

ORIGINAL

No. 25-192

In the
Supreme Court of the United States

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

ARTHUR EDWARD EZOR,

Petitioner,

v.

STATE BAR OF CALIFORNIA,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of California

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Should the Supreme Court of California have granted the Petition of Review ?
2. Should the California Disbarment Order against Ezor be reversed?

LIST OF PARTIES

Petitioner

- Arthur Edward Ezor

Respondent

- State Bar of California

Other Parties Served

- State Bar Court of California
- Supreme Court of California
- Review Department of State Bar Court of California

Note: The State Bar of California is the respondent and adversarial party in this matter. Out of an abundance of caution, Petitioner is also serving other parties who may have a direct or indirect interest in the outcome of the petition

LIST OF PROCEEDINGS

Supreme Court of California
No. S289361
In the Matter of Arthur Edward Ezor,
A Member of the State Bar
Order Denying Review: April 2, 2025

State Bar Court of California
No. 12-O-10043
In the Matter of A. Edward Ezor,
A Member of the State Bar, No. 50469
Order Denying Review: January 17, 2025
Disbarment Order: May 19, 2015

Supreme Court of California
No. S227682
In the Matter of Arthur Edward Ezor,
A Member of the State Bar
Order Denying Review: September 23, 2015

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OPINIONS BELOW

Ezor pursued remedies before the Hearing Department of the State Bar Court of California, the Review Department of said Court, and the Supreme Court of California.

The Order filed April 2, 2025 of the Supreme Court of California En Banc, Case No. S289361; In the Matter of Arthur Edward Ezor, A Member of the State Bar, denying Petition for Review in said Court is included at App.1a.

The En Banc Order filed January 17, 2025 denying Respondent A. Edward Ezor's Petition for Review in the Review Department, State Bar Court of California (Case No. 12-O-10043) is included at App.2a.

The Order filed December 18, 2024, by the Honorable Dennis G. Saab, Hearing Department Judge of the State Bar Court of California, Case No. 12-O-10043 (S227682) is included at App.4a.



JURISDICTION

The U.S. Supreme Court can hear this appeal, because it emanates from the highest state court of California and presents many important federal constitutional issues. Said Court's appellate jurisdiction allows it to review decisions by state courts provided that a question of federal law or the United States Constitution is involved. *See Article III, Section 2, Clause 2, Const.*

Ezor filed his Petition for Review to the Supreme Court of California on February 19, 2025 (App.29a). The State Bar of California indicated that it would not file an Answer to same unless otherwise instructed. This Petition was denied on April 2, 2025 by En Banc Order of the Supreme Court of California. (App.1a).

Mr. Ezor invokes the U.S. Supreme Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this Petition for Writ of Certiorari within 90 days of the California Supreme Court's Order.



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment I (First Amendment):

Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

United States Constitution, Amendment XIV (Fourteenth Amendment):

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State 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.



INTRODUCTION

1. The Supreme Court of California should not have denied the Petition for Review, and the California Disbarment Order against Ezor should be reversed.
2. The Supreme Court of California, as the Court of original jurisdiction in attorney disciplinary matters in that state, had inherent and statutory authority to order the relief requested and violated constitutional norms in not properly ruling in favor of Ezor.
3. The Supreme Court of California denied Ezor proper and meaningful constitutional review.
4. Denying Ezor review, and a full-fledged hearing on the merits, with oral argument and a reasoned written decision, was a denial of Due Process and Equal Protection of Laws under both the California and U.S. Constitutions.
5. Denial of review violated Ezor's First Amendment right of access to the courts.
6. Ezor was denied a fair and impartial process in his underlying State Bar case, making his California Disbarment Order *void ab initio*.
7. Procedural and substantive due process was violated when the State Bar of California, by and through its Chief Trial Counsel's office, acted improperly and unethically in allowing the misconduct of its

disciplinary counsel, Eli Morgenstern, in Ezor's state bar case.

8. Eli Morgenstern, Esq. acted unethically, unconstitutionally, unprofessionally, with unclean hands and extrinsic fraud, making Ezor's Disbarment Order unsupportable in law and fact and warranting reversal thereof.

9. Disqualification of two California State Bar Judges involved in the adjudicatory process as to Ezor, Richard Platel and Donald F. Miles, was warranted. The failure to disqualify offended Due Process and Equal Protection of Laws under the 14th Amendment to the U.S. Constitution and other constitutional protections.

10. The aforesaid State Bar Judges acted unethically and against applicable judicial canons, warranting reversal of Ezor's California Disbarment Order.



STATEMENT OF THE CASE

During his State Bar case, Ezor, a long-time attorney with no prior disciplinary history, moved for a trial continuance due to a medical issue. This continuance was granted by then State Bar Judge Richard Platel.

After the subject hearing was over, and the recording machine off, Eli Morgenstern, the State Bar attorney, said to Judge Platel: "B . . . t". Judge Platel responded: "Yeah, I think it's b . . . , too, but I'm not a doctor." Said counsel and Judge were not aware that Ezor and his attorney overheard this improper, illegal

ex parte exchange on Ezor's phone audio in his Pasadena, California office.

At a subsequent disqualification hearing of Judge Platel, his judicial colleague, State Bar Judge Donald F. Miles, falsely claimed in ruling on the disqualification motion that no improper *ex parte* exchange took place between Judge Platel and Mr. Morgenstern. This was a blatant, impermissible "cover up" egregiously harming Ezor.

Despite showing in the record below the above-recited history and evidence, with authority, neither the Hearing Department of the State Bar Court, the Review Department thereof, and the Supreme Court of California have remedied the situation and reversed and set aside Ezor's illegal Disbarment Order. Hence, Ezor has no choice but to petition the Supreme Court of the United States for a Writ of Certiorari.



REASONS FOR GRANTING THE PETITION

I. DUE PROCESS WAS VIOLATED AS TO EZOR

Federal constitutional violations occurred by Ezor not obtaining a fair, impartial process in his state bar case and before the Supreme Court of California.

The Due Process Clause of the 14th Amendment required such a fair, impartial process. *See* recent seminal case, *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009).

II. Ex Parte Communications Are Not Allowed

ABA Rule 2.9(A) states in part: "A judge shall not initiate, permit or consider *ex parte* communications. . . ."

See also California State Bar Ethics Opinion 1984-78: "It is not ethical for an attorney to communicate *ex parte* with a trial judge on the merits of a contested matter decided by the judge. . . ." Furthermore, "Attorneys engaged in such conduct violate their duty to protect the impartiality of the decision-making process and the duty of fairness owed to opposing counsel." Refer also to Rule 7-108(B) of Rules of Professional Conduct of State Bar of California.

III. Due Process and Equal Protection Required A Reasoned Decision As to Ezor by the Supreme Court of California On the Merits and Oral Argument Thereto

In California, as in other states and federally, due process is a fundamental constitutional right guaranteeing fair proceedings before the government and courts. One cannot be deprived of life, liberty or property without due process under the 14th Amendment. Moreover, equal protection requires that an attorney is treated fairly and disparately in disciplinary cases. Certainly, having biased and tainted proceedings in the State Bar Court deprived Ezor of due process and equal protection of laws. Such actions are and were discriminatory. *See Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

IV. The Failure to Disqualify Was a Federal Constitutional Violation

State Bar Judges Platel and Miles should have disqualified themselves or been disqualified for bias or the appearance of same. California Code of Civil Procedure Sections 170.1 and 170.6. *See also Solberg v. Superior Court*, 19 Cal.3d 182 (1977).

The U.S. Supreme Court recognizes that due process requires that a trier of fact not have a bias or appearance of bias. Otherwise, any ruling under those circumstances is void. Moreover, that scenario taints the fairness of the adjudicatory process and function. *Gibson v. Berryhill*, 411 U.S. 564 (1973).

V. Ezor's First Amendment Right of Access to the Courts Was Violated by the Denial of the Petition for Review

By not providing meaningful review, oral argument and decision on the merits, and not requiring the State Bar of California to respond to the Petition for Review, Ezor was, in practical terms, deprived of his First Amendment right of access to the courts. *See Richmond Newspapers, Inc. v. Virginia*, 100 S. Ct. 2814 (1980).

VI. The Showing of Extrinsic Fraud or "Fraud Upon the Court" Mandates that Ezor's Disbarment Order Be Reversed and Set Aside

Ezor's state bar proceedings were corrupted by extrinsic fraud or "fraud upon the court." California case law recognizes that extrinsic fraud is not to be permitted in this state. *See, thereto, Westphal v. Westphal*, 20 Cal.2d 393, 397, 126 P.2d 105 (1942).

Federal courts do not tolerate extrinsic fraud or "fraud upon the court." *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. 238 (1944).

VII. The U.S. Supreme Court Should Send a Clear Message to California's Highest State Court That The Latter Needs to Provide Ezor and Other Attorneys Similarly Situated With Meaningful and Not Illusory Review in Disciplinary Cases Before It

In every state, other than California, the highest state courts always provide oral argument, full briefing and a reasoned decision/opinion on the merits in attorney disciplinary cases related to a threat of disbarment if the attorney in question wants same.

It used to be in California that any attorney could challenge in the Supreme Court of California any discipline to his/her record and standing as an attorney licensed in that state. That attorney could duly get oral argument and a reasoned, written decision on the merits. This is because the Supreme Court of California is the only court of original jurisdiction as to attorney admissions and discipline. *E.g., Belli v. State Bar* (1974) 10 Cal.3d 824.

Then the Supreme Court of California abnegated that constitutional responsibility-possibly to lower its caseload, among other factors—with the shocking and unfair majority opinion in *In re Rose*, 22 Cal.4th 430 (2000). The majority held that the Court did not have to hold oral argument or provide reasoned, written decisions anymore in most California attorney disciplinary cases. This has led, nearly always for over two decades, to unfortunate cursory, one-line Orders that the "Petition for Review is denied." Justices Kennard

and Brown issued strong dissents, to no avail. Justice Brown, later on the federal appellate court in the District of Columbia, predicted, rightly, that *In re Rose* would be “antithetical to the constitutional design.”

In re Rose is simply bad case law and should be overruled by the U.S. Supreme Court as to Ezor and others similarly situated. The ruling offends the Rule of Law, especially due process.



CONCLUSION

For the reasons set forth herein, in the interests of justice and equity, and based on the record, Ezor's Petition for Writ of Certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Arthur Edward Ezor".

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