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No. 26-____

Supreme Court, U.S.
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IN THE
Supreme Court of the United States

ELLIOTT J. SCHUCHARDT,

Petitioner,

v.

BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE SUPREME COURT OF TENNESSEE,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

ELLIOTT J. SCHUCHARDT
2322 JOCKEY RUN TRAIL
KNOXVILLE, TN 37920
PHONE: (865) 304-4374
ELLIOTT016@GMAIL.COM

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SUPREME COURT, U.S.

(i)

QUESTION PRESENTED

The issues before the Court are as follows:

1) Does Tennessee violate the due process clause of the 14th Amendment by allowing the prosecutor to choose its own judge in attorney ethics cases?

2) Does Tennessee violate the due process clause of the 14th Amendment by refusing to hold a hearing on material issues of fact in attorney ethics cases?

The issue in this case is whether Tennessee provides a neutral judge in attorney ethics cases.

Tennessee investigates and prosecutes ethics cases against lawyers by means of a Board of Professional Responsibility. Cases are heard by a panel of three lawyers. Until 2016, the clerk of the Board selected the hearing panel by means of a *rotating system* of possible participants.

In 2016, Tennessee changed the law. Panel members are now chosen by the party *prosecuting the case* – the chairman of the Board of Professional Responsibility. The chair does so with the assistance of *opposing counsel* on this case.

Tennessee's system does not comply with the holdings of this Court. In *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), this Court said that a party to a lawsuit cannot have a "significant and disproportionate influence" in choosing the judge.

(ii)

The Tennessee Supreme Court is refusing to comply with the holding of *Caperton*.

Tennessee's system has, predictably, led to abuses.

Tennessee's state lawyers are playing "fast and loose" with the evidence in attorney ethics cases, because they control the judge in such cases.

The petitioner in this case is Elliott J. Schuchardt. Schuchardt is a 1993 graduate of Columbia Law School. He is a candidate for the Tennessee general assembly in the August 2026 election.

Schuchardt contends that State counsel has fabricated a wide array of evidence in this case – including testimony of a Tennessee state judge. However, Tennessee won't give him a hearing on the fabricated evidence, because the judge was chosen by opposing counsel.

Schuchardt is not the only victim of Tennessee's system. Tennessee's state lawyers have weaponized the attorney ethics process for political purposes.

Tennessee has filed ethics cases against at least 59 attorneys running for office. App. 286a-311a. These cases are disqualifying attorneys from judicial elections. In the last year alone, the Board sanctioned at least six attorney-candidates.

Tennessee is also filing ethics cases against prominent African American attorneys. This includes black attorneys running for judge or the state legislature. App. 312a-327a.

(iii)

PARTIES TO THE PROCEEDING

The petitioner is Elliott J. Schuchardt. Schuchardt was the appellant in the proceeding below.

The respondent is the Board of Professional Responsibility of the Supreme Court of Tennessee. The Board was the appellee in the proceeding below.

LIST OF RELATED PROCEEDINGS

- *Schuchardt v. Board of Professional Responsibility*, No. E2024-00812-SC-R3-BP, Supreme Court of Tennessee. Judgment entered on April 14, 2026.
- *In re Elliott James Schuchardt*, No. 207706-3, Chancery Court of Knox County, Tennessee. Judgment entered on May 7, 2024.
- *In re Elliott James Schuchardt*, No. 2021-3195-2-AJ, Board of Professional Responsibility of the Supreme Court of Tennessee. Judgment entered on July 21, 2023.
- *In re Elliott James Schuchardt*, No. M2022-01324-SC-BAR-BP, Supreme Court of Tennessee. Opinion and order entered on January 30, 2023.
- *Schuchardt v. Tennessee Board of Professional Responsibility*, No. 2-157-22, Knox County Circuit Court. Opinion and order entered on August 15, 2022.

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OPINIONS BELOW

The opinion of the Tennessee Supreme Court is unpublished, but is available at 2026 WL 1003629. It is reproduced at App. 1a-49a.

The opinion of the Knox County Chancery Court is reproduced at App. 52a-104a.

The opinion of the Board of Professional Responsibility is reproduced at App. 105a-214a.

The order of the Knox County Circuit Court is reproduced at App. 267a-272a.

STATEMENT OF JURISDICTION

The Supreme Court of Tennessee's decision was entered on April 14, 2026. The court denied rehearing on April 30, 2026.

Jurisdiction is invoked pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISION IN QUESTION

The 14th Amendment of the United States Constitution states in pertinent part as follows:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of

law; nor deny to any person within its
jurisdiction the equal protection of the laws.

U.S. Const., Amend. 14, § 1 (2026).

STATEMENT OF THE CASE

The Petitioner, Elliott J. Schuchardt, is a 1993 graduate of Columbia Law School.

Schuchardt is 59 years old, and has practiced law for nearly thirty years. For the first seven years of his career, Schuchardt worked at large law firms in New York, Philadelphia and Washington, D.C.

Schuchardt has worked closely with the federal judiciary for his entire career. In law school, he interned with Judge Shirley Wohl Kram, of the U.S. District Court for the Southern District of New York. Schuchardt also interned with Chief Bankruptcy Judge Burton R. Lifland, of that same court.

As an associate at Paul, Weiss, Rifkind, Wharton & Garrison, Schuchardt worked with Chief Bankruptcy Judge Robert D. Drain, before Judge Drain was appointed to the federal bench in the Southern District of New York.

In 2006, Schuchardt applied to be a bankruptcy judge in the U.S. District Court for the Western District of Pennsylvania.

Schuchardt is a candidate for the Tennessee General Assembly in the August 2026 election. He is the author of a book entitled *America's Achilles*

*Heel: How to Protect Your Family When America
Loses the Reserve Currency.*¹

In 2018, Schuchardt defended a case against a group of government officials in Knox County, Tennessee. The case involved a company known as Upright Law. Upright Law was the nation's first national bankruptcy law firm. The firm operated from Chicago, and had local attorneys in all fifty states.

Schuchardt's adversaries wanted to bar Upright Law from the Tennessee market. They also wanted to obtain a \$200,000 payment from Upright Law, for their own benefit. To accomplish this, Schuchardt's adversaries filed ethics claims against Schuchardt and his co-counsel, at Upright Law.

The tactic was improper under Tennessee law. According to the rules of ethics, a lawyer is not permitted to threaten or file an ethics complaint against another lawyer to gain an advantage in civil litigation. See Tenn. S.Ct. R. 8, § 4.4 (2026).

When Schuchardt objected to the tactic, Schuchardt's adversaries attacked Schuchardt's

¹ The book argues that the United States must prepare for a foreseeable, material decline in the value of the dollar versus other major currencies.

license to practice law with the Tennessee Board of Professional Responsibility (the "Board").

In Tennessee, the Board is responsible for enforcing the rules of ethics in the legal profession. Tennessee established the Board in 1975, due to public concern about legal ethics following the Watergate scandal.

The Board prosecutes ethics cases with the assistance of a group of state-employed attorneys, working at Tennessee's Office of Disciplinary Counsel ("ODC"). The chief lawyer at ODC is Sandra Garrett. Garrett has held the senior attorney position in her office since 2012.

Since 2018, Garrett has repeatedly attacked Schuchardt's license to practice law on behalf of Schuchardt's adversaries in the Upright Law case.

Between June 6, 2018 and November 20, 2023, Garrett filed seven ethics petitions against Schuchardt. A list of the petitions and their filing dates is set forth below:

<i>Date</i>	<i>Board Docket No.</i>
June 6, 2018	2018-2876-2-AJ
August 27, 2021	2021-3195-2-AJ
January 14, 2022	2018-2876-2-AJ
April 7, 2022	2021-3195-2-AJ
July 25, 2022	2018-2876-2-AJ
September 15, 2022	2022-3277-2-AW
November 20, 2023	2018-2876-2-AJ

In these cases, Garrett argued that Schuchardt violated virtually every rule in the book, in a short

period of time. The petitions alleged no less than 60 violations of the rules of ethics, in support of Schuchardt's adversaries in the *Upright Law* case.²

In May 2022, Schuchardt alleged that Garrett was filing these cases as an abuse of process, in violation of Tennessee state law. Schuchardt also alleged that Garrett was fabricating material evidence in the cases.

To expose the fraud, Schuchardt intended to take deposition testimony from six witnesses. Schuchardt obtained subpoenas for the depositions from the Knox County Circuit Court, pursuant to the Tennessee court rules.

On May 31, 2022, Garrett filed a motion with the Board of Professional Responsibility for a protective order. AD 1129.³ Garrett wanted to terminate all discovery in the case. She did not want Schuchardt obtaining documents or talking to witnesses concerning the alleged fabricated evidence.

In Tennessee, attorney ethics cases are decided by panels of three lawyers. Panel members are chosen by the person prosecuting the case – the Chairman of the Board of Professional

² By attacking Schuchardt's license, Garrett refused to comply with Tennessee ethics Rule 4.4, which prohibits using attorney ethics claims to advance civil litigation. Tenn. S.Ct. R. 8, § 4.4 (2026).

³ Citations to "AD" refer to the Administrative Docket for the Tennessee Board of Professional Responsibility in the *Schuchardt* case.

Responsibility.⁴ The Chairman makes this decision *with the assistance of his lawyer* – Sandra Garrett of the Office of Disciplinary Counsel.

For purposes of clarity – Garrett is the *opposing counsel* in this case. Under Tennessee law, she and her supervisor – the Chairman of the Board – chose the fact-finder in this case. *See Sections I.A. and I.B. infra.*

On June 14, 2022, the hearing panel – selected with Garrett’s assistance – entered an order granting Garrett’s motion for a protective order. App. 273a-283a.

The order prohibited Schuchardt from taking any further discovery in the case, without the advance approval of the hearing panel. The order also purported to quash the subpoenas that Schuchardt had already obtained from the Knox County Circuit Court. *Id.*

As a result of the order, Schuchardt was not permitted to depose witnesses that would have exposed Garrett’s fraud in this case.

Schuchardt challenged the panel’s jurisdiction over the subpoenas with the Knox County Circuit Court. Under Tennessee law, the Circuit Court has jurisdiction to issue subpoenas in attorney ethics cases.⁵ The court’s rules *specifically state* that the

⁴ Tenn. S.Ct. R. 9, § 15.2(d) (2026).

⁵ Tenn. S.Ct. R. 9, § 19.1 (2026).

Circuit Court – and not the panel – decides issues regarding subpoenas.⁶

Schuchardt asked the Knox County Circuit Court to sustain the subpoenas, and allow him to depose the witnesses in the case. Garrett opposed Schuchardt's request to obtain the discovery through the Knox County Circuit Court.

On August 15, 2022, the Knox County Circuit Court held that it did not have jurisdiction to decide the issue. App. 267a-272a. The Court quashed the subpoenas, making it impossible for Schuchardt to depose the witnesses.

Tennessee state counsel Garrett then asked the hearing panel for sanctions against Schuchardt. Garrett argued that Schuchardt had acted in contempt of the hearing panel, by seeking the opinion of the Knox County Circuit Court on the issue. Garrett ignored the fact that the plain meaning of the law authorized the Circuit Court to decide the issue.⁷

On September 13, 2022, the panel – appointed with Garrett's assistance – granted Garrett's motion for sanctions. As a sanction against Schuchardt, the panel summarily granted judgment in favor of Garrett's client – the Board – on the issues where Schuchardt claimed that Garrett had fabricated evidence. App. 250a-266a.

⁶ Tenn. S.Ct. R. 9, § 15.2(f) (2026).

⁷ Tenn. S.Ct. R. 9, §§ 15.2(f) & 19.1 (2026)

The panel also *sua sponte* found that Schuchardt posed “a threat of substantial harm to the public” if he were to be allowed to practice law in Tennessee. *Id.* Schuchardt received no notice that this would be an issue before the Board, and never had an opportunity to present evidence regarding this defamatory finding of the panel.

As a result of the panel’s order, Schuchardt was never able to testify, cross-examine witnesses, or present exhibits in connection with the disputed evidence.

On September 15, 2022, Garrett filed an *ex parte* petition with the Tennessee Supreme Court, to suspend Schuchardt’s license to practice law on an “emergency” basis. In the petition, Garrett argued that the hearing panel had found Schuchardt to pose “a threat of substantial harm to the public” if he were to be permitted to practice law in Tennessee.⁸

Garrett did not mention the fact that Schuchardt received no notice of this allegation, and did not have the opportunity to respond to the claim that he was a “threat” to the community, if he practiced law in Tennessee. Garrett also did not mention that the hearing panel held no hearing on this defamatory allegation.

On September 21, 2022, the Tennessee Supreme Court granted Garrett’s petition to suspend Schuchardt’s law license. The Court did so on an *ex*

⁸ Garrett filed the petition with the Tennessee Supreme Court under the caption, *In re Schuchardt*, Case No. No. M2022-01324-SC-BAR-BP (Tenn. 2022).

parte basis, with no notice to Schuchardt. App. 247a-249a. Since that date, Schuchardt has been unable to practice law in Tennessee.

On January 11, 2023, Schuchardt asked the Tennessee Supreme Court for a hearing on the Court's *ex parte* order suspending his law license. Schuchardt's motion cited this Court's holding in *In re Ruffalo*, 390 U.S. 544 (1968), in support of the request. Garrett opposed Schuchardt's request for a hearing.

On January 30, 2023, the Tennessee Supreme Court denied Schuchardt's request for a hearing. App. 242a-246a. The Court was not willing to consider Schuchardt's allegation that Tennessee state counsel Garrett was engaging in misconduct.

As a result of the order, Schuchardt had no forum under Tennessee law to challenge the State's designation of him as posing "a threat of substantial harm to the public."

Schuchardt approached his State Representative, Elaine Davis, for assistance in resolving the problem. Davis is the Vice Chair of the Judiciary Committee of the Tennessee General Assembly. As such, she is responsible for reviewing and providing comments on the state's rules regarding the Board of Professional Responsibility.

Davis refused to take action, to ensure that the state ethics board was holding hearings. Schuchardt

therefore decided to run against Elaine Davis, for her seat on the Tennessee General Assembly.⁹

Schuchardt decided to defend his license and reputation by means of the cases that Garrett had already filed with the Board of Professional Responsibility, on behalf of Schuchardt's adversaries in the *Upright Law* case. Those cases remained pending, and unresolved, as of January 2023.

However, Garrett did not allow Schuchardt to have a hearing on those cases, either. Garrett filed a motion for summary judgment with the Board – whom she claimed to “represent” in her pleadings. In her motion, Garrett argued that there was “no material issue of fact” warranting a trial in the *Schuchardt* case.

On February 7, 2023, the hearing panel – appointed with Garrett's assistance – granted summary judgment in favor of the State on 30 of the 39 issues before the panel. App. 215a-241a.

In its order, the hearing panel made findings of fact on a wide array of disputed factual issues, that Schuchardt had contested by means of affidavits. The panel said that Schuchardt had “threatened attorneys,” “abandoned a client,” created “conflicts of interest,” and all manner of misconduct. The panel

⁹ On March 24, 2026, Schuchardt qualified for the ballot in the primary election. The election will be held on August 6, 2026.

made these findings of fact on the basis of Garrett's pleadings, without holding a hearing.

As a result of the panel's order, Schuchardt did not have the opportunity to testify, call witnesses, cross-examine witnesses, or present exhibits on virtually every issue. *Id.*

Since there was no hearing, the panel was not constrained by testimony or exhibits. The panel cited "testimony" from several persons that did not testify or submit affidavits, including a Tennessee state judge. *Id.*

On April 5, 2023, the hearing panel held a hearing on the remaining nine issues in the case. (AD 2764 & 3810). At the beginning of the hearing, the panel ruled that Schuchardt would not be permitted to call witnesses to testify as to his legal abilities. (AD 3825 to 3831).

On July 21, 2023, the panel – appointed with Garrett's assistance – found in favor of the State on the remaining issues in the case. The panel voted to disbar Schuchardt, even though it found no evidence of damages in the case. App. 105a-214a.

On October 23, 2023, Schuchardt appealed the panel's decision to the Knox County Chancery Court. Tenn. App. 176.

On February 5, 2024, Schuchardt filed a motion for discovery in the Chancery Court. CC 179.¹⁰ In

¹⁰ Citations to "CC" refer to the Knox County Chancery Court docket in the *Schuchardt* case.

the motion, Schuchardt argued that discovery was appropriate because the hearing panel denied discovery in the case.

On March 1, 2024, the court denied Schuchardt's request for discovery. Tenn. App. 342. The Chancery Court also decided not to hear argument in the case. Tenn. App. 341.

On May 7, 2024, the Chancery Court affirmed the hearing panel. App. 52a-104a. The judge never met Schuchardt and heard no testimony in the case.

On June 3, 2024, Schuchardt appealed Judge Thomas's decision to the Tennessee Supreme Court. CC 535.

In early 2025, Schuchardt learned that Garrett has a history of filing ethics cases against political candidates and racial minorities in Tennessee. Garrett and her predecessor, Nancy Jones, have filed ethics cases against at least 59 attorneys running for office. App. 286a-311a. Many of these cases had the effect of disqualifying the attorneys from office.

On July 1, 2025, Schuchardt sued Tennessee state counsel, Sandra Garrett, pursuant to 42 U.S.C. § 1983, for violation of his right to a fair trial in this case. The complaint, filed in the U.S. District Court for the Middle District of Tennessee, alleges that Garrett acted under "color of law" to fabricate evidence in this case.¹¹

¹¹ The case is filed under the caption *Schuchardt v. Garrett*, Case No. 3:25-cv-0735. The case is currently pending.

On April 14, 2026, the Tennessee Supreme Court affirmed the hearing panel's decision to disbar Schuchardt. App. 1a-49a.

In its opinion, the Tennessee Supreme Court held that the State was not required to hold a hearing on the State's *ex parte* suspension of Schuchardt's law license in September 2022. *Id.*

On April 24, 2026, Schuchardt requested a rehearing on the case. In his motion, Schuchardt pointed out that the Supreme Court's opinion was based on a wide array of fabricated evidence, which Schuchardt was not permitted to contest at a hearing.

On April 30, 2026, the Tennessee Supreme Court denied Schuchardt's motion for a rehearing. App. 284a-285a.

PRESERVATION OF THE ISSUES

Schuchardt is raising two issues in this case:

First, he contends that Tennessee does not provide a disinterested judge in attorney ethics cases.

Second, Schuchardt objects to the lack of a hearing in this case.

As explained below, Schuchardt raised these issues with the hearing panel, the Knox County Chancery Court, and the Tennessee Supreme Court.

HEARING PANEL

On November 28, 2022, Schuchardt filed with the Board an objection to Tennessee's rules concerning

ethics cases. AD 2520. The objection states as follows:

The Respondent respectfully objects to the use of the Tennessee Rules of Disciplinary Enforcement in this proceeding, for the reasons set forth in the enclosed pleadings. ... As explained in the attached pleadings, the Rules of Disciplinary Enforcement do not comply with the due process clause of the 14th Amendment of the United States Constitution.

Id.

The objection incorporated by reference several pleadings which Schuchardt also filed with the Board. In the pleadings, Schuchardt argued that the hearing panel was biased, due to the prosecution's selection of the panel members. AD 2525-2567. *See also* State Exhibit 27, ¶ 24 ("The Tennessee disciplinary system does not provide for trial by a neutral decision-maker, as required by the 14th Amendment.").

Schuchardt also objected to the lack of a hearing in the case. Schuchardt opposed the State's motions for summary judgment, by filing briefs and affidavits showing a material issue of fact on all issues before the panel. AD 2176, 2178, 2287 & 2466.

The hearing panel addressed Schuchardt's due process argument in its opinion, in a section entitled "Challenging the Impartiality and Integrity of the Panel." App. 204-205a. The panel found

Schuchardt's objections to the panel to be an "aggravating factor" against Schuchardt, warranting an increased penalty. The panel found Schuchardt's claims of systemic bias on the part of the hearing panel to be "fantastic and wholly unsupported." App. 207a. The panel also found Schuchardt's objections to the make-up of the panel to be "outside the boundaries of acceptable advocacy."¹² *Id.*

CHANCERY COURT

On appeal, Schuchardt objected to Tennessee's method of selecting the fact-finder, in the first section of the brief that he filed with the Knox

¹² The panel also charged Schuchardt with other "aggravating factors," which Schuchardt had no notice of, and no opportunity to respond to. The panel accused Schuchardt of "bad faith obstruction of the disciplinary proceeding" – with no notice to Schuchardt of the charges (App. 192a); filing "deceitful / misleading notices of filing" – with no notice to Schuchardt (App. 195a); "reneging on an apology" – with no notice to Schuchardt (App. 197a); and accusations of misconduct of others in the disciplinary proceeding – with no notice to Schuchardt (App. 198a).

This Court has held that it is improper for state ethics officials to raise claims, without providing notice to the respondent attorney. In *In re Ruffalo*, 390 U.S. 544 (1968), the Ohio disciplinary board sought to disbar an attorney, without giving the attorney advance notice of the charge. This Court held that due process requires *advance notice* to the attorney and an opportunity to be heard. Schuchardt had no notice or opportunity to be heard on the numerous "aggravating factors" described in the Board's opinion.

County Chancery Court. On pages 10 and 11, Schuchardt wrote:

- I. The hearing panel system does
not comply with due process.
The system provides
inaccurate results in attorney
ethics cases.**

The complaint is . . . adjudicated by a panel of three attorneys, who are selected with the assistance of State counsel. The system does not comply with due process. The attorneys appointed by the Board are both selected and regulated by Schuchardt's adversaries at the Board. The selection process is done on an *ex parte* basis, without any involvement of the respondent attorney.

CC 24-25. Thus, Schuchardt preserved the issue with the Knox County Chancery Court.

Schuchardt also objected to the lack of a hearing in his Petition for Review. CC 1-155. Schuchardt argued that it was improper for the hearing panel to grant summary judgment to the State, when there was a material issue of fact raised by his affidavits. *Id.*

The Chancery Court acknowledged, but barely addressed Schuchardt's due process concerns. In the last paragraph of the court's opinion, the Chancery Court wrote:

In his petition for review and reply brief, Mr. Schuchardt raises various complaints that he has been unfairly denied due process and that

he is in fact the victim of a biased and unfair system of attorney discipline in this state, perpetrated by a conspiracy of state officials and legal adversaries who are out to destroy him and his law career. This court has read and considered these arguments, and finds them to be without merit.

App. 103a-104a.

The Chancery Court rejected Schuchardt's demand for a hearing. In its opinion, the Court simply wrote: "The Hearing Panel's decision is supported by substantial and material evidence and is not arbitrary, capricious, characterized by abuse of discretion, in violation of statutory or constitutional provisions, or in excess of its jurisdiction." App. 104a.

TENNESSEE SUPREME COURT

Schuchardt raised these same issues with the Tennessee Supreme Court. On pages 32 to 34 of his brief, Schuchardt wrote:

I. Tennessee's method for selecting hearing panel members does not comply with the due process clause of the 14th Amendment.

[Supreme Court Rule 9] gives the Board unfettered discretion to select panel members in this case. . . . Nothing in the above rule or policies provides for "rotating" or "random" selection of panel members. Instead, the rule gives one party in this litigation the unfettered

discretion to choose the fact-finder in the case.

Petitioner's S.Ct. Brief, at 31-39. Schuchardt also objected to the lack of a hearing in the case. *Id.* at 42-45.

The Tennessee Supreme Court addressed Schuchardt's due process arguments in its opinion. The court wrote as follows:

Mr. Schuchardt challenges Tennessee Supreme Court Rule 9, section 15.2(d), which permits the Board to select hearing panel members based on a list of available attorneys. Mr. Schuchardt claims that the Board, in selecting the panel, is afforded too much discretion, violating his due process rights. See U.S. Const. Amend. XIV, § 1 (prohibiting a state from depriving "any person of life, liberty, or property, without due process of law").

We previously addressed similar arguments. In *Hyman v. Board of Professional Responsibility*, Mr. Hyman "contend[ed] that the method for selecting hearing panel members deprive[d] him of his right to due process under the United States and Tennessee Constitutions." 437 S.W.3d 435,445 (Tenn. 2014) (citation omitted). We explained how the procedural rights afforded to attorneys facing disciplinary proceedings were more than sufficient for Fourteenth Amendment Due Process purposes. *Id.* at 446. "Our

current disciplinary framework provides adequate protection to attorneys who are accused of professional misconduct and is not 'in violation of constitutional or statutory provisions.'" Id. (quoting Tenn. Sup. Ct. R. 9, § 1.3); see also *Moncier v. Bd. of Pro. Resp.*, 406 S.W.3d 139, 156 (Tenn. 2013) (noting that Tennessee's disciplinary framework provides sufficient due process protections by giving lawyers notice and an opportunity to be heard, as well as the right to have counsel present, cross examine witnesses, and present evidence). Mr. Schuchardt's due process arguments are threadbare and provide no reason to disturb our prior case law. The hearing panel selection process did not violate Mr. Schuchardt's due process rights.

App. 29a-30a. See also discussion at 32a-36a.

The Tennessee Supreme Court rejected Schuchardt's argument that he was entitled to a hearing on material issues of fact. The Court claimed that Schuchardt had "waived the issue of a hearing," even though Schuchardt raised the issue, and identified in the record affidavits showing a material issue of fact for dozens of issues where he was denied a hearing. App. 40a-41a.

The Tennessee Supreme Court also found that it was proper to deny Schuchardt a hearing on the Court's summary suspension of his law license in September 2022. App. 43a-44a.

REASONS FOR GRANTING THE PETITION

I. Tennessee does not provide a neutral judge in attorney ethics cases.

This Court has long held that due process requires a neutral judge. *Tumey v. Ohio*, 273 U.S. 510, 47 S. Ct. 437, 71 L. Ed. 749 (1927).

In *In re Murchison*, 349 U.S. 133 (1955), this Court considered a case where a judge acted as a "one-man grand jury" and then tried the same case on the merits. The Court ruled that this structural conflict violated due process. The Court explained that:

A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases. [O]ur system of law has always endeavored to prevent even the probability of unfairness.

In re Murchison, 349 U.S. 133, 136, 75 S. Ct. 623, 625, 99 L. Ed. 942, 946 (1955).

Tennessee is refusing to provide a disinterested judge in this case.

As explained below, in Tennessee, the person prosecuting the case – i.e. the chairman of the ethics board – chooses his own judge, with the assistance of the lawyer prosecuting the case. This makes it impossible for Schuchardt to get a fair hearing.

A. The Board is the prosecuting entity in ethics cases.

In Tennessee, attorney ethics cases are investigated and prosecuted by the Board of Professional Responsibility. Tenn. S.Ct. R. 9, § 4.5 (2026). The Board has twelve members, consisting of nine attorneys and three non-attorneys. Tenn. S.Ct. R. 9, § 4.1 (2026).

The Board is supervised by a chairman, who is chosen by the Tennessee Supreme Court. Tenn. S.Ct. R. 9, § 4.2 (2026).

The Board prosecutes cases with the assistance of the state's Office of Disciplinary Counsel ("ODC"). ODC is a group of state-employed lawyers.

According to Tennessee law, ODC has the following duties:

- (a) To investigate all matters involving possible misconduct.
- (b) To dispose of all matters involving alleged misconduct
- (c) To present in a timely manner all disciplinary proceedings.

Tenn. S.Ct. R. 9, § 7.3 (2026).

According to Tennessee law, the Office of Disciplinary Counsel works directly with the Board to prosecute cases:

The Chief Disciplinary Counsel shall report to the Board, which shall conduct

performance evaluations of the Chief Disciplinary Counsel every two years and shall report such evaluations to the Court.

Tenn. S.Ct. R. 9, § 7.1 (2026) (emphasis added).

Thus, Tennessee's Office of Disciplinary Counsel **prosecutes cases** under the *supervision and direction of the Board, and the Board's chairman*. *Id.* §§ 4.2, 7.1 & 7.3. This includes the Board's case against Schuchardt.

ODC's pleadings confirm this attorney-client relationship. On all pleadings filed in this case, Tennessee state counsel claims to represent the "Board of Professional Responsibility." App. 2a.

Thus, the chairman of the Board has prosecutorial authority against Schuchardt. *Id.* This is important because – as explained below – the chairman of the Board *chose the fact-finder* in this case.

B. Schuchardt's adversary chose the judge in this case.

In Tennessee, attorney ethics cases are heard by panels consisting of three lawyers. Tenn. S.Ct. R. 9, § 15.2(d) (2026).¹³

¹³ Tennessee is one of only two states in the United States that review attorney ethics cases by means of panels consisting of three lawyers. The other state is Pennsylvania. All other states use either a professional judge, a professional judge on the hearing panel, or at least one lay person on the hearing panel.

Under Tennessee law, the chairman of the Board of Professional Responsibility is responsible for choosing the members of the hearing panel. Specifically, the law provides as follows:

The Chair of the Board, or in the absence of the Chair the Vice-Chair of the Board, *shall select the hearing panel* from the members of the district committee in the district in which the respondent practices law.

Tenn. S.Ct. R. 9, § 15.2(d) (2026); *accord* Tenn. S.Ct. R. 9, § 6.4 (2026).

This is the same chair of the Board who is responsible for *supervising* the prosecution efforts of the Office of Disciplinary Counsel. Tenn. S.Ct. R. 9, § 7.1 (2026).

This is the same chair of the Board who is responsible for providing *performance evaluations* to Senior Disciplinary Counsel, and rewarding Tennessee's lawyers for obtaining judgments in favor of the Board. *Id.*

This is the same chair of the Board that *discusses legal strategy* with Senior Disciplinary Counsel, to determine the best method for prosecuting ethics cases. *Id.*

In other words, the chairman of the Board selected the judge in this case, while he was working with opposing counsel to prosecute Schuchardt.

Nothing in the Tennessee law prevented opposing counsel from participating in the chairman's selection of the fact-finder in this case.

Thus, the person prosecuting this case also chose the judge. Tenn. S.Ct. R. 9, §§ 6.4, 7.1, 7.3 & 15.2.

C. Tennessee's system does *not* comply with this Court's holdings concerning the selection of the judge.

This Court has held that a party to a lawsuit *cannot* choose his own judge.

The Court addressed this issue in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009).

In that case, a West Virginia jury found Massey Coal Co. liable for fraud. The jury awarded the plaintiff, Hugh Caperton, \$50 million. Massey appealed to the state Supreme Court. Before the appeal was heard, Massey's CEO donated \$3 million to help elect Brent Benjamin to the West Virginia Supreme Court.

After his election, Justice Benjamin refused to recuse himself from the Massey appeal. Benjamin's vote *decided the case*, and reversed the \$50 million judgment in favor of Caperton.

On appeal, Caperton argued that Justice Benjamin's participation in the case was a denial of due process, because Massey had contributed \$3 million to help elect Benjamin.

This Court found Benjamin's participation in the case to be a violation of due process.

The Court held that a party cannot have a "significant and disproportionate influence" on the selection of the judge in a case. The Court explained as follows:

We conclude that there is a serious risk of actual bias — based on objective and reasonable perceptions — *when a person with a personal stake in a particular case had a significant and disproportionate influence* in placing the judge on the case.

Caperton, 556 U.S. 868 (emphasis added). This Court therefore reversed the decision of the West Virginia Supreme Court.

The case at bar is even more egregious than the *Caperton* case. In *Caperton*, A.T. Massey influenced the selection of the judge through the election. In the case at bar, the prosecuting entity actually *chose* the judge, with the assistance of the lawyer litigating the case.

Every decision in this case is tainted by the prosecution's ability to control the identity of the judge, and to control the outcome of the case. Schuchardt contends that the hearing panel:

- ignored the plain meaning of the law on dozens of issues;
- denied discovery when the Office of Disciplinary Counsel fabricated evidence;

- made findings of material fact – on dozens of issues – without holding a hearing; and
- refused to allow Schuchardt to testify, call witnesses, or present exhibits on material disputed issues of fact.

Schuchardt respectfully submits that he would have received a hearing in this case if the prosecution had not chosen the judge.

D. Tennessee removed due process requirements from its law ten years ago.

Tennessee formerly used a third party to select the hearing panel in attorney ethics cases. The third party was the clerk of the Board, who used a rotating system to choose the members of the panel.

Tennessee eliminated this system ten years ago, and gave the state prosecutors a free hand to choose their own judge.

In 2014, in *Hyman v. Board of Professional Responsibility*, 437 S.W.3d 435 (Tenn. 2014), attorney David Hyman asked for evidence that the Board had chosen the hearing panel in his case by means of a rotating selection system. Hyman wanted to participate in the selection process, to ensure compliance with the law. *Id.* at 445.

The Tennessee Supreme Court overruled Hyman's objection, and held that Hyman would not be permitted to supervise the selection of panel members. The Court held that rotating selection of the hearing panel was constitutional. *Id.* at 446.

In the following year, attorney Connie Reguli also asked for proof that the Board was using a rotating selection system to choose panel members. Reguli filed a "Demand for Compliance on Hearing Panel Appointment," and asked for documents relating to the appointment of the panel in her case. *Board of Professional Responsibility v. Reguli*, 489 S.W.3d 408, 419 (Tenn. 2015).

The Board refused to comply with the demand. When Reguli filed a motion to compel answers to her discovery request, the hearing panel refused to rule on her motion. *Id.*

On appeal, Reguli argued that the panel's decision was unlawful and should be vacated because the Board had selected the hearing panel in her case by means of a "random" selection process, rather than the required "rotating" selection system.

The Tennessee Supreme Court overruled Reguli's objection to the selection process. The Court held that "no substantial right is implicated by use of a 'random' selection process as opposed to a 'rotating' selection process." *Id.* The Court found that "no meaningful difference exists between the two." *Id.*

Thus, as of 2015, the Tennessee Supreme Court approved of both a "random" selection process and a "rotating" selection process.

However, the procedural protections recognized by the Tennessee Supreme Court in the *Reguli* case were not to last.

In 2016, the Tennessee Supreme Court changed the rule to eliminate “random” or “rotating” selection of panel members. The current rule – as we have seen – provides for no restrictions on the chairman’s selection of panel members. According to the present rule, the chairman has *absolute discretion* to choose the members of the hearing panel.

The present rule states as follows:

The Chair of the Board, or in the absence of the Chair the Vice-Chair of the Board, shall select the hearing panel from the members of the district committee in the district in which the respondent practices law. *The hearing panel shall be selected pursuant to written procedures approved by the Board.*

Tenn. S.Ct. R. 9, § 15.2(d) (2026) (emphasis added).

The above rule no longer refers to “rotating” selection of panel members, or even “random” selection of panel members.

The only limitation in the rule is that panel members “shall be selected pursuant to written procedures approved by the Board.” *Id.*

However, these “written procedures” do not provide any limitations whatsoever. The written procedures are set forth in the Policies and Procedures of the Board, adopted by the Board on March 13, 2020. Section 2.2 of the Procedures discusses the appointment of the hearing panel. Section 2.2 states as follows:

Following the service of the answer or upon failure to answer, the matter shall be assigned by the Board Chair or the Vice-Chair to a hearing panel. Rule 9, § 15.2(d). In assigning the members of the hearing panel, the Chair shall select them from the members of the district committee in the district in which the respondent practices law with consideration given to their availability and willingness to serve and to the number of panels on which the Hearing Committee Member currently serves. If there is an insufficient number of committee members in that district who are able to serve on the hearing panel, the Chair or Vice Chair may appoint one or more members from the district committee of an adjoining district to serve on the panel. Rule 9, § 15.2(d).¹⁴

Nothing in the above rule provides for “rotating” or “random” selection of panel members. Instead, the rule gives the prosecuting entity unfettered discretion to choose the fact-finder in the case *from members of the prosecutor’s own organization*.

Tennessee is the only state in the United States that allows its prosecutor to choose its own judge in

¹⁴ Policies and Procedures of the Board of Professional Responsibility of the Supreme Court of Tennessee, § 2.2(A), at 9 (adopted March 13, 2020). A copy of the policies is available online.

attorney ethics cases. *All other states* use a third party to select the judge in attorney ethics cases.

E. The Tennessee Supreme Court is refusing to have a third party choose the judge in ethics cases.

After Tennessee eliminated the rotating selection system for panel members, a steady stream of attorneys objected to Tennessee's system, as openly biased towards prosecutors.

See Schuchardt v. Board of Prof'l Responsibility, 2026 WL 1003629 (Tenn. 2026); *Slaughter v. Board of Prof'l Responsibility*, 706 S.W.3d 326, 332 (Tenn. 2025); *Board of Prof'l Responsibility v. Reguli*, 489 S.W.3d 408, 424 (Tenn. 2015); *Walwyn v. Board of Prof'l Responsibility*, 481 S.W.3d 151 (Tenn. 2015); *Long v. Board of Prof'l Responsibility*, 435 S.W.3d 174, 182 (Tenn. 2014).

In each of these cases, the Tennessee Supreme Court held that its system is constitutional because the prosecutorial and adjudicative functions of the system are allegedly handled by "different persons."

The Tennessee Supreme Court's opinion in this case is typical. The court explained its reasoning as follows:

We addressed a similar argument in *Long v. Board of Professional Responsibility*, where an attorney facing discipline argued that it was improper for the Board to have investigatory, enforcement, and adjudicative processes all under the auspices of one authority. 435 S.W.3d 174,

186 (Tenn. 2014). We determined that the attorney's due process rights were not denied "[b]ecause the investigatory / enforcement responsibilities and the adjudicative responsibilities are functionally separate within the Board." *Id.* at 187; see also *Moncier*, 406 S.W.3d at 163.

App. 32a-33a.

In other words, the Tennessee Supreme Court claims that its system is constitutional because "different people" at the Board handle prosecution and adjudication.

However, the Tennessee Supreme Court is *factually mistaken*. As we have seen, in Tennessee, ***the same person handles both functions***. The chairman of the Board prosecutes the case, with the assistance of the Office of Disciplinary Counsel.¹⁵ The chairman of the Board also appoints the fact-finder, with the assistance of the Office of Disciplinary Counsel.¹⁶

All other states in the United States ***use a different system*** for selecting the judge in attorney ethics cases.

At least 17 states use a *professional judge* to hear attorney ethics cases. Those states are California, Florida, Georgia, Hawaii, Indiana, Maryland,

¹⁵ Tenn. S.Ct. R. 9, §§ 7.1 & 7.3 (2026) (Chief Disciplinary Counsel is supervised by chairman of the Board).

¹⁶ Tenn. S.Ct. R. 8, § 6.4 & 15.2(d) (2026).

Minnesota, New Jersey, New Mexico, New York, Rhode Island, South Dakota, Utah, Virginia, Washington and Wisconsin. These states do not let their prosecuting attorney choose the judge.

At least 3 states use a *state-paid professional judge*, as one of the hearing panel members. Those states are Arizona, Colorado and Oregon. These states do not let their prosecuting attorney choose the judge.

All other states use a third party to choose the judge in attorney ethics cases. They do not let state-employed counsel manipulate the outcome of attorney ethics cases, as occurs in Tennessee.

As explained below, Tennessee's system has *foreseeably* led to abuses – and scandal – at the Board of Professional Responsibility.

II. Tennessee's lawyers are abusing their ability to choose the judge.

The lack of due process in the selection of the hearing panel is creating material problems in the Tennessee ethics system.

Tennessee state counsel is taking advantage of its ability to choose the judge by playing "fast and loose" with the evidence in attorney ethics cases.

As explained below, opposing counsel is openly fabricating evidence, and blocking Schuchardt from challenging the falsified evidence.

A. The Tennessee opinion is based on a wide array of fabricated evidence, which Schuchardt was not permitted to contest.

The opinion of the Tennessee Supreme Court in this case is based on wide array of evidence fabricated by Tennessee state counsel.

For example, the opinion cites "evidence" from people *that did not testify or file affidavits in this case*. This includes *falsified evidence* attributed to the following people:

Chancellor M. Nichole Cantrell¹⁷
Cherie Dunn
Aaron King
Jamie McBryar
Robert Wilkinson

None of the above people testified, and only one filed an affidavit.¹⁸ Yet, they show up in the opinion of the Tennessee Supreme Court, as if they actually testified against Schuchardt. Tennessee state counsel cannot produce testimony from such persons.

Tennessee counsel also fabricated other evidence in the case. The State deleted a material,

¹⁷ Prior to her retirement from the bench, Chancellor Cantrell was a Tennessee state court judge.

¹⁸ Only Robert Wilkinson provided an affidavit, on an issue involving a materially disputed fact. He did not testify, in violation of the Tennessee rule prohibiting summary judgment on materially-disputed facts. *See* Tenn. R. Civ. P. 56 (2026).

exculpatory portion of an audio recording in the case. No hearing was held on the merits in that case; so Schuchardt could not dispute the recording.

The parties also spend dozens of hours arguing about whether autistic youth, Dustin Welsh, attended his own conservatorship hearing. State counsel fabricated testimony in the case, alleging that Dustin Welsh was not at the hearing. The State's hand-picked hearing panel refused to hold a hearing on the fabricated testimony.

B. Tennessee is refusing to hold hearings in attorney ethics cases.

This Court has held that "some form of hearing is required before an individual is finally deprived of a property interest." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950).

This right is a "basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure . . . fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment." *Fuentes v. Shevin*, 407 U.S. 67, 80-81 (1972); *Joint Anti-Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 170-71 (1951) (Frankfurter, J., concurring).

The Tennessee Supreme Court is refusing to comply with the Court's holdings concerning the importance of a hearing.

For example, in this case, Tennessee counsel filed dozens of intentionally-false claims against Schuchardt, in an effort to destroy Schuchardt's reputation and law license. The claims are fabricated and not supported by evidence. Schuchardt demanded a hearing on the State's claims, and submitted affidavits showing a material issue of fact.

The hearing panel - appointed by the prosecution - denied Schuchardt a hearing on dozens of materially-disputed issues. In doing so, the panel denied Schuchardt the opportunity to testify, call witnesses, cross-examine witnesses, or present evidence. In addition, the State was not required to present evidence on its unsupported claims.

Below is a list of the "findings of fact" made by the hearing panel without a hearing. The chart shows the location of Schuchardt's affidavits, materially disputing the facts alleged by State counsel.

NO HEARING HELD

<i>Issue</i>	<i>Location of Affidavit</i>
"Created a conflict of interest with King by suing him for payment, while representing King in a case."	AD 2328-29
"Improperly withheld King's divorce file from King and his criminal attorney, Robert Kurtz."	AD 2329-30

<i>Issue</i>	<i>Location of Affidavit</i>
"Showed lack of candor to court concerning 'conversations' with the Board.	AD 2330-31 CC 436, 471, 476
"Threatened to testify against King in King's criminal case."	No notice of claim provided.
"Engaged in 'misconduct' in violation of Rule 8.4(a).	AD 2330-31 CC 436, 471, 476
"Made a material false statement to the Board concerning the identity of the witnesses at the <i>Welsh</i> conservatorship hearing."	AD 1175 & 1232
"Falsely accused counsel for the Board of engaging in an abuse of civil process, in a letter to Tennessee Chief Justice Bivins."	AD 1175 & 1232
"Failed to file a timely answer on behalf of Cherie Dunn."	AD 1645-48, 2133-34
"Filed the answer in draft form."	AD 1645-48, 2133-34
"Engaged in 'misconduct' in violation of Rule 8.4(a)."	AD 1645-48, 2133-34

<i>Issue</i>	<i>Location of Affidavit</i>
"Created a conflict of interest with Mary Jane Douglas by suing her for eviction while representing her in a case."	AD 2320-22
"Refused to refrain from communicating with Douglas concerning the eviction case, when she was represented by Hirschhorn"	AD 2320-22
"Improperly communicated with Ann Richards concerning her case against Bruce Klassen."	AD 2314-17, 2325-26.
"Used means to embarrass Douglas and Richards."	AD 2314-26, 2717-22, 4149-50, 4254-57
"Threatened to contact the judge in the Klassen case, for Richards filing false reports."	AD 2314-17, 2325-26, 2717-22, 4149-50, 4254-57
"Threatened to report Douglas to the Real Estate Commission"	AD 2314-17, 2325-26, 2717-22, 4149-50, 4254-57

<i>Issue</i>	<i>Location of Affidavit</i>
"Engaged in 'misconduct' in violation of Rule 8.4(a)"	All of the above.
"Failed to request return of minor child from Oregon to Tennessee."	AD 2297-99
"Answer did not deny claim of no children from marriage"	AD 2299, 2334-38 & 4210
"Failed to give notice to Tennessee attorney general"	AD 2300 & 4180-81
"Should have pursued relief through 4th Circuit case"	AD 2296-97, 4212-13, 4242-43
"Failed to communicate with Jamie McBryar"	AD 2307-09, 4226-31, 4235-36
"Improperly withheld McBryar's file"	AD 2309-12, 4239-41
"Took no action to effect clear goals of client."	AD 2287-2312, 4226-31, 4235-36
"Failed to dispute Statistical Data section in Janine McBryar's complaint."	AD 2299

<i>Issue</i>	<i>Location of Affidavit</i>
"Failed to file affidavit of income and expense for McBryar."	AD 2291-92, 2297-99
"Failed to conduct discovery on economic issues for Jamie McBryar."	AD 2291-92, 2297-99
"Failed to communicate with successor attorney, Abby Rubenfeld."	AD 2308-12, 4239-41
"Engaged in conduct prejudicial to the administration of justice."	All of the above
"Engaged in 'misconduct' in violation of Rule 8.4(a)."	All of the above

Schuchardt objected to the Board's heavy-handed tactics, in the brief he filed with the Tennessee Supreme Court. However, the Court was not willing to hold a hearing in this case.

As explained below, instead of holding a hearing, the Tennessee Supreme Court wrote an opinion saying that it is not required to hold hearings in ethics cases.

C. The Tennessee Supreme Court is refusing to comply with this Court's holding in *In re Ruffalo*.

In re Ruffalo, 390 U.S. 544 (1968), this Court held that an attorney is entitled to notice and an opportunity to be heard in licensing cases.

Tennessee is refusing to comply with *Ruffalo*. The Tennessee Supreme Court says that it can suspend a lawyer's license without a hearing. Tennessee purports to do this through Section 12.3 of TN Supreme Court Rule 9.

Section 12.3 allows the Tennessee Supreme Court to suspend a lawyer's license on an emergency basis if the lawyer poses a threat of "substantial harm" to the public. Tenn. S.Ct. R. 9, § 12.3 (2026). The threat is typically the theft of money, drug or alcohol abuse, or the failure of the attorney to respond to an inquiry from the state ethics board. *Id.*

Tennessee state counsel is using Section 12.3 to retaliate against political enemies.

In 2022, Schuchardt accused Tennessee's Chief Disciplinary Counsel – Sandra Garrett – of fabricating evidence in this case. Garrett retaliated against Schuchardt by means of the above rule.

On September 15, 2022, Garrett asked the Tennessee Supreme Court to suspend Schuchardt's license to practice law on an emergency basis, pursuant to Section 12.3.

In her petition, Garrett claimed that Schuchardt "posed a threat of substantial harm to the public," if he were to continue practicing law. Garrett's petition is filled with innuendo, making slanderous allegations about Schuchardt's legal abilities and mental state.

On September 21, 2022, the Tennessee Supreme Court granted Garrett's petition, without notice to

Schuchardt. App. 247a-249a. The Court's order immediately suspended Schuchardt's law license on an *ex parte* basis.

On January 11, 2023, Schuchardt asked the Tennessee Supreme Court for a hearing on Garrett's *ex parte* petition. Schuchardt's petition cited the following rule, as authority for a hearing:

The attorney may for good cause request dissolution or amendment of any such order of temporary suspension by filing ... a Petition for Dissolution or Amendment. Such petition for dissolution *shall* be set for immediate hearing before the Board or a panel.

Tenn. S.Ct. R. 9, § 12.3(d)(2026) (emphasis added).

The above rule provides for an immediate hearing, whenever the Supreme Court suspends a lawyer's license on an *ex parte* basis. Such a hearing is required by this Court's holding in *Ruffalo*, cited above.

The Tennessee Supreme Court is refusing to comply with *Ruffalo*. On January 30, 2023, the Court denied Schuchardt's request for a hearing, at the request of Tennessee state counsel. App. 242a-246a. The Court held that Schuchardt did not show "cause" in his request for a hearing. The Court described its reasoning as follows:

Upon due consideration, we agree with the Board that Mr. Schuchardt has not shown good cause for dissolution of his temporary suspension, as required by Tenn. Sup. Ct. R.

9, section 12.3. "The term 'good cause' means '[a] legally sufficient reason. [It] is often the burden placed on a litigant . . . to show why a request should be granted or an action excused." Estate of Blankenship v. Bradley Healthcare and Rehabilitation Ctr., 653 S.W.3d 709, 719 (Tenn. Ct. App. 2022) (quoting Black's Law Dictionary (11th ed. 2019)). Mr. Schuchardt's petition includes conclusory assertions that he poses no risk of substantial harm to the public and allegations of misconduct against others, including disciplinary counsel and chief disciplinary counsel. . . .

App. 245a-246a. In other words, the Court said that Schuchardt could only obtain a hearing if his written request showed "cause" for a hearing.

According to the Tennessee Supreme Court, Schuchardt did not show "cause" because Schuchardt claimed that Tennessee state counsel was fabricating evidence in this case. That was not a "cause" that the Tennessee Supreme Court wished to entertain.

Needless to say, the Tennessee Supreme Court's opinion does not comply with this Court's instruction in *Ruffalo*. Fabrication of evidence by state counsel is not grounds for denying a hearing.

According to *Ruffalo*, Schuchardt is entitled to a hearing on the State's *ex parte* suspension of his law license. Tennessee should be required to present evidence showing that Schuchardt is a "danger to the public," when it makes that sort of inflammatory

claim. The State has not done so. As of this date, no hearing has ever been held on Garrett's *ex parte* petition to suspend Schuchardt's law license.

Schuchardt is not the only victim of Garrett's illegal conduct at the Tennessee ethics board. As explained below, Garrett is also filing cases against political candidates and racial minorities.

III. Tennessee's ethics board is filing cases against political candidates.

Tennessee state counsel has weaponized the attorney ethics system for political purposes. Tennessee state counsel is filing ethics cases against political candidates and racial minorities.

A. Tennessee is filing ethics cases against lawyers running for office.

Tennessee's ethics board has filed cases against at least 59 *attorneys* who were running for political office. A list of the cases is at App. 283a-308a.

The list includes two candidates for U.S. President, two candidates for Governor of Tennessee, a former clerk for this Court,¹⁹ and two attorneys who were president of their county bar associations. Most of the candidates were running for judge in Tennessee.

¹⁹ The law clerk is Matthew F. Stowe, who clerked for Justice Sandra Day O'Connor in 1997 and 1998. Garrett's office publicly sanctioned Stowe in 2017, after Stowe decided to run for District Attorney in Tennessee. Mr. Stowe is a graduate of Harvard Law School.

These cases are affecting the outcome of elections. In Tennessee, an attorney is not permitted to run for judge unless he or she is in good standing with the Disciplinary Board. See Tenn. Code Ann. § 17-1-106(a)(2) (2026). By attacking lawyers' licenses, state counsel Garrett is disqualifying candidates from office.

Garrett is also arguably in violation of Tennessee's "Little Hatch" Act. Under Tennessee law, it is illegal for a public employee to interfere with elections. Specifically, the statute provides as follows:

It is unlawful for any public officer or employee to use such person's official position, authority or influence to interfere with an election or nomination for office....

Tenn. Stat. Ann. 2-19-202(a) (2026).

It is unlikely that Garrett would be able to harass candidates, if she did not play a role in the selection of the fact-finder in these cases.

B. Tennessee is filing ethics cases against prominent African-American lawyers.

Garrett also has a history of filing ethics cases against prominent African American attorneys and political candidates.

In recent years, Garrett and her predecessor, Nancy Janes, have filed ethics cases against two dozen prominent black attorneys in Tennessee.

Many of these people were running for office. A list of the cases is at App. 309a-324a.

As recently as 2024, Garrett sanctioned the Nashville President of the NAACP, Sheryl Guinn. Attorney Guinn was twice a candidate for General Sessions Judge, in Nashville. Garrett has also repeatedly sanctioned black attorney Terry Renease Clayton. Clayton twice ran for the Tennessee House of Representatives, and once for the Nashville City Council.

This pattern of cases would likely not be possible if Garrett could not choose her own judge in the cases that she files.

CONCLUSION

For 100 years, this Court has emphasized the importance of a neutral judge in American jurisprudence. See *Tumey v. Ohio*, 273 U.S. 510 (1927).

This case illustrates what can happen when a neutral judge is not required by a State. A biased judge will ignore the plain meaning of the law, as occurred in this case. A biased judge will block discovery and a hearing, as occurred in this case. A biased judge will look the other way, when State prosecutors fabricate evidence or engage in self-dealing. A biased judge will give prosecutors a green light to file cases as an abuse of process to aid their friends in government, to interfere with elections, or

to harass racial minorities. It is all present in this case.

The Petitioner, Elliott Schuchardt, has risked his law license and livelihood to bring this matter to the attention of this Court.

Schuchardt respectfully requests that this Court impose due process upon the Tennessee ethics system, by requiring the State to hold hearings and appoint a neutral judge in attorney ethics cases. Other states use disinterested judges. It can be done in Tennessee, as well.

As we have seen, this case affects dozens of attorneys in Tennessee. Many could not run for judge, because their law license was subject to arbitrary enforcement of the rules, imposed by a hearing panel appointed by the prosecuting entity.

Compliance with due process will help end State counsel's interference with elections and civil rights in Tennessee. It will also put Tennessee on the path to honest and ethical government.

* * *

WHEREFORE, for the reasons set forth above, the Petitioner, Elliott J. Schuchardt, respectfully requests that this Honorable Court grant this petition and reverse the decision of the Tennessee Supreme Court.

Respectfully submitted,

Elliott J. Schuchardt
2322 Jockey Run Trail
Knoxville, TN 37920
Phone: (865) 304-4374
E-mail: elliott016@gmail.com