NO. 25-7204

In the Supreme Court of the United States

RUTH TORRES,

Petitioner

v.

BONNIE LEE GOLDSTEIN, et al.,

Respondents.

On Petition for a WRIT OF CERTIORARI

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT

Case No. 24-11021, Justices Smith, Graves & Engelhardt

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF TEXAS

No: 3:24-CV-1843, Judge Jane J. Boyle & Magistrate Renee H. Toliver

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PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether judicial immunity bars all relief—including injunctive or declaratory relief—where state judges acted in the clear absence of jurisdiction and where a state judicial commission later sanctioned one judge for denying due-process.

    b) Whether U.S. Const. amend. XIV, § 1 due process and equal protection guarantees were violated when state Administrative Regional Judge's Wheless presided over summary judgment hearing—without lawful assignment—after prior recusal in related procedure, directed the clerk to reject Petitioner's answer, and despite lack of statutorily required twenty-one-day hearing notice, issued a permanent, state-wide injunction barring Petitioner's to be employed in her lawful profession.

2. Whether state judges are disqualified—after a finding by a state judicial oversight body—or via acting lacking jurisdiction and with clear bias, thereby rendering judges orders void under the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

3. Whether appeal not taken in good faith and categorizing Petitioner's constitutional claims as "frivolous" was warranted because the claims challenged judicial rulings and despite pleading sufficiency and plausibility.

4. Whether a federal district and appellate court may summarily dismiss a *pro se* 28 U.S.C. § 1983 action as "frivolous" against judicial officers without conducting meaningful de novo review of magistrate recommendations, contrary to 28 U.S.C. § 636(b)(1)(C), Rule 72(b)(3) and this Court's precedent.
5. Whether a Fifth Circuit erred in holding that the district court's *sua sponte* dismissal was implicit denial not requiring a ruling on Motion for Recusal and Motion for Change of Venue.
6. Whether appointment of counsel was unwarranted when Petitioner had filed multiple pleadings but had obtained no relief or justice despite ten years of diligent efforts in exceptional, rare, complex constitutional case presents no non-frivolous issues for appeal, in conflict with this Court's precedents on access to courts and fundamental fairness.
7. Whether the state and federal judicial officers actions are so egregious and outrageous in blatantly and repeatedly violating Petitioner's constitutional rights that they shock the conscience.

PARTIES TO THE PROCEEDINGS

Petitioner: Ruth Torres, proceeding *pro se.*

Respondents:

1. Hon. Bonnie Lee Goldstein,
2. Hon. Raymond G. Wheless,
3. Hon. Robert D. Burns,
4. Hon. Amanda L. Reichek,
5. Hon. Ken Molberg,
6. Hon. Dennise Garcia,
7. Hon. Robbie Partida-Kipness,
8. Hon. Dale Tillery, each in their official capacities within the Texas Judiciary.

NOTICE OF RELATED CASE

Petitioner hereby provides notice of related case for which Petition of Writ of Certiorari is due April 13, 2026, *United States ex rel. Texas v. Abbott*, No. 25-10671, 2026 WL 93133 (5th Cir. Jan. 13, 2026) appeal on *United States ex rel. Torres v. Abbott*, No. 3:24-cv-01842 (N.D. Tex., 2024).

Table of Contents

INDEX OF APPENDICES

A. Fifth Circuit opinion (No. 24-11021, June 10 2025): unpublished, affirming dismissal.

- Denial of Motion for En Banc Reconsideration, (Nov. 3 2025).

B. District Court opinion (N.D. Tex. No. 3:24-CV-1843, Oct. 17 2024): adopting the magistrate's recommendation.

- Magistrate's Findings and Recommendation (Sept. 24 2024).

C. Orders by Judges Goldstein and Wheless:

1: TI
2: Court Appointment of IT Expert
3: GRANT POE M4 Contempt & Sanctions
4: Supplemental Contempt
5: GRANT DFW Airport Plea to Jurisdiction
6: Deny Strike or Reconsider TI
7: Deny Texas Citizens Participation Act
8: Deny Sanctions & Leave to Amend
9: Deny 3rd Motion to Amend
10: Deny Summary Judgment
11: Deny Compel Discovery, PO & Sanctions
12: Deny Reconsideration of Order 91a
13: Deny Motion for Recusal
14: Deny Show Authority
15: Deny Motion to Strike
16: GRANT POE Motion to Strike Entity Answer
17: Deny Recusal

18: Final & Permanent Injunction _Wheless
19-23: Related Orders

D. Texas Judicial Commission Sanction of Judge Goldstein

CONFLICT SUMMARY: Fifth Circuit Holdings vs. Supreme Court Authority

Fifth Circuit Holding (June 10, 2025)	Conflict / Controlling Supreme Court Case	Constitutional or Legal Principle
1. Judicial immunity bars all claims as well as declaratory and injunctive relief. Constitutional claims were "frivolous" because they challenged judicial rulings. Appeal not taken in good faith.	*Mireles v. Waco*, 502 U.S. 9 (1991); *Forrester v. White*, 484 U.S. 219 (1988); *Pulliam v. Allen*, 466 U.S. 522 (1984); *Stump v. Sparkman*, 435 U.S. 349 (1978); *Ex parte Young*, 209 U.S. 123 at 136 (1908). *Bell Atlantic Corp. v. Twombly* (2007); *Ashcroft v. Iqbal* (2009); *Daniels v. Williams*, 474 U.S. 327 (1986); *Coppedge v. United States*, 369 U.S. 438 (1962); *Ex parte Hull*, 312 U.S. 546 (1941).	Immunity does not apply when a judge acts in the clear absence of subject-matter jurisdiction or performs non-judicial acts. Judicial immunity does not preclude prospective declaratory or injunctive relief to halt ongoing constitutional violations. Federal courts retain authority to enjoin ongoing violations of federal law by state officials, including judicial officers. Access to court and due-process claims are not frivolous when alleging fundamental fairness violations. A complaint may not be dismissed when it sufficiently states a claim that is plausible on its face. An appeal is in good faith if any issue is not clearly frivolous; where substantial constitutional questions exist contravenes *Coppedge*.
2. Disciplinary findings	*Tumey v. Ohio*, 273 U.S. 510 (1927);	Due process forbids

Fifth Circuit Holding (June 10, 2025)	Conflict / Controlling Supreme Court Case	Constitutional or Legal Principle
by the Texas State Commission on Judicial Conduct and lack of jurisdiction and clear bias have no due-process consequence.	*Ward v. Village of Monroeville*, 409 U.S. 57 (1972); *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)	adjudication by a biased or disqualified judge; orders issued by such a judge are void.
3. District court's wholesale adoption of the magistrate's report satisfied "de novo" review.	*Gomez v. U.S., 858 (1989);* *United States v. Raddatz*, 447 U.S. 667 (1980); *Mathews v. Eldridge*, 424 U.S. 319 (1976)	§ 636(b)(1)(C) requires meaningful de novo review; cursory adoption denies due process.
4. Denial of recusal and change-of-venue motions need not be expressly ruled upon.	*Liteky v. United States*, 510 U.S. 540 (1994); *In re Murchison*, 349 U.S. 133 (1955)	Courts must address bias and impartiality directly; implicit denials violate due-process fairness.
5. Appointment of counsel unwarranted due to Plaintiff's ability to file numerous pleadings.	*Eagan v. Dempsey*, 987 F.3d 667 (2021); *Turner v. Rodgers*, 564 U.S. 431 (2011); *Gideon v. Wainwright*,372 U.S. 335 (1963); 28 U.S.C. A 1915 (e) (1); 42 U.S.C.A. § 1983	Safe-guards are required, including appointment of counsel for exceptional, rare civil cases involving constitutional violations by government officer(s).
6. Dismissal affirmed. En Banc Review denied.	*Rosales-Mireles v. United States, 585 U.S. 129 (2018);* *County of Sacramento v. Lewis, 523 U.S. 833 (1998);* *West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943);* *Home Bldg. & Loan Ass'n v. Blaisdell, 290 U.S. 398 (1934);* *U.S. v. Lee, 106 U.S. 196 (1882).*	"[I]n a due process challenge to executive action, the threshold question is whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience."

TABLE OF AUTHORITIES

Cases

Statutes

Rules

Constitutional Provisions

JURISDICTION

- Jurisdiction lies under 28 U.S.C. § 1254(1).
- The Fifth Circuit entered judgment June 10, 2025.
- A timely petition for rehearing en banc was denied November 3, 2025.
- Application to extend the time to file a petition for a writ of certiorari from February 1, 2026 to April 2, 2026 was submitted January 27, 2026 to the Honorable Justice Alito and granted on February 2, 2026.
- The filing deadline has been extended to April 2, 2026 pursuant to Supreme Court Rule 13.5.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- U.S. Const. amend. I (right to petition the Government for redress of grievances).
- U.S. Const. amend. IV (citizens protection from unreasonable search, seizure and right to privacy in persons, papers and effects).
- U.S. Const. amends. V, § 1 and XIV, § 1 (No deprivation of liberty or property absent Due Process and Equal Protection Clauses).
- 28 U.S.C. § 1983.
- 28 U.S.C. § 636(b) and (c) (magistrate judge authority).
- Fed. R. Civ. P. 72(b)(3) (de novo review of magistrate recommendations).

STATEMENT OF THE CASE

Petitioner, a whistleblower and *pro se* non-attorney litigant, was a defendant in a state civil case before Judge Bonnie Lee Goldstein, 44th District Court of Dallas County, Texas. Without statutorily required bond and upon orally ordering Petitioner to agree to the Temporary Injunction, Judge Goldstein appointed and ordered a private "IT expert" to search, seize and erase all contents of Petitioner's personal laptop and iPhone. Petitioner objected but complied. Petitioner's property was erased and physically destroyed. However, the IT Expert did not delete emails containing the evidence Judge Goldstein and opposing counsel sought to destroy and deprive Petitioner of. Therefore, Petitioner retained possession of evidence despite fully submitting to Judge Goldstein's order.

In a related case where Petitioner sought payment for unpaid wages before Judge Staci Williams, Petitioner used this same evidence at a Show Cause hearing on Petitioner's Motion for Contempt to show the same opposing counsel was withholding evidence and committing fraud to the court. Opposing counsel and the court thought the evidence had been destroyed by the IT expert until this usage revealed Petitioner was still in possession. Judge Williams found opposing counsel in contempt. Immediately afterwards, opposing counsel sent an ex-parte email to Judge Goldstein requesting Petitioner be held in contempt for using the evidence in the related case before Judge Williams. Judge Goldstein immediately issued order holding Petitioner in contempt striking Petitioner's counterclaims with prejudice absent motion, notice or hearing.

The Texas State Commission on Judicial Conduct subsequent to an excessive delay issued private sanction for retraining as a district court judge, for denying Petitioner due process. During this delay Judge Goldstein was elected to the state Fifth Court of Appeals. Nevertheless, Judge Goldstein's orders remain in effect.

In a third related case, Unauthorized Practice of Law Committee ("UPLC"), filed suit against Petitioner for filing answer and challenge to jurisdiction for claims against Petitioner's entities. UPLC refused Petitioner's demands to produce committee records establishing authority to bring suit. In this related Rule 12 proceeding, Administrative Regional Judge Ray Wheless was recused by the presiding state officer. However, UPLC was not required to produce the requested records.

The UPLC case was assigned to Judge Kristina Williams. After recusal in the related proceeding, Administrative Regional Judge Raymond G. Wheless—without case assignment—appeared to preside over summary judgment hearing on seven-days' notice (Tex. R. Civ. P. 166a requires 21 days). Judge Wheless orally ordered the clerk to reject Petitioner's answer, granted UPLC's Motion for Summary Judgment issuing permanent state-wide injunction which bars Petitioner from her human-resources occupation statewide causing Petitioner over $1.8 million in economic loss and continuing at $200,000 per year.

Petitioner diligently sought relief in state and federal courts. State mandamus and appeals were summarily denied. The federal district court *sua*

sponte dismissed her § 1983 complaint under 28 U.S.C. § 1915(e)(2)(B) as "frivolous". The district court adopted the magistrate's recommendation without analysis or response to Petitioner's challenges. The Fifth Circuit affirmed, holding these issues as frivolous and barring relief asserting absolute judicial immunity.

REASONS FOR GRANTING THE PETITION

I. The Fifth Circuit's absolute-immunity ruling conflicts with *Mireles*, *Forrester*, *Pulliam*, *Stump* and *Ex parte Young*.

The Fifth Circuit affirmed dismissal by holding that Petitioner's claims "stem from orders the defendants issued in litigation" and therefore fall squarely within judicial immunity. (5th Cir. Op. at 3). The panel's conclusion conflicts with this Court's rule that immunity is not absolute where the act is performed *in the clear absence of jurisdiction* or is *non-judicial in nature*.

In *Mireles v. Waco*, 502 U.S. 9, 12 (1991), this Court held that immunity is lost when a judge acts "in the absence of all jurisdiction." "Relevant inquiry in determining whether judge's actions were taken in 'judicial capacity,' . . . is nature and function of act, . . . normally performed by judge." *Id.* Administrative acts are deemed non-judicial and not shielded. *Forrester v. White*, 484 U.S. 219, 227 (1988). "A clear absence of all jurisdiction" removes immunity. *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978).

Here, Judge Goldstein's authorization of search, seizure and destruction of Petitioner's private property by a private "IT expert" pursuant to no lawful injunction bond was an administrative or investigatory act, not a judicial adjudication, nor a function normally performed by a judge and is thus outside the judicial function. *Id.* at 229. The subsequent Texas State Commission on Judicial

Conduct sanction confirms that Judge Bonnie Goldstein's actions violated due process and were not legitimate exercises of judicial power.

Further, Administrative Regional Judge Wheless had a clear absence of all jurisdiction when he presided over a case not assigned to him and when he had already been recused in a related proceeding. UPLC failed to establish UPLC had authority to bring suit and its petition and motion failed to meet state statutory requirements. Notice of hearing on Motion for Summary Judgment was received seven (7) days in advance not the twenty-one (21) days required (Tex. R. Civ. P. 166a and noticed Judge Kristina Williams would preside. However, Judge Wheless suddenly appeared for the hearing, orally directed the clerk to reject Petitioner's answer, granted UPLC's motion and issued permanent injunction barring Petitioner from working in her field state-wide.

Therefore, the Fifth Circuit's dismissal denies Petitioner the right to petition the Government for redress of grievances in violation of U.S. Const. amend. I, denies Petitioner protection from right to privacy, papers and effects, unreasonable search, seizure and destruction of property in violation of U.S. Const. amend. IV, and deprives Petitioner of ability to work in her lawful chosen profession and her property absent due process and equal protection guaranteed under U.S. Const. amends. V, § 1 and XIV, § 1.

Judicial immunity does not bar prospective relief.

Further, *Pulliam v. Allen*, 466 U.S. 522, 541-42 (1984), explicitly preserves injunctive and declaratory relief against judicial officers for constitutional violations. The continuing enforcement of Judge Goldstein's and Judge Wheless's orders—each entered without jurisdiction—constitutes ongoing violation of Petitioner's due-process rights and substantial harm. Petitioner seeks to invalidate and enjoin orders still in effect. The Fifth Circuit's contrary approach creates a direct conflict with this Court and undermines Petitioner's right to an injunction to "prevent [a government actor] from doing that which he has no legal right to do." *Ex parte Young*, 209 U.S. 123 at 136 (1908).

The standard for proceeding *in forma pauperis* was misapplied and labeling constitutional claims "frivolous" because they challenged judicial rulings in violation of *Ex parte Hull*, *Coppedge* and First, Fifth and Fourteenth Amendments.

Under *Coppedge v. United States*, 369 U.S. 438 (1962), an appeal is "in good faith" if it raises "any issue that is not clearly frivolous."
Ex parte Hull, 312 U.S. 546 (1941), held that prisoners—and by extension other litigants—have a constitutional right to access the federal courts to present colorable constitutional claims per this Court's directive that good-faith litigants not be foreclosed from review for raising debatable constitutional issues. A complaint

survives a motion to dismiss when it satisfies the plausibility requirement "contain[ing] sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face" and "above the speculative level." *Ashcroft v. Iqbal* (2009), 556 U.S. 662 (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554 (2007).

Petitioner presented colorable due-process violations and jurisdictional issues, with sufficient factual matter to meet and exceed the plausibility requirement, including confirmation by a state judicial commission of denial of due process. The panel's characterization of Petitioner's appeal as "frivolous," dismissing substantial constitutional violations duplicates and furthers violations of U.S. Const. amends. I, V and XIV, § 1.

II. The panel ignored the due-process effect of formal judicial discipline, clear lack of jurisdiction and bias, contradicting *Caperton, Ward, Liteky, Tumey, In re Shelley Luther, and Ex parte Lesher.*

Petitioners are entitled to a fair trial in a fair tribunal as a basic requirement of due process. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009). If there is denial of a neutral and detached judge in the first instance, it renders the orders void. *Ward v. Village of Monroeville*, 409 U.S. 57 (1972). This Court requires recusal

whenever impartiality might reasonably be questioned. 28 U.S.C.A. §455(a); *Liteky v. United States*, 510 U.S. 540 (1994).

We have held that **failure to meet the requirements of rule Tex. R. Civ. Proc. §683 renders the injunction order "fatally defective and void,** whether specifically raised by point of error or not." *Qwest Comm. Corp. v. AT & T Corp., 24 S.W.3d 334, 337 (Tex.2000) (per curiam); see also InterFirst Bank San Felipe, N.A. v. Paz Constr. Co., 715 S.W.2d 640, 641 (Tex.1986) (per curiam).* The Texas Supreme Court held the injunction did not meet the standards of Tex. R. Civ. Proc. §683 because the restraining order did not cite the specific state, county, or city regulation Luther allegedly violated. *In re Shelley Luther, No. 20-0363; (Tex. 2021).*

Contempt orders MUST be in writing, not oral, AND include command language to create an order enforceable by contempt. *Ex parte Wilkins*, 665 S.W.2d 760,761 (Tex.1984); *Ex parte Durham*, 921 S.W.2d 482,486 (Tex. App.-Corpus Christi 1996, orig. proceeding). *Ex parte MacCullum*, 807 S.W.2d 729,730 (Tex.1991); *In re Sellers*, 982 S.W.2d 85,87 (Tex. App.-Houston [1st Dist.] 1998, orig. proceeding); If an order does not comply with Tex. R. Civ. Proc. §684, which is MANDATORY, it is void on its face and "will not support an order of contempt." *Ex parte Lesher,* 651 SW 2d 734, 736 (Tex. 1973). If a temporary injunction is void on its face because the trial court waived the bond requirement, it will not support an order of contempt for non-compliance.

Here, the Temporary Injunction failed to cite the specific state, county, or city regulation Petitioner allegedly violated and lacked a bond making it fatally flawed non-compliant with Tex. R. Civ. Proc. §§683 and 684. Judge Goldstein issued the contempt order based on an oral order and lacking command language after receiving ex-parte communication from opposing counsel. When a state's own ethics body determines misconduct denying due process, continuing enforcement of that judge's orders violates requirement of an impartial decision-maker and the structural due-process principle that "no man may be a judge in his own cause." *Tumey v. Ohio*, 273 U.S. 510 (1927); *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868 (2009).

When the Texas State Commission on Judicial Conduct found that Judge Goldstein denied Petitioner due process, Judge Goldstein was constitutionally disqualified, and her orders became void yet these orders still stand harming Petitioner years later. Because the Commission issued "private sanction" for retraining as district court judge, Petitioner was barred from the records and the non-typical eighteen-month delay resulted in Judge Goldstein being elected to the state Fifth Court of Appeals.

Administrative Regional Judge Wheless showed clear lack of jurisdiction and bias. He presided over a case not assigned to him, knowing he had already been recused in a related proceeding. He orally ordered the clerk to reject Petitioner's answer and the clerk complied. He granted UPLC's motion for summary judgment

despite insufficiency of petition and motion, and despite lack of statutorily required twenty-one-day hearing notice. The permanent, state-wide injunction is exceedingly broad and intentional to chill employment in Texas and attempt to force Petitioner out of the state of Texas.

By the Federal District Court refusing to adhere to state law to find the orders issued by Judges Goldstein and Wheless void, the Fifth Circuit entrenched a system where a demonstrably biased judge continues to bind the same litigant, and benefit from the private sanction with promotion to the state appellant court, abridging Petitioners U.S. Const. amends. V, § 1 and XIV, § 1 protections.

III. The Fifth Circuit's deference to the district court's failure to conduct meaningful *de novo* review violated Rule 72(b)(3), 28 U.S.C. §636, Article III, and U.S. Const. amends. I, V and XIV, § 1.

A U.S. Const. art. III violation occurs if a district court judge adopts a magistrate judge's recommendation on a dispositive motion without conducting a *de novo* review when proper objections have been filed. Under 28 U.S.C. § 636(b)(1), the ultimate authority to make final decisions must remain with an Article III judge to satisfy constitutional requirements. The Federal Magistrates Act carefully defines grant of authority to magistrates. A result nor related order can stand if a magistrate exceeds his jurisdiction and there is no meaningful review by a district judge. *Gomez v. U.S.*, 490 U.S. 858 (1989). The district judge must determine de

novo any part of the magistrate judge's disposition that has been properly objected to. Fed. R. Civ. Proc. §72(b)(3). This Court has emphasized that a district judge must engage in independent assessment of a magistrate's recommendation. "De novo determination . . . must be substantive," not merely formal with "fresh consideration." *United States v. Raddatz*, 447 U.S. 667, 676 (1980). A rubber-stamp affirmance without findings offends *Mathews v. Eldridge*; 424 U.S. 319 (1976). Moreover, this Court held that due process requires "an opportunity to be heard at a meaningful time and in a meaningful manner, . . . requir[ing] consideration of three distinct factors: private interest that will be affected by official action; rick of erroneous deprivation of such interest through procedures used; . . . and government's interest." *Id.*

Magistrate Toliver lacked authority to *sua sponte* dismiss under 28 U.S.C.A. §§ 636 (b)(1)(A)[1] and (b)(3)[2]. The panel concluded that "the record reflects ... the district court conducted the requisite de novo review." (Slip op. 2). The district court's adopted the magistrate's recommendation without findings, discussion or addressing any of Petitioner's objections.

Magistrate Toliver's actions far exceeded statutory authority to issue findings and recommendation issuing order **preemptively prohibiting** Torres from filing

[1] "**(1)** Notwithstanding any provision of law to the contrary—
(A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, . . . to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action."

[2] "A magistrate judge may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States."

amended complaint and motion for appointment of counsel during in forma pauperis "judicial screening" and made *sua sponte* dispositive decisions in F,C&R thereby denying due process and equal protections inconsistent with precedent and publicly disclosed the related case which was statutorily under seal.

Magistrate delegated duties should not include *sua sponte* ability to dismiss constitutional claims absent consent of the parties. The F,C&R references authority under "Special Order 3". Torres found 38 separate orders under heading Special Order 3.[3] It is unclear what specific order is intended with no specificity as to delegated authority and duties.

Diligent research found no established rule or order delegating *sua sponte* dismissal authority to any magistrate, except arguably under consent of 28 U.S.C. §636(c). *In forma pauperis* cases are consistently and almost exclusively subject to 28 U.S.C. §1915(e)(2) screening with preemptive orders barring amendment and motion for appointment of counsel resulting in over 98% *sua sponte* dismissals against government defendants with a lack of publicly accessible statistical reporting[4]. Commonality of error should not sway this court due to the vulnerabilities and incapabilities of pro se in forma pauperis litigants to overcome *sua sponte* dismissal. **The court is regularly blatantly and intentionally denying due process and equal protections to benefit government defendants.**

[3] U.S. Dist. Ct. N.D. Texas, Special Orders, https://www.txnd.uscourts.gov/special-order-3
[4] U.S. Dist. Ct. N.D. Texas, Statistics, https://www.txnd.uscourts.gov/statistics

The Fifth Circuit acted with extreme bias on behalf of state judicial officers by *sua sponte* dismissal and refusal to issue service after defendants failed to waive service as required. Fed. R. Civ. Proc. §4(d). Due to the clear bias by state and federal judges, Petitioner has been repeatedly deprived of any meaningful judicial examination in violation of 28 U.S.C. § 636(b)(1)(C), U.S. Const. amends. I, V and XIV, § 1 and Fed. R. Civ. Proc. §72(b)(3).

V. The Fifth Circuit's denial of recusal and venue motions without ruling violates *Liteky* and *Murchison*.

This Court requires recusal whenever impartiality might reasonably be questioned. 28 U.S.C.A. §455(a); *Liteky v. United States*, 510 U.S. 540 (1994). Explicit findings where bias is alleged is required. *Id.* "[J]ustice must satisfy the appearance of justice." *In re Murchison*, 349 U.S. 133, 136 (1955). The panel treated the district court's failure to rule on Petitioner's motions for recusal and change of venue as "implicit denial." (Slip op. 3). Implicit denial fails to provide appearance of impartial justice.

VI. Denial of counsel conflicts with *Gideon* and *Turner*.

The right to counsel is fundamental in exceptional cases. Tex. Gov't Code §2001.053; *Gideon v. Wainwright*, 372 U.S. 335 (1963). While civil, this case implicates severe loss of liberty and livelihood. *Turner v. Rogers*, 564 U.S. 431 (2011) requires safe-guards to ensure a fair hearing where the opposing party is the state or represented officials. "In determining whether an indigent civil litigant, who has filed a motion for appointment of counsel, ... a court should consider whether the difficulty of the case, factually and legally, ...recognize that complexity increases and competence decreases as a case progresses... beyond the ability of most pro se litigants to successfully carry out. The prejudice question, regarding a district court's abuse of discretion in denying an indigent civil litigant's motion for appointment of counsel, is not whether the case was a sure winner but for the absence of counsel, which is impossible to know; rather**, the question is whether assistance of counsel could have strengthened the preparation and presentation of the case in a manner reasonably likely to alter the outcome**." *Eagan v. Dempsey*, 987 F.3d 667 (2021); 28 U.S.C.A. 1915 (e)(1); 42 U.S.C.A. §1983.

Plaintiff had affidavits of inability to pay and repeatedly moved for appointment of counsel, which were all denied. This case is unique therefore Plaintiff has been unable to locate a similar case to compare it with. In addition, this case involves public and private interests making this an exceptional case, rare

and unusual, per Tex. Gov't Code §24.016. Further, because of lack of counsel, especially against a state judicial board, agency or state officials where the court has shown clear bias, it is so prejudicial; it creates a lack of access to substantial due process.

The Fifth Circuit asserts that since Plaintiff demonstrated ability in preparing filings, appointment of counsel was not warranted ignoring statute and precedence. The Fifth Circuit ignored these principles despite pro se in forma pauperis Plaintiff was deprived of privacy, property, ability to work in her profession permanently on a state-wide basis by state government officials despite dozens of pleadings.

VII. These government actions shock the conscience and create national significance.

"[I]n a due process challenge to executive action, the threshold question is whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience." See *County of Sacramento v. Lewis,* 523 U.S. 833, 848, n. 8, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). This Court has said that the "shock the conscience" standard is satisfied where the conduct was "intended to injure in some way unjustifiable by any government interest," or in some circumstances if it resulted from deliberate indifference. *Id.,* at 849–850, 118 S.Ct. 1708; *Rosales-Mireles v. United States*, 585

U.S. 129, 137–38, 138 S. Ct. 1897, 1906, 201 L. Ed. 2d 376 (2018); U. S. Const. amends. V and XIV, § 1.

Here, Judge Goldstein ordered pro se Petitioner to submit personal property to a private "IT Expert" to search, seize and destroy Petitioner's property with the intent of destroying evidence of whistleblowing and held Petitioner in contempt based solely on ex-parte communication from opposing counsel. Judge Raymond Wheless presided over a case not assigned to him after being recused in a related matter. Despite UPLC failure to show authority to bring suit, insufficient pleadings and only seven days' notice instead of the statutorily required twenty-one-days-notice, Judge Wheless issued a permanent state-wide injunction prohibiting Petitioner from working in her 20+ year profession as a Human Resources Consultant and Executive, for which standard Human Resources Executives job descriptions require providing advisement on employment law compliance. These government actions denied Petitioner substantive and procedural due process rights and blatantly, repeatedly violated her constitutional rights. Such should shock the conscience of this Court.

We the people desire and demand, "Equal Justice Under the Law", not inscribed in walls of stone but inscribed on the heart of every judicial officer demonstrated in every order. Worse than Justice Hugo Black's observation, "There can be no equal justice where the kind of trial a [wo]man gets depends on the amount of money he has," is the litigant that can't even get to trial for the same

reason. Justice Robert H. Jackson encapsulates the guarantees of our Constitution from rule by monarchy or any election: "The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy. One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly may not be submitted to vote; they depend on no elections." *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943); U. S. Const. amend. I. "Whatever is reserved of state power must be consistent with fair intent of constitutional limitation of that power." *Home Building & Loan Assn. v. Blaisdell*, 290 U.S. 398 (1934). As Chief Justice Charles Evans Hughes noted, "If the provisions of the Constitution be not upheld when they pinch as well as when they comfort, they may as well be abandoned." *Id.*

Left intact, the Fifth Circuit ruling effectively immunizes judicial officers for unconstitutional acts even where (1) they have been formally sanctioned, and (2) they acted without jurisdiction. This result erodes the cornerstone principle that "no man in this country is so high that he is above the law." *United States v. Lee*, 106 U.S. 196, 220 (1882). Supreme Court intervention is essential to reconcile the Fifth Circuit's deviation from established constitutional and procedural safeguards.

CONCLUSION AND PRAYER FOR RELIEF

The Fifth Circuit's unpublished decisions conflict with this Court's foundational precedents on rule of law, judicial immunity, due process, and access to justice. Left uncorrected, it places judges beyond constitutional accountability even after findings of misconduct and erodes public trust in the rule of law if judicial immunity may cloak acts taken in clear absence of jurisdiction; when a state tribunal's confirmed due-process violation is ignored to maintain enforcement of illegal judicial orders; and when federal courts may summarily dismiss such claims without meaningful review.

For the reasons detailed herein, Plaintiff pleads this court find orders issued by biased, disqualified judges are void[5] as impartiality is a fundamental part of constitutional due process[6]. Just as Torres asserts exception to judicial immunity applies to state judicial defendants **lacking jurisdiction**[7] conspiring[8] to act under color of law[9] to violate Torres' constitutional rights or failing to perform their duty

[5] *New York Life Insurance Co. v. Brown,* 84 F.3d 137 (5th Cir. 1996), (quoting *Williams v. New Orleans Pub. Serv., Inc.* 728 F.2d 730, 735 (5th Cir. 1984)(quoting 11 Charles Alan Wright, Arthur Miller & Mary Kay Kane, Federal Practice and Procedure §2862 (1973 ed)))...judges whose failure to disqualify is so egregious as to violate due process, are void, and thus subject to relief under Rule 60(b)(4). See: *Tumey v. Ohio,* 273 U.S. 510, 523 (1927), holding that nondisqualification gives rise to due process problems when the judge has "a direct, personal, substantial, pecuniary interest" in a case, and when judge exhibits a "probability of bias" per *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868,884 (2009).

[6] *Aetna Life Ins. Co. v. Lavoie,* 475 U.S. 813, 825 (1986) (quoting *In re Murchison*, 349 U.S. 133, 136 (1955))

[7] "taken in the complete absence of all jurisdiction...judicial immunity can be overcome." *Jones v. King,* 701 F.Supp.3d 552 (2023).

[8] 42 U.S.C. § 1985

[9] 42 U.S.C. § 1983

to prevent the conspiracy[10], so the same applies to federal judicial officers[11] warranting injunction per *Feltz*[12] and relief per Rule 60 (b)(4).

Accordingly, Petitioner Ruth Torres respectfully prays that this Honorable Court:

1. Grant the **Petition for Writ of Certiorari;**
2. **Vacate** the judgment of the
   United States Court of Appeals for the Fifth Circuit; and
3. **Remand** with **GRANT of appointment of counsel** and GRANT of Change of Venue for proceedings consistent with this Court's precedent and constitutional requirements.

Respectfully submitted,

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[10] 42 U.S.C. § 1986
[11] 42 U.S.C. §§§ 1983, 1985, 1986
[12] *Feltz v. Regalado,* 751 F.Supp.3d 1198 (N.D. OK, 2024), Holding: equal protection and procedural due process claims valid, injunctive relief granted against judge and state actor.