magistrate for filing an Objection to the magistrate's

unauthorized exercise of jurisdiction, and that the filing portal was manipulated so as to deceive viewers of the docket into believing that the magistrate's retaliatory report and recommendation preceded Dimanche's Objection, when the truth is that Dimanche filed the Objection four hours before the magistrate wrote the retaliatory report and recommendation.

In depriving Dimanche of an opportunity to completely brief the issues, Dimanche was deprived of an opportunity to demonstrate that deputy clerk Estrella Melians repeatedly "missed" documents Dimanche filed through the e-portal and refused to docket his pleadings until Dimanche reached out to the Chief Judge of the Middle District of Florida concerning the mishandling of his filings. This was at the direction of the magistrate.

In depriving Dimanche of an opportunity to completely brief the issues, Dimanche was deprived of an opportunity to demonstrate that the practice in place wherein Dimanche cannot enter the federal courthouse without a security escort is prejudicial to Dimanche and unwarranted. It also hinders his access to judicial resources, especially those relating to discovery.

In holding the Writ of Prohibition to be frivolous, the Eleventh Circuit Court of Appeals sanctioned these extreme departures from the accepted and usual course of judicial proceedings, and must be reversed. The Writ of Prohibition simply sought a change of venue so as to avoid litigating a

Civil Rights action wherein attorney Julia Frey tentatively controlled the proceedings, and wherein Dimanche was unwittingly contending the *Fabulous Friends* instead those who violated his Constitutional rights as their individual selves.

STATEMENT

Over the last few years, faith in the judicial system has been shaken over the widening divide over political differences. The issues in this Petition would further shake that faith, and presents issues that every person can agree on: corruption has no place in our courts.

There is a wide body of Opinions arising from the circuit courts wherein both pro se litigants and practicing attorneys alike have been condemned into limbo because of magistrate judges exceeding their authority and casting confusion and uncertainty into trial court proceedings. Circuit courts have often received appeals from judgments entered by magistrate's who exceeded their authority, and declined to hear those appeals because the parties never consented to the magistrate and the circuit court's had no jurisdiction to hear the appeal. Without a doubt, the litigants most likely assumed that the magistrate was acting in good faith and not as an intruder, and subsequently petitioned the circuit courts in good faith appeals as well, only to their peril.

The Federal Magistrate's Act has repeatedly rendered the circuit courts without effect, especially as the word "judge" being assigned to commissioners

can easily mislead even the best attorneys. In one extreme case at *Reynaga v. Cammisa*, 971 F.2d 414, 417 (9th Cir. 1992), the circuit court had to rescue an appellant from purgatory:

“Although there is no doubt that the magistrate was not authorized to enter the orders that stayed Reynaga’s action, his issuance of those unauthorized orders raises a somewhat difficult question concerning our jurisdiction over Reynaga’s appeal of those orders. Although neither party raises the jurisdictional issue, we have an obligation to consider it sua sponte. See Bender v. Williamsport Area School Dist., 475 U.S. 534, 541, 106 S.Ct. 1326, 1331, 89 L.Ed.2d 501 (1986).

...On the other hand, if we conclude that we lack jurisdiction over erroneous orders of the type before us, individuals in Reynaga’s situation might suffer serious injustices...Reynaga will be in a quandary.”

Contrary to the implied intent of the Magistrate’s Act, purportedly to “improve access to the courts for all”, this land mine of magistrate

presence poses the unConstitutional risk of leaving litigants in a “quandary”.

In the action giving rise to this Petition, the same dangers posed by a magistrate judge exercising jurisdiction that has not been consented to are present. The presence of the magistrate left open a window to insert impropriety into the proceedings. This impropriety came in the form of a covert manipulation of the proceedings in favor of the defendants on behalf of an organization known as the *Fabulous Friends*, headquartered at the Menello Museum of Art, which is owned by the City of Orlando, in violation of 18 U.S.C. § 208.

The City of Orlando is a defendant in the district court proceedings, and this magistrate judge obstructed the entry of default against this defendant.

28 U.S.C. §455(a) requires recusal of a judge in any proceeding in which his impartiality may be questioned. This magistrate judge attended a fundraiser with defendant John Hugh Dyer, who was the Petitioner’s political opponent in the 2023 general election for Mayor of the City of Orlando. This magistrate contributed to a fundraiser hosted by Dyer, and raised a toast to the announcement by Dyer, at the Menello Museum, concerning a 20 million dollar expansion of the museum.

The magistrate had no business being involved in the action at all, especially as counsel for two other defendants, attorney Walter Ketcham, is the director of the *Fabulous Friends* initiative. With

a personal and financial relationship with at least two defendants and one defense attorney, the magistrate judge intentionally withheld his conflicts of interest and effectively sabotaged the Petitioner's pursuit of justice. He had a duty to recuse himself and did not.

The benefit of the *Fabulous Friends* was the driving force behind this magistrate causing the case to be stayed pending the outcome of the criminal proceedings after it had already been established that attorney Julia Frey was employing her personal friends in the legal system to prosecute the Petitioner on her behalf.

Attorney Julia Frey was sued for this exact reason, and the Petitioner removed the criminal prosecution Frey pursued against him to federal court. This magistrate judge and district judge Carlos E. Mendoza were both assigned to that criminal case as well.

I. THE DISTRICT COURT PROCEEDINGS

On February 27th, 2023 the criminal action was removed to the U.S. District Court for the Middle District of Florida, Orlando Division under the style *USA v. Dimanche* in case 6:23-cr-00031-CEM-DCI before district judge Carlos E. Mendoza.

On March 30th, 2023 an evidentiary hearing was held. During this evidentiary hearing, the Petitioner provided evidence supporting his removal of the action due to the fact that prosecutor Richard I. Wallsh was prosecuting the Petitioner on behalf of his close friend Julia Frey, and due to the fact that

judges in the Ninth Judicial Circuit Court had previously falsified documents that kept the Petitioner in prison for nearly 10 years.

Specifically, the Petitioner entered into the evidence proof that in 2008, Ninth Judicial Circuit judge Alicia L. Latimore had falsified a Notice of Expiration of Speedy Trial Time by placing a piece of paper over critical arguments that favored the Petitioner's freedom. The Petitioner also provided evidence that 12 years later, Latimore falsified the same document again, this time with photo editing software to cover up the fact that she falsified the document the first time. The Petitioner then demonstrated, with evidence, that the basis for a second prison sentence that was ran consecutive to the sentence imposed by Latimore was based on false testimony that the Petitioner violated his probation from a 2006 case by being convicted of four crimes that he was never convicted of.

After demonstrating the pattern of unfair proceedings in the Ninth Judicial Circuit, the Petitioner demonstrated that prosecutor Richard Wallsh, not only had an undisclosed personal relationship with Julia Frey, but that he had lied to the governor of Florida in order to prevent a similarly situated defendant from being prosecuted. The Petitioner clearly demonstrated that when prosecutor Richard Wallsh ensured that his friend Roni Elias, who had the same Grand Theft charge as the Petitioner, from being prosecuted, a Black defendant and a White defendant were similarly

situated and Wallsh only prosecuted the Black defendant.

It was here that the district judge ordered that Wallsh would have to testify about these concerns. However, the district court judge did not allow the Petitioner to procure that testimony, and in order to cover up the fact that he had ordered Wallsh's testimony, the district court judge directed court reporter Suzanne Trimble to falsify the transcription of the proceedings to reflect the exact opposite of what was actually stated. In reality, prosecutor Brian Stokes downplayed the relationship between Frey and Wallsh but informed judge Mendoza that Wallsh was present and was willing to testify. Judge Mendoza then stated "He *will* testify," to which Stokes responded, that Wallsh was prepared to do so.

However, the transcripts changed judge Mendoza's words to "He *doesn't have to* testify" and completely removed the response from attorney Stokes.

The case was remanded to the state court, and as soon as it was remanded, Wallsh was disqualified, judge Mark Blechman *sua sponte* recused himself due to the appearance of impropriety after waiting 186 days to do so, judge Tarlika Navarro recused herself before resigning from the judiciary altogether, and the attorney Andrew Edwards took over the case, despite not being a real prosecutor authorized to prosecute on behalf of Monique Worrell and the State of Florida.

The resignation of Tarlika Navarro came in light of a complaint against Navarro for destroying evidence in order to assist Frey, and putting a sign on her door in order to misdirect the Petitioner and cause him to miss a scheduled court hearing in order for a capias to be issued for him.

From the Petitioner's position, all of these issues incurred liability for anyone who was bending the rules to assist attorney Julia Frey for the purpose of helping her prevail in the Civil Rights action that had been stayed in the district court.

Upon attorney Edwards taking over the prosecution, he met with the Petitioner at a Starbucks behind the Orange County Courthouse and informed the Petitioner of some startling facts.

Edwards informed the Petitioner that the federal judges were of the opinion that the Petitioner would fail at prevailing in the criminal case and would therefore fail in his Civil Rights action. He stated that this was the basis for remanding the case back to the state court where attorney Julia Frey controlled the events. He also confirmed that he knew that Frey was running a criminal enterprise in the probate court, but stated that karma would catch up to her as opposed to prosecuting her.

Edwards then opted to amend the charging document to include two misdemeanors because Edwards attended the deposition of an officer who initiated the investigation stemming from the property dispute, Orlando police officer Rabi Tabbara, and testimony came out that exonerated

the Petitioner. Knowing that he could not secure a conviction for grand theft or fraud, Edwards amended the charging document to include the misdemeanors.

During this time, the Petitioner was investigating attorney Edwards to inquire his relationship to attorney Julia Frey. He contacted the Florida Secretary of State and the Secretary's office confirmed that attorney Edwards was not authorized to prosecute criminal cases in Orange County. In fact, he had not been authorized to prosecute cases at all since 2018, and only in Miami-Dade County under the direction of Katherine Fernandez-Rundle. However, he had been illegally prosecuting cases in Orange County for nearly 3 years.

At this time, the appeal in the Eleventh Circuit Court of Appeals was pending under case 23-11383-E. As soon as the Petitioner learned that attorney Edwards was a fraudulent prosecutor, he filed a Petition for Writ of Mandamus in the Florida Supreme Court under case SC2023-1026. On August 7th, 2023, the Florida Supreme Court transferred that case to the Sixth District Court of Appeal in Lakeland, Florida.

II. CIRCUIT COURT PROCEEDINGS

After the resignation of Tarlika Navarro, the appeal in case 23-11383-E was voluntarily dismissed by the Petitioner. It was dismissed because a capias was issued for the Petitioner's arrest by judge Luis Calderon on August 9th, 2023 for an alleged failure

to appear that same day for a court date that did not exist.

After the capias was issued, the Petitioner was contacted by attorney Edwards and directed to “voluntarily” dismiss that appeal and the Petition for Writ of Mandamus that was transferred to the Sixth District Court of Appeals, if the Petitioner wanted the warrant to go away. Attorney Edwards also warned the Petitioner in a voicemail that there were no “foreseeable” court dates. The Petitioner would have been jailed indefinitely.

Edwards initially only wanted the appeal about himself pending in the Sixth DCA dismissed. After it was dismissed, he contacted the Petitioner again and informed him that the district judge also wanted the appeal in the Eleventh Circuit dismissed as well.

After the successful extortion and the conclusion of the state court proceedings, the Petitioner moved to lift the stay on the Civil Rights action, and attached correspondence from the Florida Secretary of State confirming that attorney Edwards was not authorized to prosecute criminal cases on behalf of Monique Worrell in Orange County, Florida.

On September 15th, 2023 the Petitioner filed the Petition for Writ of Prohibition seeking a change of venue in the Civil Rights action, due to Frey’s friends in the local legal community manipulating every aspect of the litigation between the Petitioner and herself. That Petition explained in detail how

attorney Edwards was used to extort the Petitioner into dismissing his appeals and entering a guilty plea in order to assist Julia Frey in prevailing in the Civil Rights action.

That Petition also explained in detail how Edwards informed the Petitioner that he received directions from the federal judges while he extorted the Petitioner.

On January 9th, 2024 the Eleventh Circuit Court of Appeals declared the Petition for Writ of Prohibition Frivolous, and declined to permit the Petitioner leave to proceed without payment of the filing fee.

The Petitioner moved for a rehearing. On February 7th, 2024 the Eleventh Circuit denied the Petitioner's Motion for Rehearing.

On March 1st, the Eleventh Circuit dismissed the Petition for failure to pay the filing fee, which the Petitioner could not afford to pay at that time.

REASONS FOR GRANTING THE PETITION

No person should ever have to fight so hard just to have the ability to sue government officials who violate their Constitutional rights. Attorney Julia Frey has demonstrated that she is above the law, in the event that the Petition is not granted. Her relationships within the judiciary create an equal protection issue for this Court to resolve.

**I. THE ISSUES PRESENTED IN THIS
PETITION ARE OF EXCEPTIONAL
IMPORTANCE AND URGENTLY REQUIRE
THIS COURT'S PROMPT RESOLUTION**

Plain corruption is what discourages many Americans from pursuing the wrongs against them, as demonstrated by the multitude of lawsuits that have finally been filed after years of silence, such as the wrongs against the individuals who were intimidated by Sean "P. Diddy" Combs, or the young women harmed by Robert "R. Kelly" Kelly. The rich and powerful who have powerful friends and connections who can easily intimidate the poor and defenseless are the barrier that keep victims of Constitutional injuries silent. Granting this Petition would demonstrate that even if a wealthy person has a lot of powerful connections, they are not above the law. The wanton falsification of documents in court proceedings present an urgent issue of public concern and requires a prompt resolution by this Court.

**II. THE MAGISTRATE'S ACT IS
UNCONSTITUTIONAL AND VIOLATE'S
ARTICLE III OF THE CONSTITUTION**

This Petition should be granted in order for this Court to strike down the Federal Magistrate's Act of 1979 as unConstitutional, or give some clarity on the relationship between civil-consent jurisdiction and a referral to a magistrate.

This Court rarely receives the Petition that raises serious issues of public concern regarding the

Constitutionality of the magistrate. Article III of the Constitution states that:

“The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may, from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.”

If Congress ordained a Court, then that Court should be equipped with judges who:

“hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.”

There is no language anywhere in the Constitution that makes the district court a home for anyone without life tenure. The plain language reading of the Constitution could only interpret the Magistrates Act as a severe violation of the separation of powers and an infringement on Article III and every American’s right to access the courts.

Further, Article II, Section 2, Clause 2 of the United States Constitution states:

“[The President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.”

Clearly, if an appointment is not identified in the Constitution, *only* the president can appoint such an inferior officer. While Congress may from time to time “ordain” Courts, and Congress may vest the Appointment of “inferior officers”, a “Judge” is not an inferior officer, and Article III specifically uses the word “Judges” as does Article II.

Even if a magistrate is determined to be an inferior officer appointed by the Courts of Law, the “judicial Power of the United States” identified in Article III still does not attach. This Court must

therefore determine if a report and recommendation is an exercise of the “judicial Power of the United States”. It is in fact an exercise of such Power because of its potential to be adopted verbatim. It has the same effect of “*the Advice and Consent of the Senate*” and is certainly an unConstitutional exercise of judicial Power by the legislative branch. The Magistrate’s Act should be struck down.

III. THE PUBLIC SHOULD BE AFFORDED REMEDIES FOR VOID JUDGMENTS THAT ARE SWIFT SO AS TO AVOID MANIFEST INJUSTICES

Void judgments are widely respected and obeyed, causing unresolved injustices within our system of Law that last for years. In fact, in *Reynaga* this was one of the extraordinary circumstances that prompted the Circuit Court to construe his appeal of the magistrate’s order into a mandamus:

“The Magistrate entered an order that stayed Reynaga’s action: although that order was legally invalid, there is no indication whatsoever that it was not obeyed by the Clerk.” Reynaga v. Cammisa, 971 F.2d 414, 418 (9th Cir. 1992)”

In this case, this Court should set a new precedent for an expeditious remedy against void judgments. Should this Court elect to reach into the district court proceedings as they are, in both the civil and

criminal proceedings, this Court will see that the Petitioner spent a lot of time in prison under void judgments and sentences as Jude Alicia Latimore, in addition to repeatedly intrinsically falsifying documents, sent the Petitioner to prison for Grand Theft Third Degree, when he was only on trial for Grand Theft Second Degree with **no lesser included offenses**. The judgment and sentence in that case then served as the basis for sentencing the Petitioner to another consecutive 5-year sentence for 4 crimes he was never convicted of.

The Petitioner completed the sentences without an effective and expeditious mechanism to prevent enforcement of those orders. In this case, a magistrate judge issued orders that are “legally invalid” just like in *Reynaga*, and after his civil-consent jurisdiction was rejected by all parties.

In this case, after the successful extortion, judge Luis Calderon entered a judgment and sentence based on a charging instrument sworn to and amended by an attorney who was not authorized to prosecute criminal cases in Orange County. Obviously, jurisdiction cannot be instantiated where there is none, but again, all of these judgments were obeyed. The compound presence of void and legally invalid decrees creates an issue of public concern as to the integrity of the judiciary.

**IV. THE QUESTION OF “FAVORABLE
TERMINATION” HELD IN *THOMPSON v.
CLARK*, 142 S. Ct. 1332 (2022) IS AT ISSUE**

In this case, the district court Civil Rights action was stayed pending termination of the state court criminal case. The Petitioner did not receive any punishment, but was extorted into pleading guilty. If there was no punishment, and the conviction is void because the prosecutor was not authorized to handle criminal cases under Florida law, does this constitute a “*favorable termination of the underlying criminal case against*” the Petitioner?

The answer is yes. If the conviction is a nullity, it never happened. And as discussed in the next section, the Petitioner bonded out of jail before the warrant was issued for his arrest, so in reality, the Petitioner was never even properly summoned and the warrant was never executed by the sheriff, nor returned by the sheriff.

A due process issue arises if this Court were to consider a question of state law. In Florida, an assistant state attorney’s powers are conferred as follows:

*“27.181 Assistant state attorneys;
appointment; powers and duties;
compensation.—*

*(1) Each assistant state attorney
appointed by a state attorney shall serve
during the pleasure of the state attorney*

appointing him or her. Each such appointment shall be in writing and shall be recorded in the office of the clerk of the circuit court of the county in which the appointing state attorney resides. No such appointee shall perform any of the duties of assistant state attorney until he or she shall have taken and subscribed to a written oath that he or she will faithfully perform the duties of assistant state attorney and shall have caused the oath to be recorded in the office of the clerk of the circuit court of the county in which the appointing state attorney resides. Upon the recordation of such appointment and oath, the appointing state attorney shall promptly cause certified copies thereof to be transmitted to the Secretary of State. When any such appointment shall be revoked, the revocation thereof shall be made in writing and shall be recorded in the office of the clerk of the circuit court of the county in which the appointment is recorded, and the state attorney executing the revocation shall forthwith cause a certified copy thereof to be transmitted to the Secretary of State. If any such appointee dies or resigns, the appointing state attorney shall promptly give written notice of such death or resignation to the Secretary of State."

This is a case where an appointment and oath of attorney Andrew Edwards was not of record in the county records, the Orange County Courthouse, nor with the Florida Secretary of State, which is why the Secretary of State confirmed in writing that no such appointment of Andrew Edwards by Monique Worrell existed.

V. THE EIGHTH AMENDMENT PROTECTIONS AGAINST EXCESSIVE BAIL IS AT ISSUE

In this case, the Petitioner was arrested before the probable cause hearing, before the warrant was signed, and before the warrant was issued. This is because of the property dispute between the Petitioner and Julia Frey.

The judge, John Beamer, provided Frey with advanced notice of the warrant. She then broke into the residence in dispute and changed the locks. When the Petitioner arrived and learned of the break-in, he called the police and was abducted by Orlando police officer Nicolas Montes, who also had advanced notice of a potential warrant.

This also raises a due process concern as Florida law does not authorize the execution of warrants by municipal officer. Only the sheriff can execute arrest warrants.

Additionally, only the sheriff can execute a writ of possession in property disputes after a favorable ruling in an unlawful detainer action. An

unlawful detainer action was pending in case 2022-CC-019654. Frey dismissed that action after she successfully broke into the house and changed the locks. However, there was no warrant at this time. The abduction was to prevent the Petitioner from entering the residence.

Montes then created a nonexistent court case number, picked the bond amount, transported the Petitioner to the Orange County jail, and in his affidavit falsely attested to arresting the Petitioner pursuant to a "signed warrant". As a result of the fraudulent court case number, the Petitioner's bonds were insured for a case that did not exist.

With no active case, was the Petitioner subject to excessive bond in violation of the Eighth Amendment?

The answer is yes. There was no reason for the Petitioner to be confined at all if a judge had not yet made a probable cause determination. And with no actual case pending, the Petitioner should not have been required to post a bond at all.

CONCLUSION

The petition for writ of certiorari should be granted and the decision of the Eleventh Circuit Court of Appeals summarily reversed. The district court action should be transferred to a different jurisdiction.

Respectfully submitted,

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APPENDIX

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