

No.

25-5310

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

FEIFEI GU

Petitioner

vs.

FILED

AUG 06 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

POLICE OFFICER MICHAEL SHER, POLICE OFFICER STEVEN VITELLI,

GOVERNOR KATHY HOCHUL, STATE OF NY,

HANG CHEN, EMILY HUI CHEN-LIANG, SUSANA CHONG CHEN,

Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Petition For A Writ Of Certiorari

Feifei Gu

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Petitioner

QUESTION PRESENTED

In *Pennzoil Co. v. Texaco Inc.*, 481 US 1 - Supreme Court 1987, this Court held that, Abstention in a civil setting is proper if "the State's interests in the proceeding are so *important* that exercise of the federal judicial power would disregard the comity between the States and the National Government.",
(emphasis added)

The Question Presented to This Court Today Is:

In a 42 U.S.C. § 1983 setting, when a federal court is asked to stay the enforcement of a State Court's Order in a civil case initiated by private parties, whether a stringent test should be applied to decide whether the State's interests are negligible or important?

In satisfying such a standard, Do the State's interests need to be legitimate in the first hand to warrant abstention or Do the State's interests override a person's constitutional rights?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED PROCEEDINGS

Feifei Gu v. Michael Sher, Steven Vitelli, Kathy Hochul, State of NY,
Hang Chen, Emily Hui Chen-Liang, Susana Chong Chen,
United States District Court for the Eastern District of NY, 24-CV-6157,
United States Court of Appeals for the Second Circuit, 24-2799

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Other Authorities

Fred O. Smith, Jr.,

Stanford Law School

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OPINIONS BELOW

See Appendix

JURISDICTION

The Second Circuit entered its Order on 4/2/25. Pursuant to this Court's 6/23/25 Order, the time to file this petition was extended to 8/30/25. (Application No. 24A1262).

This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

I. ARREST

On 01/01/24 evening, Respondents Susana Chong Chen, Emily Hui Chen-Liang, and Hang Chen called 911, claiming that Petitioner damaged Hang Chen's security camera which was placed right over Petitioner's door,

Police Officer Daniel Siani and Joseph Robinson responded on 01/02/24 midnight and filed reports,

On 01/12/24, Petitioner found a card of Detective Muir in the mailbox, Petitioner then called him. Oliver Muir stated that Hang Chen reported that Petitioner damaged the security camera, so he hereby requested that Petitioner either turn herself in on 01/15/24 or he would come to arrest Petitioner,

Petitioner then told Oliver Muir that she did not damage the camera and that she had proof. Oliver Muir refused to look at the evidence then hung up the phone,

Immediately, Petitioner called 911 reporting Hang Chen's fake 911 report and Oliver Muir's unreasonable threat of arrest,

Police Officer Steven Vitelli and Michael Sher¹ arrived at Petitioner's premises, after reviewing Petitioner's evidence of innocence, Michael Sher stated: "because I wasn't there, we are just going he said, she said, ..., you are going to come with us to the precinct for further verification, so we are going to the bottom of it." Steven Vitelli and Michael Sher then arrested Petitioner at her residence, without a warrant, then detained Petitioner for 25 hours.

¹ Michael Sher hit national headlines for pepper spraying an innocent but escaped discipline:
<https://amsterdamnews.com/news/2022/08/29/cop-who-bragged-about-ripping-down-mask-to-pepper-spray-protester-escapes-discipline-for-use-of-force/>

II. FAKE CRIMINAL PROSECUTION OF CR-001793-24/KN

On 1/13/24, Petitioner was arraigned at New York City Kings County Criminal Court, charged with PL 145.00 (1), a Class A misdemeanor, only for damaging a security camera,

As the case continued, it was revealed that Kings County DA Eric Gonzalez, ADA Joseb Gim, ADA Cassidy Marriott, ADA Denise Montano, ADA Vincent James Didonato III, and ADA Lawrence Lusher were prosecuting a fake case:

In Body Worn camera footage and NYPD Complaint Report, the occurrence date and time was: 10PM on 12/31/23, however,

In NYPD Omniform Complaint,

the time was changed to 2:20AM, damaging 1 camera, total value \$251,

In Criminal Court Complaint by Respondent Steven M. Vitelli,

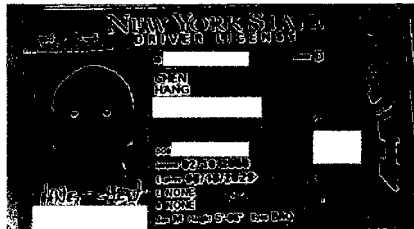
the time was 2:20AM, damaging 2 cameras, total value \$250,

In Superseding Information,

the time was 2:20AM, damaged 1 camera, total value \$450,

ALL THESE INFORMATION CONTRADICTED EACH OTHER.

Besides, evidence provided by DA showed that the camera worked well after the alleged date and time, and Respondent Hang Chen was not the owner of the building. The criminal case is still pending in State Court.



(HANG CHEN)

III. Contempt of Court in State Court Civil Case 505280/2024

On 2/22/24, Respondents Hang Chen, Emily Hui Chen-Liang, and Susauna Chong Chen initiated 505280/2024 in NY State Kings County Supreme Court, mirroring the criminal case, they again claimed that Petitioner damaged the security camera and posted Google Reviews claiming they made fake 911 reports,

On 5/28/24, judge Joy F. Campanelli issued an Injunction:

“ORDERED that Defendants are enjoined from publicly posting any remarks, or reviews about the plaintiffs, their employer Re/Max, Susana Chan Chong and Plaintiff’s attorney Mark Salem, Esq. and Mark Salem Law, P.C. and it is further

ORDERED that Defendants must remove any remarks or reviews about the Plaintiffs, their employer Re/Max and Plaintiffs’ attorney, Mark Salem, Esq. and Mark Salem Law, P.C.; and it is further

ORDERED that Defendants are enjoined from contacting Re/Max for the purposes of discussing or reporting Plaintiffs’ actions or inactions,”

On 8/21/24, Respondents Hang Chen, Emily Hui Chen-Liang, Susana Chong Chen moved the Court for Contempt, claiming Petitioner violated the 5/28/24 Order,

On 4/16/25, judge Joy F. Campanelli sua sponte issued an Order, enjoining Petitioner from instituting any further actions and proceedings in any court in the Unified Court System in the State of New York, any violation of this Order will be “adjudicated and punished for Criminal Contempt. If so adjudicated, the court will consider the maximum penalty provided by law.”

On 7/31/25, judge Joy F. Campanelli adjudicated Petitioner in Contempt of Court.

IV. Procedural History in District Court and Second Circuit

Petitioner filed the Complaint on 9/4/24, EDNY judge Eric Ross Komitee² sua sponte dismissed the Complaint on 9/20/24, refused to enjoin the enforcement of State Court's Orders in 505280/2024, reasoning:

"the orders were uniquely in furtherance of the state courts' ability to perform their judicial functions and implicated the state's interest in enforcing the orders and judgments of its courts.",

In the Second Circuit, on 11/20/24, Petitioner filed an Emergency Motion. HALF A MONTH later, on 12/6/24, a single judge denied the motion without a reason. On 4/2/25, 5 MONTHS after the filing, the appeal was sua sponte dismissed without a reason and emergency motion was denied as moot by a three judge panel. No Brief was ever filed, and None of the Respondents ever filed a response.

² EDNY Eric Ross Komitee, a wealthy judge, drew scrutiny in a case he was presiding over for failure to disclose that he had tens of millions of dollars invested in hedge funds in four companies alleged to have been victims in that case:

<https://www.reuters.com/legal/government/convicted-ozy-media-founder-argues-us-judge-conflicted-due-hedge-fund-2024-10-28/>

<https://fingfx.thomsonreuters.com/gfx/legaldocs/lgvdjlewmvo/10282024ozymedia.pdf>

REASONS FOR GRANTING THE PETITION

There has always existed a potential conflict of rulings in this Court in deciding when State's interests are negligible and when State's interests are important when a federal court is asked to intervene. Absent a stringent test, the Circuits have nothing to follow and are split in their rulings on similar issues. This issue is especially important in a 42 U.S.C. § 1983 setting and recurs with stunning frequency.

1. This Court Never Addressed What Test Should be Applied to Decide Whether State's Interests Are Negligible or Important if a Federal Court Intervenes in the Enforcement of a State Court's Order in a Civil Case Initiated by Private Parties

In Pennzoil Co. v. Texaco Inc., 481 US 1 - Supreme Court 1987, Justice

Brennan with whom Justice Marshall joins, concurring in the judgment:

"The State's interest in this case is negligible. The State of Texas — not a party in this appeal — expressly represented to the Court of Appeals that it 'has no interest in the outcome of the state-court adjudication underlying this cause,' except in its fair adjudication. 784 F. 2d 1133, 1150 (CA2 1986); Brief for Intervenor-Appellant in Nos. 86-7046, 86-7052, p. 2. The Court identifies the State's interest as enforcing 'the authority of the judicial system, so that its orders and judgments are not rendered nugatory.' Ante, at 13 (quoting *Juidice v. Vail*, supra, at 336, n. 12). Yet, the District Court found that 'Pennzoil has publicly admitted that Texaco's assets are sufficient to satisfy the Judgment even without liens or a bond.' App. to Juris. Statement A116 (supplemental findings of fact by District Court). Thus Pennzoil's interest in protecting the full amount of its judgment during the appellate process is reasonably secured by the substantial excess of Texaco's net worth over the amount of Pennzoil's judgment. 784 F. 2d, at 1155.

Indeed, the interest in enforcing the bond and lien requirement is privately held by Pennzoil, not by the State of Texas."

Justice Brennan dissented as "The State's interest are negligible", while the majority held that the State's interests are important in this case.

While among precedents of this Court, it has been widely adjudicated that States have important interests in enforcing its judicial power, see *Trainor v. Hernandez*, supra, at 441, *Middlesex County Ethics Comm. v. Garden State Bar Assn.*, 457 U. S. 423, 432 (1982), leading to application of blanket abstention in lower federal courts,

Especially, in *Juidice v. Vail*, 430 U. S. 327 (1977), this Court held that a federal court should have abstained from adjudicating a challenge to a State's contempt process:

"A State's interest in the contempt process, through which it vindicates the regular operation of its judicial system, so long as that system itself affords the opportunity to pursue federal claims within it, is surely an important interest. **Perhaps it is not quite as important as is the State's interest in the enforcement of its criminal laws, *Younger*, supra, or even its interest in the maintenance of a quasi-criminal proceeding such as was involved in *Huffman*, supra. But we think it is of sufficiently great import to require application of the principles of those cases.**" *Id.*, at 335.

This Court also illustrated in *Pennzoil Co. v. Texaco Inc.*, 481 US 1 - Supreme Court 1987 that:

"Contempt in these cases, serves, of course, to vindicate and preserve the private interests of competing litigants, . . . but its purpose is by no means spent upon purely private concerns. It stands in aid of the authority of the judicial system, so that its orders and judgments are not rendered nugatory." *Id.*, at 336, n.12 (citations omitted).

The reasoning of *Juidice* controls here. That case rests on the importance to the States of enforcing the orders and judgments of their courts. **There is**

little difference between the State's interest in forcing persons to transfer property in response to a court's judgment and in forcing persons to respond to the court's process on pain of contempt. Both *Juidice* and this case involve challenges to the processes by which the State compels compliance with the judgments of its courts. Not only would federal injunctions in such cases interfere with the execution of state judgments, but they would do so on grounds that challenge the very process by which those judgments were obtained. [So] long as those challenges relate to pending state proceedings, proper respect for the ability of state courts to resolve federal questions presented in state-court litigation mandates that the federal court stay its hand."

As no stringent test was formulated to decide in what circumstances the State's interests are important or negligible, there has always existed a potential conflict of rulings within this Court. A split among Circuits on rulings in similar issues have already emerged.

2. Absent A Stringent Standard, The Circuits Are Split On Whether the State's Interests Need to be Legitimate in the First Hand to Warrant Abstention or the State's Interests Override A Person's Constitutional Rights

In *Anthony v. Council*, 316 F. 3d 412 - Court of Appeals, 3rd Circuit 2003, the Court abstained a contempt hearing, even when Plaintiff raised state court's due process violation,

In *Szymonik v. Connecticut* (2d Cir. 2020), the Court refused to intervene even though Plaintiff raised claims of violation of due process rights in State Court and conspiracy among State officials.

In these circumstances, the rulings in Third Circuit and Second Circuit are telling that State's interests override a person's constitutional rights,

Other Circuits Applied A Different Standard

In *Henkel v. Bradshaw*, the Ninth Circuit held that abstention under *Younger* was appropriate when a child support contempt proceeding [was] still pending and [would] *not* be set for a hearing on the merits [until] the resolution of [the federal] action. 483 F.2d at 1388 n. 5., (emphasis added)

In *Lewellen v. Raff*, 843 F.2d 1103, 1109 (8th Cir. 1988), the Court held that: when proceedings are initiated to discourage or retaliate for a plaintiff's exercise of constitutional rights, irrespective of whether a valid conviction could be obtained, as this would not constitute a *legitimate* state interest (emphasis added),

In *Cobb v. Green*, 574 F. Supp. 256 - Dist. Court, WD Michigan 1983, The Court ruled that abstention is not appropriate where the issue raised by plaintiff has already been decided by the Michigan Supreme Court that no general due process right to counsel exists in civil non-support contempt proceedings. No reason has been presented to believe that the decision would be different if reconsidered today.

The Rulings in Ninth, Eighth, and Sixth Circuit are telling that State's interests are not legitimate when a person's constitutional rights are violated.

3. This Issue Is Important and This Case Is An Adequate Vehicle

Lower federal courts are increasingly employing a form of "free-floating federalism"³ without a careful balance between comity and individual rights, leading to significant expansion of civil abstention. A stringent test is thus in urgent need to decide whether State's interests are important or negligible when a federal court is asked to intervene in state proceedings. Absent a stringent standard, circuits are already split on this issue and a conflict of rulings in this Court is foreseeable.

In *Mitchum v. Foster*, 407 US 225 - Supreme Court 1972,

As Representative Lowe stated,

"What less than this [the Civil Rights Act of 1871] will afford an adequate remedy? The Federal Government cannot serve a writ of mandamus upon State Executives or upon State courts to compel them to protect the rights, privileges and immunities of citizens The case has arisen . . . when the Federal Government must resort to its own agencies to carry its own authority into execution. Hence this bill throws open the doors of the United States courts to those whose rights under the Constitution are denied or impaired." Cong. Globe, 42d Cong., 1st Sess., 374-376 (1871)."

Echoed by Senator Osborn:

"If the State courts had proven themselves competent to suppress the local disorders, or to maintain law and order, we should not have been called upon to legislate We are driven by existing facts to provide for the several states in the South what they have been unable to fully provide for themselves; i. e., the full and complete administration of justice in the courts. And the courts with reference to which we legislate must be the United States courts." *Id.*, at 653.

³ See *Younger and Older Abstention* by Fred O. Smith, Jr., Stanford Law School

And Representative Perry concluded:

"Sheriffs, having eyes to see, see not; judges, having ears to hear, hear not; witnesses conceal the truth or falsify it; grand and petit juries act as if they might be accomplices [A]ll the apparatus and machinery of civil government, all the processes of justice, skulk away as if government and justice were crimes and feared detection."

This Court needs to address this issue to balance comity and individual rights, especially in the context of a 42 U.S.C. § 1983 proceeding:

In *Huffman v. Pursue, Ltd.*, 420 U. S. 592, 613 (1975) (BRENNAN, J., dissenting) "that Younger is, in general, inapplicable to civil proceedings, especially when a plaintiff brings a § 1983 action alleging violation of federal constitutional rights.",

In *Juidice v. Vail*, 430 U. S. 327, 342 (1977) (BRENNAN, J., dissenting) "The very purpose of § 1983 was to interpose the federal courts between the States and the people, as guardians of the people's federal rights., quoting *Mitchum v. Foster*, 407 U. S. 225, 242 (1972),"

In enacting § 1983, Congress "created a specific and unique remedy, enforceable in a federal court of equity, that could be frustrated if the federal court were not empowered to enjoin a state court proceeding." *Mitchum v. Foster*, supra, at 237,

If a 1983 litigant's federal rights have been eroded and will continue to be eroded because the federal court abstained, then, this "blind deference" to "States' Rights" "hardly shows sensitivity to the legitimate interests of both *State* and

National Governments." Ante, at 10 (quoting *Younger v. Harris*, supra, at 44) (emphasis added).

On the contrary, in *Huffman v. Pursue, Ltd.*, 420 US 592 - Supreme Court 1975, this Court held that:

Central to *Younger* was the recognition that ours is a system in which "the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the *legitimate* activities of the States." (emphasis added).

This Court noted that the State's legitimate interests outweigh the people's federally-protected rights, however, the State's interest cannot be legitimate when a person's constitutional rights are sacrificed. It's time this Court should apply a stringent test and overturn this prior ruling.

This question recurs with stunning frequency and is ripe for reexamination by this Court. If not adjudicated, discrepant rulings from across the country will continue to exist, and litigants will sacrifice civil rights thus facing great, immediate, and irreparable harm. If the federal court elects to abstain only because the state's interest exists, without adjudicating if it's legitimate in the first hand, and by sacrificing a person's important and overriding civil rights, then this would defeat Congress's intention of menacing 42 U.S.C. § 1983.

Threading a needle between State's interests and a person's federally-protected rights is a task reserved for this Court.

CONCLUSION

This Court should grant certiorari.

Respectfully Submitted,



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