

No. 25-6697

SUPREME COURT OF THE UNITED STATES

Adedayo Abioye,

Petitioner,

vs.

Mojisola Braimoh; Gabriel Iheakaram; Mountain of Fire and Miracles Ministries of
California, Inc.; Does 1-100, Inclusive,

Respondents.

On Petition for Writ of Certiorari to
the California Supreme Court

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

Thomas J. Schetelich*
Timothy J. Dygert, Jr.
Ferguson, Schetelich & Ballew, P.A.
100 South Charles Street, Suite 1401
Baltimore, MD 21201-2725
Tel: (410) 837-2200
Fax: (410) 837-1188
E-Mail: tschetelich@fsb-law.com
Counsel for Respondents
**Counsel of Record*

INTRODUCTION

Respondent Mountain of Fire and Miracles Ministries of California, Inc. (“Respondent”) respectfully requests that this Court deny Petitioner Adedayo Abioye’s Petition for Writ of Certiorari (“Petition”) which seeks review of the judgment of the California Court of Appeal, Third Appellate District Case No. C104433, which was ultimately denied review by the Supreme Court of California.

The Petition presents a variety of questions in an attempt to convince this Court to “review the judgment of the California Supreme Court.” (Petition, at 5). This *in propria persona* Petitioner is a vexatious litigant who has flooded multiple courts with pleadings and petitions. The Petitioner believes that he may invoke the Supreme Court’s Jurisdiction under 28 U.S.C. § 1257; however, the underlying case was grounded in California state law, not federal law. Furthermore, a final judgment has not been entered. Thus procedurally, this matter is not proper for a writ of certiorari.

The fundamental issue rests on the Petitioner having been declared a vexatious litigant by the Alameda County Superior Court on August 7, 2024. Therefore, the Petitioner is subject to a prefilling order as provided by California Code of Civil Procedure sections 391(b)(1), 391(b)(2), and 391.7. Petitioner is attempting to challenge the vexatious litigant statute and its application in this instance. These are challenges to California state law. Therefore, there is no Federal question and no basis upon which this Court may or should grant Certiorari.

STATEMENT OF THE CASE

The Superior Court of California, County of San Joaquin, issued a tentative ruling on January 30, 2025, dismissing Petitioner’s request for leave to initiate new litigation. The tentative ruling was subsequently adopted as the Court’s final order and entered as a minute order. Petitioner thereafter filed a notice of appeal to the Court of Appeal of the State of California, Third Appellate District. The Court of Appeal determined that the notice of appeal was taken from a non-appealable order, citing *In re Marriage of Deal* 80 Cal. App. 5th 71, 78–79 (2022). Ultimately, on August 18, 2025, the Third Appellate District denied Petitioner’s request to re-file the notice of appeal and deemed the appeal inoperative.

REASONS FOR DENYING THE PETITION

- I. The Petitioner Wrongfully Seeks Review from the Supreme Court.**
 - A. The California Court of Appeal for the Third District properly denied the Petitioner’s appeal.**

Petitioner’s Petition for Writ of Certiorari first rests on a fundamental misapplication of 28 U.S.C. § 1257. That statute governs the limited circumstances under which the United States Supreme Court may review final judgments rendered by the highest court of a state. A final judgment has not been rendered by the state’s highest court nor is there an active pending case. Indeed, the California Supreme Court denied the Petition for Review. The Petitioner attempts to improperly use the statute as an independent jurisdictional basis for challenging routine procedural rulings in state court. This matter arises entirely under California law and concerns Petitioner’s designation as a vexatious litigant. The Petitioner was required to comply

with the pre-filing order under California Code of Civil Procedure § 397.7(c), which required the Petitioner to obtain leave from the presiding judge of the court where the litigation is proposed to be filed. The pre-filing order was imposed by the Alameda County Superior Court on August 7, 2024, and affirmed by the Court's Order by the Honorable Esmeralda Zendejas, for the San Joaquin Superior Court on August 12, 2025. Petitioner's reliance on 28 U.S.C. § 1257 does not convert a state procedural dispute into a federal question and does not provide a basis for certiorari review.

B. There are no Constitutional provisions at issue.

The Petitioner attempts to rely on the Equal Protection Clause of the Fourteenth Amendment which provides that “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const., amend. XIV, § 1. While it is unclear what Petitioner is claiming violates the Equal Protection Clause, one must assume he is claiming the Vexatious Litigant Statute is violative.

“[W]hen a statute involves neither a suspect classification nor a fundamental right, the ‘general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest.’” *People v. Hardin*, 15 Cal. 5th 834, 847, 543 P.3d 960, 969 (2024) (citation omitted). A court applying this standard finds “a denial of equal protection only if there is no rational relationship between a disparity in treatment and some legitimate government purpose.” *Id.* (citation omitted).

The California Vexatious Litigant Statute as codified in Code of Civil Procedure § 391, *et seq.*, does not involve a suspect classification. It is not a violation

of a fundamental right. The statute is presumed valid. Petitioner provides no facts or law to challenge same.

II. The Petitioner has been declared a vexatious litigant pursuant to California Civil Procedure § 391.

Having been declared a vexatious litigant within the meaning of Code of Civil Procedure § 391, the Petitioner must comply with the pre-filing requirements imposed under Code of Civil Procedure § 391.7(a). Petitioner contends that his action against Respondent should not have been dismissed because the case purportedly had merit and presented triable issues. However, the complaint was not dismissed based on the substantive sufficiency of the Complaint. Rather, it was dismissed due to Petitioner's failure to comply with the pre-filing orders imposed upon him as a prerequisite to filing a complaint. Petitioner failed to comply with the procedural requirement imposed on as a vexatious litigant. The Petitioner's failure to exercise due diligence in understanding the requirements of his status as a vexatious litigant only reinforces that the initial decision by the Alameda County Superior Court of August 7, 2024, was appropriate.

Petitioner argues that the Court of Appeal, Third Appellate District, erred in deeming his appeal "inoperative," contending that the decision was based on a mere technicality. He relies on *Loya v. Desert Sands Unified School District*, 721 F.2d 279 (9th Cir. 1983), in which a court clerk rejected a complaint for failing to comply with a new local rule requiring eleven-inch paper, resulting in the statute of limitations expiring. The Ninth Circuit held that upholding the clerk's rejection would improperly elevate a local formatting rule into a jurisdictional requirement rather

than a rule intended for “the convenience of the court’s own record keeping.” *Id.* at 281.

Here, however, Petitioner’s failure to obtain a pre-filing order is not a minor formatting defect as in *Loya*, but a substantive procedural requirement. Compliance with pre-filing orders is a mandatory pre-requisite to initiating litigation as a vexatious litigant, and Petitioner failed to satisfy that requirement.

CONCLUSION

For the reasons stated above, Respondent requests that this Court deny Mr. Abioye’s Petition for Writ of Certiorari in its entirety.

Dated this 5th day of March 2026.

Respectfully submitted,

By: /s/ Thomas J. Schetelich
Thomas J. Schetelich
Counsel of Record

/s/ Timothy J. Dygert, Jr.
Timothy J. Dygert, Jr.
Ferguson, Schetelich & Ballew, P.A.
100 South Charles Street, Suite 1401
Baltimore, MD 21201-2725
Tel: (410) 837-2200
FAX: (410) 837-1188
E-Mail: tschetelich@fsb-law.com
E-Mail: tdygert@fsb-law.com
Counsel for Respondents