10/9/25

No. 25-557

In the Supreme Court of the United States

DONALD TRINEN,

Petitioner,

v.

COLORADO SUPREME COURT,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Donald Trinen
Petitioner Pro Se
18851 E. Vassar Dr.
Aurora, CO 80013
(303) 589-5673
dtrinen@comcast.net

October 9, 2025
SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

QUESTIONS PRESENTED

Diversity, equity, and inclusion ("DEI") continuing legal education ("cle") is required for Colorado lawyers. Attorney petitioner Donald Trinen ("Trinen") contended that he had completed his most recent three-year compliance period cle obligation before Colorado's DEI rule took effect, and that he was therefore not obligated under the rule. A hearing panel rejected this compliance defense and concluded that Trinen was obliged to present DEI hours. Trinen sought judicial review of the panel's determination—a right Colorado law affords to every licensed occupation, including conduct-disciplined lawyers. Respondent the Colorado Supreme Court ("the CSC") ignored the judicial review request and suspended Trinen indefinitely.

Trinen also contended that the DEI rule is void. A primary tenet of DEI is the promotion of racial and other identity-based discrimination. Racism in federally-supported education was held unconstitutional in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023). The study of a racist-based ideology does not, as a matter of law, promote lawyer competence—the base requirement for all cle. Both the hearing panel and the CSC refused to hear this invalidity defense.

The questions presented are:

1. Does the Equal Protection Clause give an alleged cle-derelict lawyer the same right of judicial review for proposed suspension discipline that state law gives to every other licensed occupation?

2. Does the Due Process Clause give a lawyer the right to contest the validity of a cle rule he is being punished for violating?

LIST OF PROCEEDINGS

Direct Proceedings Below

Colorado Supreme Court

Case No. 2025LE94

In Re: Notice of Noncompliance Involving Donald T. Trinen

Suspension Order: July 21, 2025

Related Proceedings

U.S. District Court for the District of Colorado

Civil Action No. 25-cv-2480-LTB-RTG

Trinen v. Marquez, et al.

This was a 42 U.S.C. § 1983 action against the Colorado Supreme Court justices individually, seeking declaratory relief with respect to the Suspension Order. The action was dismissed pursuant to Fed. R. Civ. P. 41(a)(1), without prejudice, on September 23, 2025 based on *Rooker-Feldman* concerns.

TABLE OF CONTENTS

TABLE OF CONTENTS – Continued

Page

APPENDIX TABLE OF CONTENTS

ORDERS AND PANEL FINDINGS

JUDICIAL RULES

OTHER DOCUMENTS

TABLE OF CONTENTS – Continued

TABLE OF AUTHORITIES

Page

CASES

CONSTITUTIONAL PROVISIONS

STATUTES

TABLE OF AUTHORITIES – Continued

Page

JUDICIAL RULES

OTHER AUTHORITIES

OPINIONS BELOW

Petitioner seeks review of the Amended Order of the Colorado Supreme Court issued on July 21, 2025. ("the Suspension Order") (App.1a). The July 14, 2025 findings and conclusions of the Continuing Legal and Judicial Education Committee hearing panel ("the Determination") are at App.3a.

JURISDICTION

The Suspension Order was entered on July 21, 2025. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Const. amend. XIV, § 1

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of 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 ("Due Process" or "the Due Process Clause"); nor deny to any person within its jurisdiction the equal

protection of the laws ("Equal Protection" or "the Equal Protection Clause").

STATEMENT OF THE CASE

Trinen was admitted to the Colorado bar in 1978 (App.5a) (and to the bar of this Court in 1982). In 1979 the CSC began a program of cle requiring lawyers to complete 45 hours of cle every three years, including seven hours devoted to professional ethics. On April 15, 2021 the CSC promulgated a rule requiring DEI cle:

> Beginning January 1, 2023, the seven credit hours devoted to professional responsibility must include the following:
>
> i. At least two credit hours in the area of equity, diversity, and inclusivity, and
>
> ii. At least five credit hours of legal ethics or legal professionalism.

(Colo. R. Civ. P. 250.2(1)(a)) ("the DEI Rule") (App.28a-29a)

The CSC has a nine-member citizen/lawyer committee, the Continuing Legal and Judicial Education Committee ("the Committee"), to administer cle—with "diversity to be a factor in making the (Committee) appointments" (Colo. R. Civ. P. 250.3). The CSC Office of Attorney Regulation Counsel ("OARC") handles prosecution of attorney misconduct—including cle derelictions (Colo. R. Civ. P. 250.4).

In March, 2025 OARC told Trinen that he owed the CSC two hours of DEI cle. (App.8a) Trinen disagreed and timely sought a hearing before a three-member hearing panel of the Committee—which here consisted of two lay persons and a district judge ("the Hearing Panel") (App.4a). The Hearing Panel decides by a majority, and the determination of the Hearing Panel automatically becomes the determination of the Committee. (Colo. R. Civ. P. 250.7) (App.16a).

There is no rule provision for pleadings before the Hearing Panel. Rather, the parties' positions were set forth in their respective hearing briefs. Trinen's is at App.22a.

Trinen asserted two defenses before the Hearing Panel. First, Trinen contended that because he completed his cle obligations for his 2022-2024 compliance period ("the Compliance Period") on January 11, 2022, before the "Beginning" date of the DEI Rule (January 1, 2023), the DEI Rule simply didn't apply to or obligate him. This was "the Compliance Defense".

Second, Trinen contended that the DEI Rule is invalid because it fails to promote attorney competence. Colo. R. Civ. P. 251.6 provides that "CLE must be an educational activity which has as its primary objective the promotion of professional competence of registered lawyers . . . ". Since DEI's primary tenet advocating reverse discrimination has been declared unconstitutional as to education (and by extension, employment) in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181, 213 (2023), requiring attorneys to take DEI training cannot, as a matter of law, promote lawyer competence. In other words, training in an ideology advocating unconstitutional discrimination cannot reasonably be expected

to make one a better lawyer. This was "the Invalidity Defense."

After a June 16, 2025 "virtual" hearing, on July 14, 2025 the Hearing Panel issued its "Finding of Non-compliance with CLE Requirements—Donald Terrence Trinen, Registration No. 9218" ("the Determination"). (App.3a). In the Determination the Hearing Panel concluded, as to the Compliance Defense, that Trinen was obliged to comply with the DEI Rule during his 2022-2024 compliance period—no matter when he "completed" his obligation for that period. The Hearing Panel further concluded that it would not adjudicate the Invalidity Defense for lack of subject matter jurisdiction). (App.14a-15a).

In the Hearing Panel's consideration of the Compliance Defense the issue was which of two different "effective" dates associated with the DEI Rule should govern. On one hand, an April 15, 2021 CSC standalone order amending (or creating) five cle rules had declared "Rule 250.2" (which is the DEI Rule) "effective July 1, 2021". (App.28a,34a). On the other hand, the DEI Rule itself provided a "Beginning" date of January 1, 2023. (App.29a). The effective date determination was crucial because if it was July 1, 2021 Trinen's 2022-2024 Compliance Period was "burdened" with the DEI Rule, while if it was January 1, 2023 Trinen's Compliance Period was not so burdened—assuming Trinen completed his full 2022-2024 obligation before January 1, 2023.

In Trinen's view the proper way to have resolved this contradiction would have been to apply the maxim *generalia specialibus non derogant*—"things general do not derogate from things special." That the specific should control over the general here means

that, when effective/beginning dates conflict, the date in the substantive rule itself controls. But the Hearing Panel found and concluded:

> The Petitioner completed 45 general CLE including 7.6 professional responsibility over a few days in January 2022. This was before the January 1, 2023 'beginning' date; however, it was not before the effective date of the requirement (on July 1, 2021). Therefore, because the Petitioner's compliance period began in 2022, not ended, he was required to comply with the EDI requirement.

(App.13a-14a)

Since "effective" and "beginning" mean the same thing, the Hearing Panel in effect determined that the DEI Rule was effective on July 1, 2021 before it was effective on January 1, 2023. This is gibberish, as the same rule obligation can't logically (or legally) arise on two different dates. Thus the DEI Rule couldn't be considered effective on July 1, 2021, because no obligations arose under it until January 1, 2023. Further, there is nothing in any of the cle rules tying effectiveness of the DEI Rule to any particular compliance period, leaving Trinen free to get all his 2022-2024 hours in under the "old" rules—if he did so before January 1, 2023.

Here the proper effective date (the January 1, 2023 "Beginning" date in the DEI Rule itself) was not applied by the Hearing Panel. Rather, it was happy to adopt OARC's "effective before effective" theory—because that's the one that would get Trinen suspended. Under the proper interpretation Trinen completed his full 45-hour cle obligation for the 2022-2024 Compliance

Period (with .6 hours to spare) on January 11, 2022 (App.9a)—more than eleven and one-half months before the DEI Rule created any obligation. The Hearing Panel's conclusion to the contrary was erroneous, and Trinen was confident the Determination would be reversed on judicial review.

The CSC's cle post-Committee-hearing procedure is contained in one sentence: "When the Court receives either a statement of noncompliance or the written decision of a . . . Committee hearing, the Court will enter such order as it deems appropriate, which may include an order of administrative suspension from the practice of law . . . " (Colo. R. Civ. P. 250.7(8)) (App.19a).

Having no guidance for how judicial review of the Determination should be pursued, on July 16, 2025 (two days after the Determination issued, and before it was filed with the CSC) Trinen prepared and mailed to the CSC his Petition/Motion to Set Aside the Colorado Supreme Court Continuing Legal and Judicial Education Committee's Finding of Noncompliance with CLE Requirements—Donald Terrence Trinen, Registration No. 9218 ("the Petition") (App.35a), which apparently reached the CSC on July 22, 2025. (App.2a). In the Petition Trinen sought judicial review of the Hearing Panel's conclusions as to the Compliance Defense (App.36a) and, if necessary, a hearing on the Invalidity Defense (App.37a).

On July 21, 2025, seven days after the Determination issued, the CSC entered an order suspending indefinitely Trinen's license to practice law in Colorado ("the Suspension Order"). (App.1a). Under the Suspension Order (and Colo. R. Civ. P. 250.7(10)) (App.28a)

Trinen has the right to petition for reinstatement upon compliance with the DEI Rule. (App.1a).

On August 5, 2025 the CSC issued a further order providing that the Petition would be treated by the CSC as a petition for an extraordinary writ under Colo. R. App. P. 21; that the petition was denied; and that a previously filed motion to stay was denied as moot. (App.2a).

The CSC's treating the Petition as a Colo. R. App. P. 21 petition gave Trinen nothing—certainly not a review as a matter of right. Colo. R. App. P. 21 addresses extraordinary writs. Such writs are purely a matter of CSC discretion, are granted only rarely, and are often denied for reasons having nothing to do with the merits. In invoking Colo. R. App. P. 21 the CSC merely created an illusion of due process.

Trinen later initiated an action against the CSC justices for declaratory relief under 42 U.S.C. § 1983 in the United States District Court for the District of Colorado – *Trinen v. Marquez, et al.*, Civil Action No. 25-cv-2480-LTB-RTG. Trinen sought a declaration that the justices had taken Trinen's law license in violation of his constitutional rights to Equal Protection and Due Process; that he was entitled to the return of his law license; that he was entitled to judicial review of the Hearing Panel's findings and conclusions on the Compliance Defense prior to any suspension; and, if the case was not otherwise dismissed as a result of such review, that he was entitled to a hearing on the Invalidity Defense prior to any suspension. This action was dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1) on September 23, 2025 due to *Rooker-Feldman* concerns.

Trinen then brought this proceeding. To recap, Trinen raised his right to judicial review on the Compliance Defense in and by the Petition (App.36a), and his right to be heard on the Invalidity Defense in and by his hearing brief (App.27a) and in and by the Petition (App.37a).

REASONS FOR GRANTING THE PETITION

I. DENIAL OF THE EQUAL PROTECTION RIGHT TO JUDICIAL REVIEW ON THE COMPLIANCE DEFENSE

Every single licensed occupation and activity known to Colorado law comes with a right of judicial review of proposed discipline. Everyone from acupuncturists to veterinarians (C.R.S. § 24-4-106), drivers (C.R.S. § 42-2-135), and conduct-disciplined lawyers (Colo. R. Civ. P. 241) get judicial review. But Trinen got nothing —no order to show cause, no advisement of appeal procedure, nothing. Thus Trinen was suspended solely on the say-so of a two citizen-one lawyer hearing panel —with no court involvement whatsoever.

That everyone is by statute or rule entitled to judicial review demonstrates how important the right is—particularly here, where Trinen's attack on DEI may well have aroused Committee bias or prejudice against him. Moreover, the Compliance Defense was a legal one. How can a rule be declared "effective" in year A if it creates no obligation until it "begins" in year B? In Trinen's view this case should have been judicially reviewed, and then dismissed.

Trinen's not being able to bring the Hearing Panel's error before a court was grossly unfair. In effect, the

single Hearing Panel member with legal training drove Trinen's suspension—and that lawyer was wrong on the law. Judicial review exists to prevent honest error, bias, prejudice, incompetence, and other human faults and shortcomings from dictating the final result.

That Trinen has been deprived of Equal Protection from denial of judicial review is manifest:

> Our cases have recognized successful equal protection claims brought by a 'class of one' where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.
>
> ******
>
> The purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution . . . .

Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000).

Here the CSC had no rules providing for judicial review of cle discipline, and it didn't otherwise provide review. But the CSC (as one of the branches of state government) has to follow this Court's precedents requiring that judicial review provided generally by the state must be provided fairly. *Griffin v. Illinois*, 351 U.S. 12, 18 (1956).

If there's a legitimate basis for singling out Trinen for no-right-of-review, he can't imagine what it is. After all, suspended is suspended—whether one is a lawyer or a barber. In any event, the CSC's failure to

follow this Court's Equal Protection precedents justifies the grant of a writ.

II. DENIAL OF THE DUE PROCESS RIGHT TO BE HEARD ON THE INVALIDITY DEFENSE

Trinen was suspended for failure to comply with the DEI Rule. Yet he was prevented from contesting its validity. That was wrong—and unconstitutional. The right to be heard, to tell one's side of the story, has been accepted, promoted, and protected throughout history. In ancient Rome the principle of *audi alteram partem* ("hear the other side") was well-established. And much earlier (presumably), Adam and Eve were given the chance to explain themselves before punishment was handed down. (*Genesis* 3:11-3:13 (New International Version)).

The right to be heard figures prominently in the due process guarantee of the Fourteenth Amendment. As Justice Frankfurter said in his concurrence in *Joint Anti-Fascist Committee v. McGrath*, 341 U.S. 123, 168 (1951): "(T)he right to be heard before being condemned to suffering grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." The Court held in *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) that "(t)he fundamental requisite of due process of law is the right to be heard". And in *In re Ruffalo*, 390 U.S. 544, 550, 551 (1968) Justice Douglas observed: "(o)ne of the conditions this Court considers in determining whether disbarment by a State should be followed by disbarment here is whether the state procedure from want of notice or opportunity to be heard was wanting in due process;" and "(attorney discipline) cases are adversary proceedings of a *quasi*-criminal nature."

Here Trinen was suspended for violating a rule, the validity of which he was not permitted to contest. The Invalidity Defense was not decided by the Hearing Panel because it determined it had no subject matter jurisdiction (App.14a-15a). And the CSC suspended Trinen without giving him an opportunity to do or say anything about anything (App.1a). Thus the Committee couldn't adjudicate the Invalidity Defense, and the CSC wouldn't.

That Trinen was thereby denied Due Process is beyond question. *In re Ruffalo*, *supra*. Moreover, this deprivation was so blatant that Trinen suspects it (and the judicial review denial) may have been done by the CSC purposefully to punish him for contesting the DEI Rule. Regardless, Trinen's right to be heard couldn't be more established, and the CSC's flouting of such right in its shabby treatment of Trinen couldn't be more palpable. As with the Equal Protection denial, the CSC's failure to follow the Court's precedents on the Due Process right to be heard justifies the grant of a writ.

CONCLUSION

Trinen never got his day in court. As the ultimate guardian and arbiter of constitutional rights, this Court should give it to him. The petition for a writ of certiorari should be granted.

Respectfully submitted,

Donald Trinen
Petitioner Pro Se
18851 E. Vassar Dr.
Aurora, CO 80013
(303) 589-5673
dtrinen@comcast.net

October 9, 2025