

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CALEB MCGILLVARY
Plaintiff/Appellant

v.

NICHOLAS SCUTARI ET AL.
Defendant/Appellee

On Petition for Writ of Certiorari to the United States Court of Appeals
for the 3rd Circuit at Appeal Docket Number 25-2000

APPENDIX VOLUME I TO PETITION FOR WRIT OF CERTIORARI

CALEB L. MCGILLVARY
Third and Federal Street
New Jersey State Prison
Po Box 861
Trenton, NJ 08625-0861
In Propria Persona

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EXHIBIT A

ALD-215

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 25-2000

CALEB L. MCGILLVARY, Appellant

VS.

NICHOLAS P. SCUTARI, ET AL.

(D.N.J. Civ. No. 1:23-cv-22605)

Present: BIBAS, PORTER, and MONTGOMERY-REEVES, Circuit Judges

Submitted are:

- (1) By the Clerk, the within appeal for possible dismissal under 28 U.S.C. § 1915(e)(2)(B);
- (2) By the Clerk is the within appeal for possible summary action under 3rd Cir. LAR 27.4 and Chapter 10.6 of the Court's Internal Operating Procedures;
- (3) Appellant's argument in support of the appeal;
- (4) Appellant's motion for alternate service; and
- (5) Appellant's motion to Judge Bove

in the above-captioned case.

Respectfully,

Clerk

CALEB L. MCGILLVARY, Appellant
VS.

NICHOLAS P. SCUTARI, ET AL.

C.A. No. 25-2000

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ORDER

Summary action is appropriate if there is no substantial question presented in the appeal. See 3d Cir. LAR 27.4. For essentially the reasons given by the District Court, we summarily affirm the District Court's order. See 3d Cir. I.O.P. 10.6; Maio v. Aetna, Inc., 221 F.3d 472, 483 (3d Cir. 2000) (explaining that plaintiff must show injury to business or property caused by racketeering activities to establish standing); Stump v. Sparkman, 435 U.S. 349, 355–57 (1978) (stating that judges not civilly liable for judicial acts); McGillvary v. Netflix, Inc., No. 2:23-CV-01195-JLS-SK, 2024 WL 3588043, at *8 (C.D. Cal. July 30, 2024) (dismissing copyright infringement claims based on the fair-use doctrine).

McGillvary's pending motions are denied. See Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973) (holding that an individual has no federal right to require the government to initiate criminal proceedings).

By the Court,

s/ Tamika R. Montgomery-Reeves
Circuit Judge

Dated: September 18, 2025
Sb/cc: Caleb McGillvary
All Counsel of Record

EXHIBIT B

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-2000

CALEB L. MCGILLVARY,
Appellant

v.

NICHOLAS P. SCUTARI; NETFLIX; THEODORE J. ROMANKOW; PHILIP DUNTON MURPHY; KARA KOPACH; ANTHONY TALERICO, JR.; LILLIAN G. BURRY; REGINA MCGRADY; TRACY BUCKLEY; JAY COFFEY; MATTHEW J. TEVENAN; RIKER DANZIG, LLP; STEVEN GALLO; STEPHEN ZEGAR; JAMERA SIRMANS; JORGE SANTOS; KAREN M. CASSIDY; ROBERT KIRSCH; CHRISTINE P. O'HEARN; RENEE M. BUMB; NEW JERSEY SENATE; NEW JERSEY LEGISLATURE; NEW JERSEY STATE ASSEMBLY; NEW JERSEY OFFICE OF THE GOVERNOR; RAW TV; BRUCE STEADMAN; LINDA STENDER; ROBERT MENENDEZ; NEW JERSEY ASSOCIATION OF JUSTICE; NEW JERSEY ASSOCIATION OF JUSTICE PAC; JAVERBAUM WURGAFT; GERALD H. BAKER; MICHAEL A. GALPERN; FRANCISCO J. RODRIGUEZ; JEFFERY RIZKA; STARK & STARK; ROBERT J. BRATMAN; DEBORAH DUNN; MICHAEL DONAHUE; EVAN LIDE; BRYAN ROBERTS; JOHN A. SAKSON; DOMENIC SANGINITI; AXELROD LEVINSON; RICHARD MARCOLUS; CHRISTOPHER A. DEANGELO; MICHAEL FUSCO; KIMBERLY GOZSA; BRETT GREINER; ADAM L. ROTHENBERG; STEPHEN EISENSTEIN; LUM DRASCO AND POSITAN; WAYNE J. POSITAN; STARR GERN DAVISON & RUBIN; SHELLY STANGLER; IRA M. STARR; LYNCH LYNCH HELD ROSENBERG; LYNCH LAW FIRM; MICHAEL ROSENBERG; ERICA AVONOGLIO; MICHAEL T. BUONOCORE; JAMES LYNCH; NEIL WEINER; STAVOLA CONSTRUCTION MATERIALS; ELIZABETH STAVOLA; DI GROUP ARCHITECTURE; VINCENT MYERS; RICHARD D. ALDERISO; ROBERT RYAN; JEFFREY VENEZIA; WEILKOTZ & CO LLC; STEVEN WEILKOTZ; MATTHEW WEILKOTZ; CATHY L. WALDOR; MADELINE C. ARLEO; JOHN DOES 1-4; ABC, INC. 1-4; FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY; ALL3MEDIA AMERICA LLC; ELECTION FUND OF CRAIG J COUGHLIN; CRAIG J. COUGHLIN; LOUIS N. RAINONE; DAVID L. MINCHELLO; ROBERT S. ELLENPORT; CATHY L. WALDOR; MENENDEZ

(D.C. Civil Action No. 1:23-cv -22605)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge; HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG and BOVE, Circuit Judges

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,
s/ Tamika R. Montgomery-Reeves
Circuit Judge

Dated: October 15, 2025
JK/cc: Caleb L. McGillvary
All Counsel of Record

EXHIBIT C

Text of Controlling Statutes

17 U.S.C. 504(b)

504. Remedies for infringement: Damages and profits

(a) In general. Except as otherwise provided by this title, an infringer of copyright is liable for either

- (1) the copyright owners actual damages and any additional profits of the infringer, as provided by subsection (b); or
- (2) statutory damages, as provided by subsection (c).

(b) Actual damages and profits. The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringers profits, the copyright owner is required to present proof only of the infringers gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory damages.

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than \$750 or more than \$30,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than \$200. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107 [17 USCS 107], if the infringer was: (i) an employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who, or such institution, library, or archives itself, which infringed by reproducing the work in copies or phonorecords; or (ii) a public broadcasting entity which or a person who, as a regular part of the nonprofit activities of a public broadcasting entity (as defined in section 118(f) [17 USCS 118(f)]) infringed by performing a published nondramatic literary work or by reproducing a transmission program embodying a performance of such a work.

(3) (A) In a case of infringement, it shall be a rebuttable presumption that the infringement was committed willfully for purposes of determining relief if the violator, or a person acting in concert with the violator, knowingly provided or knowingly caused to be provided materially false contact information to a domain name registrar, domain name registry, or other domain name registration authority in registering, maintaining, or renewing a domain name used in connection with the infringement.

(B) Nothing in this paragraph limits what may be considered willful infringement under this subsection.

(C) For purposes of this paragraph, the term domain name has the meaning given that term in section 45 of the Act entitled An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes approved July 5, 1946 (commonly referred to as the Trademark Act of 1946; 15 U.S.C. 1127).

(d) **Additional damages in certain cases.** In any case in which the court finds that a defendant proprietor of an establishment who claims as a defense that its activities were exempt under section 110(5) [17 USCS 110(5)] did not have reasonable grounds to believe that its use of a copyrighted work was exempt under such section, the plaintiff shall be entitled to, in addition to any award of damages under this section, an additional award of two times the amount of the license fee that the proprietor of the establishment concerned should have paid the plaintiff for such use during the preceding period of up to 3 years.

18 U.S.C. 1503

1503. Influencing or injuring officer or juror generally

(a) Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate, in the discharge of his duty, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, magistrate judge, or other committing magistrate in his person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished as provided in subsection (b). If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(b) The punishment for an offense under this section is

(1) in the case of a killing, the punishment provided in sections 1111 and 1112 [18 USCS 1111 and 1112];

(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years, a fine under this title, or both; and

(3) in any other case, imprisonment for not more than 10 years, a fine under this title, or both.

18 U.S.C. 1951

1951. Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section

(1) The term robbery means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term extortion means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term commerce means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15 [15 USCS 17], sections 52, 101115, 151166 of Title 29 or sections 151188 of Title 45 [45 USCS 151188].

18 U.S.C. 1961(d)

1961. Definitions

As used in this chapter [18 USCS 1961 et seq.]

(1) racketeering activity means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act [21 USCS 802]), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 [18 USCS 201] (relating to bribery), section 224 [18 USCS 224] (relating to sports bribery), sections 471, 472, and 473 [18 USCS 471, 472, and 473] (relating to counterfeiting), section 659 [18 USCS 659] (relating to theft from interstate shipment) if the act indictable under section 659 [18 USCS 659] is felonious, section 664 [18 USCS 664] (relating to embezzlement from pension and welfare funds), sections 891894 [18 USCS 891 through 894] (relating to extortionate credit transactions), section 932 [18 USCS 932] (relating to straw purchasing), section 933 [18 USCS 933] (relating to trafficking in firearms), section 1028 [18 USCS 1028] (relating to fraud and related activity in connection with identification documents), section 1029 [18 USCS 1029] (relating to fraud and related activity in connection with access devices), section 1084 [18 USCS 1084] (relating to the transmission of gambling information), section 1341 [18 USCS 1341] (relating to mail fraud), section 1343 [18 USCS 1343] (relating to wire fraud), section 1344 [18 USCS 1344] (relating to financial institution fraud), section 1351 [18 USCS 1351] (relating to fraud in foreign labor contracting), section 1425 [18 USCS 1425] (relating to the procurement of citizenship or nationalization unlawfully), section 1426 [18 USCS 1426] (relating to the reproduction of naturalization or citizenship papers), section 1427 [18 USCS 1427] (relating to the sale of naturalization or citizenship papers), sections 14611465 [18 USCS 1461 through 1465] (relating to obscene matter), section 1503 [18 USCS 1503] (relating to obstruction of justice), section 1510 [18 USCS 1510] (relating to obstruction of criminal investigations), section 1511 [18 USCS 1511] (relating to the obstruction of State or local law enforcement), section 1512 [18 USCS 1512] (relating to tampering with a witness, victim, or an informant), section 1513 [18 USCS 1513] (relating to retaliating against a witness, victim, or an informant), section 1542 [18 USCS 1542] (relating to false statement in application and use of passport), section 1543 [18 USCS 1543] (relating to forgery or false use of passport), section 1544 [18 USCS 1544] (relating to misuse of passport), section 1546 [18 USCS 1546] (relating to fraud and misuse of visas, permits, and other documents), sections 15811592 [18 USCS 15811592] (relating to peonage, slavery, and trafficking in persons)[.], sections 1831 and 1832 (relating to economic espionage and theft of trade secrets) [18 USCS 1831, 1832], section 1951 [18 USCS 1951] (relating to interference with commerce, robbery, or extortion), section 1952 [18 USCS 1952] (relating to racketeering), section 1953 [18 USCS 1953] (relating to interstate transportation of wagering paraphernalia), section 1954 [18 USCS 1954] (relating to unlawful welfare fund payments), section 1955 [18 USCS 1955] (relating to the prohibition of illegal gambling businesses), section 1956 [18 USCS 1956] (relating to the laundering of monetary instruments), section 1957 [18 USCS 1957] (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 [18 USCS 1958] (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 [18 USCS 1960] (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 [18 USCS 2251, 2251A, 2252, and 2260] (relating to sexual exploitation of children), sections 2312 and 2313 [18 USCS 2312 and 2313] (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 [18 USCS 2314 and 2315] (relating to interstate transportation of stolen property), section 2318 [18 USCS 2318] (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or

packaging and copies of motion pictures or other audiovisual works), section 2319 [18 USCS 2319] (relating to criminal infringement of a copyright), section 2319A [18 USCS 2319A] (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 [18 USCS 2320] (relating to trafficking in goods or services bearing counterfeit marks), section 2321 [18 USCS 2321] (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 23412346 [18 USCS 24312346] (relating to trafficking in contraband cigarettes), sections 242124 [18 USCS 24212424] (relating to white slave traffic), sections 175178 [18 USCS 175178] (relating to biological weapons), sections 229229F [18 USCS 229229F] (relating to chemical weapons), section 831 [18 USCS 831] (relating to nuclear materials), (C) an act which is indictable under title 29, United States Code, section 186 [18 USCS 186] (dealing with restrictions on payments and loans to labor organizations) or section 501(c) [18 USCS 501(c)] (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title [18 USCS 157]), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act [21 USCS 802]), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 [8 USCS 1324] (relating to bringing in and harboring certain aliens), section 277 [8 USCS 1327] (relating to aiding or assisting certain aliens to enter the United States), or section 278 [8 USCS 1328] (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B) [18 USCS 2332b(g)(5)(B)];

(2) State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) person includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) enterprise includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) pattern of racketeering activity requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) unlawful debt means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) racketeering investigator means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter [18 USCS 1961 et seq.];

(8) racketeering investigation means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter [18 USCS 1961 et seq.] or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter [18 USCS 1961 et seq.];

(9) documentary material includes any book, paper, document, record, recording, or other material; and

(10) Attorney General includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter [18 USCS 1961 et seq.]. Any department or agency so designated may use in investigations authorized by this chapter [18 USCS 1961 et seq.] either the investigative provisions of this chapter [18 USCS 1961 et seq.] or the investigative power of such department or agency otherwise conferred by law.

18 U.S.C. 1964

1964. Civil remedies

(a) The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter [18 USCS 1962] by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

(b) The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter [18 USCS 1962] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorneys fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962 [18 USCS 1962]. The exception contained in the preceding sentence does not apply to an action against any

person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.

(d) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter [18 USCS 1961 et seq.] shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

28 U.S.C. 1254(1)

1254. Courts of appeals; certiorari; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

28 U.S.C. 1291

1291. Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title [28 USCS 1292(c) and (d) and 1295].

28 U.S.C. 1292(a)(1)

1292. Interlocutory decisions

(a) Except as provided in subsections (c) and (d) of this section, the courts of appeals shall have jurisdiction of appeals from:

(1) Interlocutory orders of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, or of the judges thereof, granting, continuing, modifying, refusing or dissolving

injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court;

(2) Interlocutory orders appointing receivers, or refusing orders to wind up receiverships or to take steps to accomplish the purposes thereof, such as directing sales or other disposals of property;

(3) Interlocutory decrees of such district courts or the judges thereof determining the rights and liabilities of the parties to admiralty cases in which appeals from final decrees are allowed.

(b) When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Appeals or a judge thereof shall so order.

(c) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction

(1) of an appeal from an interlocutory order or decree described in subsection (a) or (b) of this section in any case over which the court would have jurisdiction of an appeal under section 1295 of this title [28 USCS 1295]; and

(2) of an appeal from a judgment in a civil action for patent infringement which would otherwise be appealable to the United States Court of Appeals for the Federal Circuit and is final except for an accounting.

(d) (1) When the chief judge of the Court of International Trade issues an order under the provisions of section 256(b) of this title [28 USCS 256(b)], or when any judge of the Court of International Trade, in issuing any other interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

(2) When the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title [28 USCS 798(b)], or when any judge of the United States Claims Court [United States Court of Federal Claims], in issuing an interlocutory order, includes in the order a statement that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation, the United States Court of Appeals for the Federal Circuit may, in its discretion, permit an appeal to be taken from such order, if application is made to that Court within ten days after the entry of such order.

(3) Neither the application for nor the granting of an appeal under this subsection shall stay proceedings in the Court of International Trade or in the Claims Court [Court of Federal Claims], as the case may be, unless a stay is ordered by a judge of the Court of International Trade or of the Claims Court [Court of Federal Claims] or by the United States Court of Appeals for the Federal Circuit or a judge of that court.

(4) (A) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of an appeal from an interlocutory order of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, granting or denying, in whole or in part, a motion to transfer an action to the United States Claims Court [United States Court of Federal Claims] under section 1631 of this title [28 USCS 1631].

(B) When a motion to transfer an action to the Claims Court [Court of Federal Claims] is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion. If an appeal is taken from the district courts grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Claims Court [Court of Federal Claims] pursuant to the motion shall be carried out.

(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title [28 USCS 2072], to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d).

28 U.S.C. 1331

1331. Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

28 U.S.C. 2072

2072. Rules of procedure and evidence; power to prescribe

(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates [magistrate judges] thereof) and courts of appeals.

(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title [28 USCS 1291].

28 U.S.C. 2075

2075. Bankruptcy rules

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11 [11 USCS 1 et seq.].

Such rules shall not abridge, enlarge, or modify any substantive right.

The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.

The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 [11 USCS 707(b)(2)(C)] and may provide general rules on the content of such statement.

42 U.S.C. 1983

1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officers judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

N.J.C.R. 2:2-1 et seq.

Rule 2:2-3. Appeals to the Appellate Division from Final Judgments, Decisions, Actions and from Rules; Tax Court.

(a) As of Right. Except as otherwise provided by R. 2:2-1(a)(3) (final judgments appealable directly to the Supreme Court), and except for appeals from a denial by the State Police of an application to make a gun purchase under a previously issued gun purchaser card, which appeals

shall be taken to the designated gun permit judge in the vicinage, appeals may be taken to the Appellate Division as of right.

(1) from final judgments of the Superior Court trial divisions, or the judges thereof sitting as statutory agents; the Tax Court; and in summary contempt proceedings in all trial courts except municipal courts;

(2) to review final decisions or actions of any state administrative agency or officer, and to review the validity of any rule promulgated by such agency or officer excepting matters prescribed by R. 8:2 (tax matters) and matters governed by R. 4:74-8 (Wage Collection Section appeals), except that review pursuant to this subparagraph shall not be maintainable so long as there is available a right of review before any administrative agency or officer, unless the interest of justice requires otherwise;

(3) in such cases as are provided by law.

(b) Final Judgments; Certain Orders Appealable as of Right. Final judgments of a court, for appeal purposes, are judgments that finally resolve all issues as to all parties, except the following are also appealable as of right:

(1) orders enrolling a defendant into the pretrial intervention program over the objection of the prosecutor, R. 3:28-6(c);

(2) material witness orders, R. 3:26-3;

(3) orders properly certified as final under R. 4:42-2;

(4) orders appointing statutory or liquidating receivers, R. 4:53-1;

(5) orders determining final custody in bifurcated family actions, R. 5:8-6;

(6) orders on preliminary hearings in adoption actions, R. 5:10-9;

(7) orders granting or denying motions to extend the time to file a notice of tort claim pursuant to N.J.S.A. 59:8-9, whether entered in the cause or by a separate action;

(8) orders compelling or denying arbitration, whether the action is dismissed or stayed;

(9) orders granting or denying as a final matter class certification, R. 4:32;

(10) orders denying motions for intervention as of right, R. 4:33-1;

(11) orders granting pretrial detention, R. 2:9-13 and R. 3:4A; and

(12) any other orders as are provided by case law.

(c) By Leave. On application made pursuant to R. 2:5-6, appeals may be taken to the Appellate Division by leave granted, in extraordinary cases and in the interest of justice, from final judgments of a court of limited jurisdiction or from actions or decisions of an administrative agency or officer if the matter is appealable or reviewable as of right in a trial division of the Superior Court, as where the jurisdiction of the court, agency or officer is questioned on substantial grounds.

N.J.C.R. 4:69-1 et seq.

Rule 4:69-1. Actions in Superior Court, Law Division.

Review, hearing and relief heretofore available by prerogative writs and not available under R. 2:2-3 or R. 8:2 shall be afforded by an action in the Law Division, Civil Part, of the Superior Court. The complaint shall bear the designation In Lieu of Prerogative Writs.

N.J.S.A. 2C:27-2

2C:27-2. Bribery in official and political matters

A person is guilty of bribery if he directly or indirectly offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another:

- a.** Any benefit as consideration for a decision, opinion, recommendation, vote or exercise of discretion of a public servant, party official or voter on any public issue or in any public election; or
- b.** Any benefit as consideration for a decision, vote, recommendation or exercise of official discretion in a judicial or administrative proceeding; or
- c.** Any benefit as consideration for a violation of an official duty of a public servant or party official; or
- d.** Any benefit as consideration for the performance of official duties.

For the purposes of this section benefit as consideration shall be deemed to mean any benefit not authorized by law.

It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office, or lacked jurisdiction, or for any other reason.

In any prosecution under this section of an actor who offered, conferred or agreed to confer, or who solicited, accepted or agreed to accept a benefit, it is no defense that he did so as a result of conduct by another constituting theft by extortion or coercion or an attempt to commit either of those crimes.

Any offense proscribed by this section is a crime of the second degree. If the benefit offered, conferred, agreed to be conferred, solicited, accepted or agreed to be accepted is of the value of \$200.00 or less, any offense proscribed by this section is a crime of the third degree.

N.J.S.A. 2C:27-10

2C:27-10. Acceptance or receipt of unlawful benefit by public servant for official behavior

a. A public servant commits a crime if, under color of office and in connection with any official act performed or to be performed by the public servant, the public servant directly or indirectly, knowingly solicits, accepts or agrees to accept any benefit, whether the benefit inures to the public servant or another person, to influence the performance of an official duty or to commit a violation of an official duty.

b. A public servant commits a crime if, under color of office and in connection with any official act performed or to be performed by the public servant, the public servant directly or indirectly, knowingly receives any benefit, whether the benefit inures to the public servant or another person, to influence the performance of an official duty or to commit a violation of an official duty.

c. In addition to the definition set forth in N.J.S. 2C:27-1, benefit as used in this act includes any benefit from or by reason of a contract or agreement for goods, property or services if the contract or agreement is awarded, made or paid by the branch, subdivision, or agency of the government that employs the public servant.

d. The provisions of this section shall not apply to:

(1) Fees prescribed by law to be received by a public servant or any other benefit to which the public servant is otherwise legally entitled if these fees or benefits are received in the manner legally prescribed and not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty;

(2) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the recipient if these gifts or benefits are within otherwise legally permissible limits and are not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty; or

(3) Trivial benefits the receipt of which involve no risk that the public servant would perform official duties in a biased or partial manner.

e. An offense proscribed by this section is a crime of the second degree. If the benefit solicited, accepted, agreed to be accepted or received is of a value of \$200.00 or less, any offense proscribed by this section is a crime of the third degree.

N.J.S.A. 2C:27-11

2C:27-11. Offer of unlawful benefit to public servant for official behavior

a. A person commits a crime if the person offers, confers or agrees to confer any benefit, whether the benefit inures to the public servant or another person, to influence a public servant in the performance of an official duty or to commit a violation of an official duty.

b. A person commits a crime if the person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.

c. In addition to the definition set forth in N.J.S. 2C:27-1, benefit as used in this act includes any benefit from or by reason of a contract or agreement for goods, property or services if the

contract or agreement is awarded, made or paid by the branch, subdivision, or agency of the government that employs the public servant.

d. The provisions of this section shall not apply to:

(1) Fees prescribed by law to be received by a public servant or any other benefit to which the public servant is otherwise legally entitled if these fees or benefits are received in the manner legally prescribed and not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty;

(2) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationship independent of the official status of the recipient if these gifts or benefits are within otherwise legally permissible limits and are not bartered for another benefit to influence the performance of an official duty or to commit a violation of an official duty; or

(3) Trivial benefits the receipt of which involve no risk that the public servant would perform official duties in a biased or partial manner.

e. (1) An offense proscribed by subsection a. of this section is a crime of the second degree. If the benefit solicited, accepted or agreed to be accepted is of a value of \$200.00 or less, any offense proscribed by subsection a. of this section is a crime of the third degree.

(2) An offense proscribed by subsection b. of this section is a crime of the third degree. If the gift or other benefit is of a value of \$200.00 or less, an offense proscribed by subsection b. of this section is a crime of the fourth degree.

U.S. Const. Amdt. I

Amendment 1 Religious and political freedom.

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.

U.S. Const. Art. III

Sec. 2 Subjects of Jurisdiction.

Clause 1. Subjects of Jurisdiction.

Clause 2. Jurisdiction of Supreme Court

Clause 3. Trial by Jury.

Clause 1. Subjects of Jurisdiction.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under

their Authority;to all Cases affecting Ambassadors, other public Ministers and Consuls;to all Cases of admiralty and maritime Jurisdiction;to Controversies to which the United States shall be a Party;to Controversies between two or more States;between a State and Citizens of another State;between Citizens of different States,between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Clause 2. Jurisdiction of Supreme Court

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Clause 3. Trial by Jury.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CALEB L. MCGILLVARY,	:	
Plaintiff,	:	No. 23-cv-22605-JMY
	:	
vs.	:	
	:	
NICHOLAS SCUTARI, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 13th day of May 2025, upon consideration of the motion to dismiss the first Amended Complaint filed by Raw T.V., Ldt. (Raw) (ECF No. 165), the motion to dismiss the first Amended Complaint (ECF No. 209) filed by All3Media America, LLC (All3Media) (ECF No. 209), all papers submitted in support thereof and in opposition thereto, and for the reasons set forth in the accompanying Memorandum filed by the Court along with this Order, it is hereby **ORDERED** that motions to dismiss filed by Raw and All3Media are **GRANTED** and all allegations/claims set forth in the first Amended Complaint against Raw and All3Media are **DISMISSED** from this action with prejudice.

It is further **ORDERED** that all allegations/claims set forth in the Amended Complaint against Netflix, Inc. and any other remaining Defendant are *sua sponte* **DISMISSED** from this action with prejudice. Plaintiff will not be permitted to file an amended complaint to assert renewed allegations/claims against the Raw, All3Media, Netflix, Inc., or any of the other Defendants.

The Clerk of Court is **DIRECTED** to terminate Defendants: Raw TV Ltd.; All3Media America, LLC; Netflix, Inc.; Matthew J. Tenevan; Stephen Zegar; Ira Starr; and Starr Gern Davison & Rubin, Shelly Stangler, and Ira Starr from this action along with all remaining Defendants. The Clerk of Court is further **DIRECTED** to mark this action **CLOSED** and **IMMEDIATELY TRANSMIT** (mail) copies of this Order and the accompanying Memorandum to *pro se* Plaintiff at the mailing address that he has identified on the docket for service of court papers.

BY THE COURT:

/s/ John Milton Younge
Judge John Milton Younge