

No. \_\_\_\_\_

ORIGINAL

25-5369

FILED

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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

C. Holmes — PETITIONER  
(Your Name)

vs.

ANNE MILGRAM — RESPONDENT(S)  
ADM. OF DEA  
ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COA - FOURTH CIR.  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

C. Holmes  
(Your Name)

POB 187  
(Address)

SULL. FSO, SC 29482-0187  
(City, State, Zip Code)

843. 883. 3010

(Phone Number)

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SUPREME COURT, U.S.

## Questions Presented

1. Despite appellant's timely request, the lower appellate court failed to consider change in the law which occurred after submission of the case requiring remand/reversal: *Loper Bright et al. v. Raimondo et al.*, 603 U.S. 369 (2024).
2. Based on the original complaint, the lower court's 02/27/24 opinion (ECF 83) granting defendant's motion to dismiss is reversible as a matter of law because it overlooks and fails to address the timely-filed, verified amended complaint which moots the original complaint.
3. The lower court's 02/27/24 opinion (ECF 83) granting defendant's motion to dismiss is reversible as a matter of law including inappropriate dismissal of novel questions of law raised in the timely-filed, verified amended complaint.
4. Whether the lower court's granting of the effective stay contained in ECF No. 68 is internally inconsistent with the lower court's denial of stay and PI (Preliminary Injunction) requiring reversal and whether the lower court's granting of the effective stay contained in ECF No. 68 supports petitioner's timely request for stay pending resolution herein.
5. Whether the inapplicable Local Civil Rule (LCR) 73.02(B)(2)(d) (D. S.C.) authorizes magistrate's R&R without consent under the facts. See LCR 73.02(B)(2)(d) (All pretrial proceedings in civil rights cases challenging prison conditions or conditions of confinement).
6. Given the totality of circumstances, the lower court's 02/09/24 opinion (ECF 71) denying motion for hearing and recusal is reversible as a matter of law regarding appearance of and/or partiality in fact including predetermined outcome with denial of recusal before an opportunity to be heard at the requested hearing and before a full and fair airing with determination on the merits.

## **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:

## **RELATED CASES**

**None**

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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 1 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 \_\_\_\_\_ 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 3.13.25.

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: 5.19.25, and a copy of the order denying rehearing appears at Appendix 4.

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: \_\_\_\_\_, 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

### Amendment I Religion and Expression

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances. No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

### Amendment V From the Bill of Rights

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

42 U.S.C. § 18001, et seq. (ACA)

28 U.S.C. § 636 (Magistrate Jurisdiction)

31 U.S.C. § 5103 (Legal Tender Statute)

21 C.F.R. 1301.13(e) (DEA Registration)

45 C.F.R Parts 160 and 164 (HIPAA)

### Statement of the Case

Despite petitioner's timely request, the lower appellate court failed to consider intervening change in law in *Loper Bright et al. v. Raimondo et al.*, 603 U.S. 369 (2024). Remand is requested for consideration of change in the law including but not limited to, whether Anne Milgram acted reasonably in conflicting with Congress, the ACA, HIPAA, and other laws by causing DEA agents/contractors (Gail Barr, Lisa Sullivan, Melissa McRae, George Lutz, and/or Nick Walker as well as others) to personally contact, intimidate, and/or harass, law-abiding small providers including the plaintiff with threatened loss of renewal of DEA controlled substances license in contravention of the prohibition against unreasonable interference with the practice of one's profession. Significantly and materially, the ACA, HIPAA, anti-discrimination, and other laws as well as Congressional intent all provide protections for small practices without electronic claims submission. Anne Milgram unlawfully caused failure to accept the authorized usual and customary personal check, money order, or U.S. currency for DEA license renewal fee, failure to accept the renewal application with no interim change for renewal of DEA controlled substances license via the usual and customary mailing/faxing of the renewal application, DEA scope and authority to be exceeded, arbitrary and capricious wrongdoing, and/or other unlawful acts. It is respectfully submitted such tactics are unreasonable, at best, while driving small practitioners with irreplaceable, inimitable clinical experience out of practice. Practicing M.D.'s are in short supply and few well-trained M.D.'s can in good faith advise others to pursue an M.D. degree for the practice of medicine. Anne Milgram is unlawfully driving small practitioners out of practice to save the cost of a postage stamp which disproportionately adversely affects small practitioners as well as established patients, prospective patients and continuity of care. To the extent it is a form of discrimination including that based on age, that conduct is against public policy and/or in violation of the law including the ACA's anti-discrimination provisions.

## Reasons for Granting the Petition

1. Despite appellant's timely request, the lower appellate court failed to consider change in the law which occurred after submission of the case requiring remand/reversal: *Loper Bright et al. v. Raimondo et al.*, 603 U.S. 369 (2024).

When her husband was President, Hillary Clinton was unable to achieve her healthcare initiative largely because the insurance industry opposed it. Health Maintenance Organizations were formed in the wake of that failed effort. Health Maintenance Organizations (HMOs) fell out of favor when the HMOs' brand of managed care resulted in adverse patient outcomes. Without the support of the insurance industry, the Affordable Care Act would not have passed: The insurance industry dictates the rules. Not unlike HMOs, the Affordable Care Act (ACA) has not resulted in better healthcare outcomes. As one example, many men in America have suffered the fate of former President Biden with arbitrary and capricious denial of access to screening PSA blood tests leading to adverse health effects, diminished quality of life, shortened lifespan, and/or untimely death. A business-as-usual approach may not be optimal healthcare.

Despite petitioner's timely request, the lower appellate court failed to consider intervening change in law in *Loper Bright et al. v. Raimondo et al.*, 603 U.S. 369 (2024). Remand is requested for consideration of change in the law including but not limited to, whether Anne Milgram acted reasonably in conflicting with Congress, the ACA, HIPPA, 31 U.S.C. § 5103, and other laws including causing DEA agents/contractors (Gail Barr, Lisa Sullivan, Melissa McRae, George Lutz, and/or Nick Walker as well as others) to personally contact, intimidate, and/or harass, law-abiding small providers including the petitioner with threatened loss of renewal of DEA controlled substances license in contravention of the prohibition against unreasonable interference with the practice of one's profession. Significantly and materially, the ACA, HIPPA, anti-discrimination, and other laws as well as Congressional intent all provide protections for small practices without electronic claims submission.

Anne Milgram unlawfully caused failure to accept the authorized usual and customary personal check, money order, or U.S. currency for DEA license renewal fee, failure to accept the renewal application with no interim change for renewal of DEA controlled substances license via the usual and customary mailing/faxing of the renewal application, DEA scope and authority to be exceeded, arbitrary and capricious wrongdoing, and/or other unlawful acts. See 21 C.F.R. 1301.13(e). It is respectfully submitted such tactics are unreasonable, at best, while driving small practitioners with irreplaceable, inimitable clinical experience out of practice at a time when practicing M.D.'s are in short supply and when few well-trained M.D.'s can in good faith advise others to pursue an M.D. degree for the practice of medicine. Anne Milgram is unlawfully driving small practitioners out of practice to save a postage stamp which disproportionately adversely affects small practitioners as well as established patients, prospective patients, and continuity of care. To the extent Anne Milgram's acts constitute a form of discrimination including based on age, that conduct is against public policy and/or in violation of the ACA's anti-discrimination provisions. Accordingly, despite timely request, failure to consider intervening change in controlling law in *Loper Bright et al., v. Raimondo et al.*, 603 U.S. 369 (2024), requires reversal/remand which is hereby requested.

2. Based on the original complaint, the lower court's 02/27/24 opinion (ECF 83) granting defendant's motion to dismiss is reversible as a matter of law because it overlooks and fails to address the timely-filed, verified amended complaint which moots the original complaint.

As a threshold matter, Rule 15(a) is overlooked or misapprehended and states in pertinent part:

**Rule 15(a) Amendments.** A party may amend his pleading once as a matter of course at any time before ... a responsive pleading is served.

The record reflects the verified amended complaint herein is timely filed but overlooked. Petitioner respectfully requests leave to amend. Because the motion to dismiss (M2D) is not a case-specific responsive pleading under Rule 7(a), defendant's motion to dismiss herein does not alter the time to file

an amended complaint. Specifically, by analogy, the case of *Bowers v. Robinson*, 311 S.C. 412, 429 S.E.2d 799 (1993), ruled that a M2D is not a case-specific responsive pleading under Rule 7(a), and therefore, does not alter the time to amend. A Responsive Pleading is defined as a formal declaration by a party in reply to a prior declaration by an opponent. The distinguishing feature of a responsive pleading is that it replies to the merits of the allegations raised by an opposing party. By analogy, Florida Rules of Civil Procedure 1.190 allows the plaintiff to amend a pleading once, without permission of the Court, prior to a responsive pleading from the defendant. It cannot be said that a party's rights have been violated by changes made in the complaint if he has yet to file an answer. A Motion to Dismiss is not a case-specific, required responsive pleading and does not alter the time to amend under Rule 15. *Id.* Accordingly, the lower court's 02/27/24 opinion (ECF 83) granting defendant's motion to dismiss on the original complaint is reversible as a matter of law because it overlooks and fails to address the timely-filed, verified amended complaint which moots the original complaint.

**3. The lower court's 02/27/24 opinion (ECF 83) granting defendant's motion to dismiss is reversible as a matter of law including inappropriate dismissal of novel questions of law raised in the timely-filed, verified amended complaint.**

The lower court's 02/27/24 opinion (ECF 83) granting defendant's motion to dismiss is reversible as a matter of law including inappropriate dismissal of novel questions of law raised in the timely-filed, verified amended complaint. Defendant's arbitrary and capricious acts conflict with other laws including HIPAA, the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001, et seq., including Section 1557, 31 U.S.C. § 5103, and/or other constitutional and statutory laws. *See, e.g., Callum v. CVS Health Corp.*, 137 F.Supp.3d 817, 848 (D.S.C. 2015). Accordingly, reversal is respectfully requested.

4. Whether the lower court's granting of the effective stay contained in ECF No. 68 is internally inconsistent with the lower court's denial of stay and PI (Preliminary Injunction) requiring reversal and whether the lower court's granting of the effective stay contained in ECF No. 68 supports petitioner's timely request for stay pending resolution herein.

Whether the lower court's granting of the effective stay contained in ECF No. 68 is internally inconsistent with the lower court's denial of stay, TRO, and PI requiring reversal and whether the lower court's granting of the effective stay contained in ECF No. 68 supports petitioner's timely request for stay pending resolution herein. All of the factors supporting the lower court's effective stay in ECF No. 68 remain, they are currently in effect, and they support stay, TRO, and PI. See Memorandum filed on or about 6.1.23. It is respectfully submitted the standard in the *Grimmett* case has been met. *Grimmett v. Freeman*, 59 F.4th 689 (4<sup>th</sup> Cir. 2023). Accordingly, the effective stay contained in ECF No. 68 should be sustained, the magistrate has no statutory authority regarding PI (28 U.S.C. § 636), adoption of the magistrate's R&R denying PI is void/voidable, and PI should be granted.

5. Whether the inapplicable Local Civil Rule (LCR) 73.02(B)(2)(d) (D. S.C.) authorizes magistrate's R&R without consent under the facts. See LCR 73.02(B)(2)(d) (All pretrial proceedings in civil rights cases challenging prison conditions or conditions of confinement).

The lower court's opinion relies on the pejorative Local Civil Rule, LCR 73.02(B)(2)(d) (prisoner petitions) and, by inference, clearly errs in misrepresenting the petitioner is an inmate. The petitioner is prejudiced thereby and respectfully objects. But for applying the inapplicable, pejorative Local Civil Rule, LCR 73.02(B)(2)(d) (prisoner petitions), the outcome should and would be different in petitioner's favor. "The district court's local rule requiring appeals from magistrates in civil cases to be filed within 10 days conflicts with the provision in 28 U.S.C. § 636(c)(4) which we construe as allowing 30 days. **The practice prescribed by the statute must prevail.** See 28 U.S.C. § 2071; *Palermo v. United States*, 360 U.S. 343, 353 n.11, 79 S.Ct. 1217, 1225 n.11, 3 L.Ed.2d 1287 (1959).

The judgment that dismissed the appeal from the magistrate to the district court is reversed, and the case is remanded for further proceedings.” *Gregg v. Manno*, 667 F.2d 1116 (4th Cir. 1981)(emphasis supplied). The lower court clearly errs in relying on Local Civil Rule as authority for the magistrate’s R&R without consent herein requiring reversal.

Under the facts, the record reflects inapplicable, pejorative Local Civil Rule (LCR) 73.02(B)(2) (d) does not authorize magistrate’s R&R without consent. *See Gregg v. Manno*, 667 F.2d 1116 (4th Cir. 1981). As such, there is no statutory authority for the magistrate’s R&R herein, thereby rendering the District Court’s adoption of unauthorized R&R void/voidable. Accordingly, reversal/remand is respectfully requested.

**6. Given the totality of circumstances, the lower court’s 02/09/24 opinion (ECF 71) denying motion for hearing and recusal is reversible as a matter of law regarding appearance of and/or partiality in fact including predetermined outcome with denial of recusal before an opportunity to be heard at the requested hearing and before a full and fair airing with determination on the merits.**

Given the totality of circumstances, the lower court’s 02/09/24 opinion (ECF 71) denying motion for hearing and recusal is reversible as a matter of law regarding appearance of and/or partiality in fact including predetermined outcome with denial of recusal before an opportunity to be heard at the requested hearing and before a full and fair airing with determination on the merits. Specifically, in her appellate practice book, former South Carolina Chief Justice Toal quotes from the case of *Caperton v. A.T. Massey Coal Co.*:

The difficulties of inquiring into actual bias, and the fact that the inquiry is often a private one, simply underscore the need for objective rules. Otherwise there may be no adequate protection against a judge who simply misreads or misapprehends the real motives at work in deciding the case. The judge’s own inquiry into actual bias, then, is not one that the law can easily superintend or review, though actual bias, if disclosed, no doubt would be grounds for appropriate relief. In lieu of exclusive reliance on that personal inquiry, or on appellate review of the judge’s determination respecting actual bias, the Due Process Clause has been implemented by objective standards that do not require proof of actual bias. In defining these standards the Court has asked whether, under a realistic appraisal of psychological tendencies and human weakness, the interest poses such a risk of *actual bias* or

*prejudgment* that the practice must be forbidden if the guarantee of due process is to be adequately implemented. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009) (internal citations omitted) (internal quotation marks omitted)(emphasis supplied).

Toal *et al.*, *Appellate Practice in South Carolina*, Third Ed. (2016), p. 240-241.

Accordingly, it is respectfully submitted “under a realistic appraisal of psychological tendencies and human weakness, the interest poses such a risk of *actual bias or prejudgment* that the practice must be forbidden if the guarantee of due process is to be adequately implemented.” *Id.*(emphasis supplied).

Further, the lower court’s repeated denials, including motions for hearing and recusal, without adequate explanation for meaningful review is challenged thereby denying substantial rights including but not limited to, First and Fifth Amendment rights, access to the courts, and/or full and fair record for meaningful review. *See, e.g., Fidrych v. Marriott Int’l, Inc.*, 952 F.3d 124, 146 (4<sup>th</sup> Cir. 2020) (remanded for lack of adequate explanation for meaningful review: "(T)he court disposed of the substance of the issue in a single sentence. See J.A. 252. We need more explanation to conduct meaningful appellate review of the court’s disposition of the motion."). Accordingly, recusal is respectfully requested.

Moreover, despite timely notice of objection, the District Court repeatedly misrepresented that the inapplicable LCR 73.02(B)(2)(d)(prisoner petitions) applied as well as the pejorative inference the undersigned is a prisoner. The record reflects willful neglect, at best, as well as lack of impartiality including personal favoritism/bias. To the extent LCR 73.02(B)(2)(d) is used to deny/diminish/impair the standard of appellate review and/or full, fair, and meaningful review, the record reflects appearance of and/or partiality in fact requiring recusal.

Significantly and materially, it is fair to say the District Court is or should be aware of the fact that impermissible direct or indirect ex parte contact is generally secreted or hidden. To claim in the 02/09/24 opinion (ECF 71) denying recusal that no specifics are provided for that which is secreted or hidden is non-responsive and/or evasive corroborating impermissible direct or indirect ex parte

contact. To the extent the District Court Judge, in her heart of hearts, cannot in good faith deny impermissible direct or indirect *ex parte* contact, it is respectfully submitted "under a realistic appraisal of psychological tendencies and human weakness, the interest poses such a risk of *actual bias or pre-judgment* that the practice must be forbidden if the guarantee of due process is to be adequately implemented." *Id.* (emphasis supplied). Accordingly, under the circumstances, disqualification/recusal is indicated thereby voiding dismissal.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date 8/10/25