

No. _____

**IN THE
SUPREME COURT OF THE UNITED
STATES**

IN RE GENE N. CHAVEZ,

Petitioner.

**PETITION FOR A WRIT OF MANDAMUS
AND/OR PROHIBITION TO THE SUPREME
COURT OF THE STATE OF NEW MEXICO**

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QUESTIONS PRESENTED

Petitioner Gene N. Chavez, a New Mexico attorney, was suspended from the practice of law by order of the Supreme Court of New Mexico entered June 5, 2026 — an interim suspension “pending further proceedings before the Disciplinary Board.” No tribunal has ever found that Mr. Chavez committed misconduct. No petition for interim suspension was ever filed or served; no hearing on suspension was ever noticed or held; no finding was made that his continued practice posed any probability of harm to the public — the showing New Mexico's own Rule 17-207(A)(1)(e) NMRA requires; and no prompt post-deprivation hearing has been provided or scheduled. The order's recitals identify as its bases the parties' conditional consent agreement, the stipulated disciplinary history, and the argument at a hearing held solely to consider that agreement — the very materials Rule 17-211(C) NMRA withdraws and declares “cannot be used against the attorney or disciplinary counsel in any subsequent disciplinary proceedings or in any other judicial proceeding” once a conditional consent disposition fails. The questions presented are:

1. Whether the interim suspension of an attorney's license to practice law — a protected interest, *Schware v. Board of Bar Examiners of New Mexico*, 353 U.S. 232 (1957), deprived in a proceeding this Court has described as quasi-criminal, *In re Ruffalo*, 390 U.S. 544 (1968) — without notice, petition, or hearing, without any finding of probable misconduct or of harm to the public, and without any prompt post-

deprivation hearing, violates the Due Process Clause of the Fourteenth Amendment as construed in *Barry v. Barchi*, 443 U.S. 55 (1979).

2. Whether due process is violated where a state's highest court rests an attorney's suspension exclusively on admissions, stipulations, and consent-hearing presentations that the state's own rules withdraw and prohibit from any use upon the failure of a conditional consent disposition, and imposes that suspension immediately after the attorney exercises his express rule-conferred right to decline a modification to the proposed consent disposition.

3. Whether, under *Ex parte Bradley*, 74 U.S. (7 Wall.) 364 (1868), a writ of mandamus or prohibition should issue where a court has suspended an attorney in excess of the authority its own rules confer, the constitutional deprivation is operative now, rehearing has been denied without findings, and — by operation of sovereign immunity, the 1996 amendment to 42 U.S.C. § 1983, *Younger* abstention, and the *Rooker-Feldman* doctrine — no other court in the United States can grant relief.

PARTIES TO THE PROCEEDING

Petitioner is Gene N. Chavez, an attorney licensed in the State of New Mexico and the respondent in *In the Matter of Gene N. Chavez, Esq.*, No. S-1-SC-41313 (Disciplinary No. 2025-08-4616), before the Supreme Court of New Mexico.

Pursuant to Rule 20.3(a), relief is sought against the Supreme Court of the State of New Mexico, the court that entered the June 5, 2026 order of interim suspension, and against its Justices in their official capacities as nominal respondents: the Honorable Julie J. Vargas, Chief Justice, and the Honorable C. Shannon Bacon, the Honorable Michael E. Vigil, the Honorable David K. Thomson, and the Honorable Briana H. Zamora, Justices.

DIRECTLY RELATED PROCEEDINGS

The proceedings directly related to this petition are: *In the Matter of Gene N. Chavez, Esq.*, No. S-1-SC-41313 (Disciplinary No. 2025-08-4616) (Supreme Court of New Mexico) (order of interim suspension entered June 5, 2026; rehearing and stay denied June 16, 2026; disciplinary proceedings pending on remand before the Disciplinary Board); and *In re Gene N. Chavez*, No. 1:26-mc-00022-KG (D.N.M.) (order to show cause regarding reciprocal discipline issued July 2, 2026; pending).

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PETITION FOR A WRIT OF MANDAMUS AND/OR PROHIBITION

Petitioner Gene N. Chavez respectfully petitions this Court, pursuant to the All Writs Act, 28 U.S.C. § 1651(a), and Rule 20 of the Rules of this Court, for a writ of mandamus and/or prohibition directed to the Supreme Court of the State of New Mexico.

OPINIONS AND ORDERS BELOW

The order of the Supreme Court of New Mexico suspending Petitioner from the practice of law pending further proceedings before the Disciplinary Board, entered June 5, 2026, in *In the Matter of Gene N. Chavez, Esq.*, No. S-1-SC-41313, is unreported and is reproduced at App. 1a. The order of that court denying rehearing and denying a stay, entered June 16, 2026, is unreported and is reproduced at App. 4a.

JURISDICTION

This Court has jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a). The writ sought is in aid of this Court's appellate jurisdiction because this Court possesses prospective certiorari jurisdiction over any final judgment of the Supreme Court of New Mexico in the underlying disciplinary proceeding, 28 U.S.C. § 1257(a), and because the interim deprivation challenged here inflicts injury that eventual review of a final judgment cannot remedy. Mandamus has issued from this Court in precisely this setting: where a court removes an attorney from practice in excess of

its powers, leaving him otherwise “utterly remediless,” the writ of mandamus is the historically appropriate remedy. *Ex parte Bradley*, 74 U.S. (7 Wall.) 364 (1868). As required by Rule 20.1, Part III of the Reasons for Granting the Writ sets out with particularity why the relief sought is not available in any other court.

CONSTITUTIONAL AND RULE PROVISIONS INVOLVED

The Fourteenth Amendment to the Constitution of the United States provides in relevant part that no State shall “deprive any person of life, liberty, or property, without due process of law.”

Rule 17-211(C) NMRA provides that if a conditional agreement of consent to discipline is rejected by the hearing committee, board, or Supreme Court, the admission shall be withdrawn and the agreement, or any factual stipulations or admissions made in connection with the agreement or at any hearing held to consider the agreement,

“cannot be used against the attorney or disciplinary counsel in any subsequent disciplinary proceedings or in any other judicial proceeding.”

Rule 17-207(A)(1)(e) NMRA permits an interim suspension pending disciplinary proceedings only upon the filing in the Supreme Court and service upon the attorney, by chief disciplinary counsel, of a petition setting forth facts demonstrating that the attorney's continued practice “will result in a

substantial probability of harm, loss, or damage to the public.” Rule 17-211(B)(1)(a) NMRA confers on the attorney the express right to decline a modification to a proposed consent disposition.

STATEMENT OF THE CASE

1. The underlying disciplinary matter has been pending since March 2025. It arises from statements — expressly qualified as made “upon information and belief” — contained in a single motion filed in a state-court civil case: petitioning activity in a court of law. For more than fourteen months while the matter was pending, Petitioner continued to practice law, cooperated fully with disciplinary counsel, and drew no further incident, client complaint, or allegation of harm. At no point did the Disciplinary Board or chief disciplinary counsel petition for his interim suspension or assert that his continued practice endangered anyone.

2. Petitioner and disciplinary counsel negotiated a conditional agreement not to contest the allegations and to consent to discipline under Rule 17-211 NMRA. On May 14, 2026, the Supreme Court of New Mexico heard oral argument for the sole purpose of considering that proposed consent disposition. Interim suspension was not noticed, briefed, or argued.

3. Following argument, the court proposed a modification to the conditional agreement under Rule 17-211(B)(1)(a) NMRA. On May 15, 2026, Petitioner exercised his express right under that rule to decline the proposed modification.

4. On June 5, 2026 — within three weeks of Petitioner's exercise of that right — the court entered an order suspending him from the practice of law “pending further proceedings before the Disciplinary Board,” remanding the matter to the Board, and directing compliance with the client-notification obligations of Rule 17-212 NMRA. App. 1a. The order invoked the court's inherent superintending authority. It made no finding of misconduct. It made no finding of probable cause to believe misconduct had occurred. It made no finding that Petitioner's continued practice posed any probability of harm to the public. Its recitals identify as the bases for the court's consideration the parties' conditional consent agreement, the disciplinary-history stipulation filed at the court's request, and the argument heard on May 14, 2026 — each a matter Rule 17-211(C) NMRA withdraws from use upon rejection of the agreement.

5. No petition for interim suspension under Rule 17-207(A)(1)(e) NMRA was ever filed or served. No hearing was ever held on whether Petitioner's continued practice presented a “substantial probability of harm, loss, or damage to the public.” Petitioner received no notice that his immediate suspension was even at issue and no opportunity to be heard on that question before his license was taken. Nor has the order or any subsequent proceeding provided for a prompt post-suspension hearing at which the State must justify the deprivation; the suspension runs indefinitely, “pending further proceedings” of no fixed schedule.

6. Petitioner timely moved for rehearing under Rule 12-404 NMRA and moved to stay the suspension's effective date, raising each of the defects

described above. On June 16, 2026, the court denied both motions in a one-page order containing no findings of fact, no analysis, and no response to the objections raised. App. 4a.

7. On June 30, 2026, Petitioner filed his Answer to the Specification of Charges before the Disciplinary Board, denying the operative allegations of misconduct and demanding an evidentiary hearing. No hearing committee has convened, no evidence has been taken, and no findings have been made. Petitioner has fully complied with his notice obligations under Rule 17-212 NMRA and filed an affidavit of compliance.

8. The suspension has already begun to replicate itself. On July 2, 2026, the United States District Court for the District of New Mexico issued an order directing Petitioner to show cause why reciprocal discipline should not be imposed, *In re Gene N. Chavez*, No. 1:26-mc-00022-KG (D.N.M.). Reciprocal-discipline regimes do not wait for finality; interim orders themselves trigger reciprocal interim suspensions in other jurisdictions. *See, e.g., Matter of Liebowitz*, 200 A.D.3d 124 (N.Y. App. Div. 2021) (rule governing reciprocal discipline does not require that the foreign order be final); *Matter of Bacotti*, 214 A.D.3d 34 (N.Y. App. Div. 2023) (reciprocal discipline predicated on another jurisdiction's interim suspension). Petitioner's clients have been notified, his matters disrupted, and his suspension published — all before any tribunal anywhere has heard a single witness or made a single finding of misconduct.

REASONS FOR GRANTING THE WRIT

Mandamus from this Court is, and should remain, a remedy sparingly granted. But this Court settled long ago that the writ has a specific and historic office in exactly this setting. In *Ex parte Bradley*, 74 U.S. (7 Wall.) 364 (1868), this Court held that the want of jurisdiction of a court in a summary proceeding to remove an officer of the court or disbar an attorney is one of the specific cases in which mandamus is the appropriate remedy, precisely because an attorney wrongfully stripped of his practice by such an order would otherwise be “utterly remediless.” That is this case. A state’s highest court — the one court in the state system that answers to no other — has suspended an attorney through a summary procedure its own rules do not authorize, on materials its own rules prohibit, without any of the findings the Constitution requires, and has denied rehearing without a word of explanation. Every other courthouse door in the country is closed. Each of Rule 20’s requirements is satisfied.

I. THE SUSPENSION WAS IMPOSED WITHOUT THE PROCESS THE FOURTEENTH AMENDMENT REQUIRES — NO NOTICE, NO HEARING, NO PROBABLE-CAUSE OR HARM FINDING, AND NO PROMPT POST-DEPRIVATION REVIEW.

A. A law license is a protected interest, and its suspension — even temporarily — triggers due process.

This Court held seventy years ago, in a case arising from this very State, that the practice of law is

a protected interest whose denial implicates the Due Process Clause. *Schwartz v. Board of Bar Examiners of New Mexico*, 353 U.S. 232 (1957). Attorney-discipline proceedings are “quasi-criminal” in nature, entitling the attorney to fair notice and a meaningful opportunity to be heard. *In re Ruffalo*, 390 U.S. 544, 550–51 (1968). And the requirement of notice and an opportunity to be heard attaches even to short and temporary deprivations of protected interests. *Goss v. Lopez*, 419 U.S. 565 (1975). An interim suspension of a law license is not a modest deprivation: clients must be notified, pending matters surrendered, and the suspension published. Petitioner received none of the process these cases require — no petition, no notice that suspension was at issue, no hearing on suspension, no findings — and, when he raised those defects on rehearing, a one-page denial without engagement.

B. Barry v. Barchi supplies the governing framework, and this suspension fails it at every step.

Barry v. Barchi, 443 U.S. 55 (1979), is this Court's controlling precedent on interim suspensions of professional licenses. *Barchi* teaches two things. First, even where important state interests permit suspension before a full hearing, the deprivation must rest on an adequate assurance of non-arbitrariness — there, a probable-cause showing that the licensee had committed the violation. Second, the licensee is constitutionally entitled to a prompt post-suspension hearing, one that proceeds and concludes without appreciable delay; the Court found a constitutional

deficiency where the scheme did not assure a prompt hearing and the licensee could suffer the full penalty before ever putting the State to its proof. Both requirements are violated here. There was no probable-cause finding, no harm finding, and no finding of any kind — the order rests, by its own recitals, on withdrawn consent materials, not on any assessment of misconduct or danger. And there is no prompt post-suspension hearing: the suspension runs indefinitely “pending further proceedings” before a Board that has not yet convened a hearing committee, on no fixed schedule. Disciplinary tribunals applying *Barchi* have found due process violated by far less. *See People v. Moseley*, 585 P.3d 276 (Colo. O.P.D.J. 2025) (post-suspension hearing delayed over five months was not sufficiently prompt to constitute a meaningful opportunity to be heard, supporting the attorney's defense to reciprocal discipline).

C. The contextual due process cases the State may invoke condemn, rather than excuse, this suspension.

Petitioner anticipates the response that due process is flexible and contextual, and that a state's compelling interest in policing its bar can justify expedited action. *See, e.g., Gilbert v. Homar*, 520 U.S. 924 (1997); *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 U.S. 423 (1982) (recognizing the State's extremely important interest in the professional conduct of attorneys). The flexibility of due process is measured by the *Mathews v. Eldridge* balancing of the private interest, the risk of erroneous deprivation, and the governmental

interest. See *Nelson v. Colorado*, 581 U.S. 128 (2017) (applying that framework to state deprivation procedures). Every factor condemns this order. The private interest — an attorney's entire livelihood and professional standing — is at its maximum. The risk of erroneous deprivation is likewise at its maximum, because the only materials before the court were materials the law had withdrawn, and no independent, non-arbitrary basis existed: in *Gilbert*, the Court sustained a brief pre-hearing suspension of a police officer *because* an arrest and formal felony charges supplied independent assurance that the suspension was not baseless, and because a prompt post-suspension opportunity followed. Here there was no arrest, no criminal charge, no adjudication, no probable-cause finding — only contested civil disciplinary allegations, fourteen months old, that the State itself never deemed urgent. And the government interest in *immediate* action is refuted by the State's own conduct: for fourteen months, neither disciplinary counsel nor the Board ever suggested that Petitioner's continued practice endangered anyone, and the order itself identifies no protective rationale and makes no danger finding.

The comparative case law makes the same point from the opposite direction. Even jurisdictions that permit immediate interim suspension pair it with the very process New Mexico's rules require and this order omitted: in *People v. Varallo*, 913 P.2d 1 (Colo. 1996), immediate suspension comported with due process *because* the attorney received notice of disciplinary counsel's petition for immediate suspension and appeared, through counsel, in response to a rule to show cause; in *Matter of Kort*, 224

A.D.3d 15 (N.Y. App. Div. 2024), the due process defense to reciprocal discipline failed *because* the attorney had been mailed requests for response and served with the motion for interim suspension. *See also Matter of Padilla*, 67 N.Y.2d 440, 446 (1986) (interim suspension permissible only upon an immediate threat to the public clearly established by admission or uncontroverted evidence, with the basis articulated); *cf. Rauth v. New Mexico Medical Board*, 534 P.3d 1037 (N.M. Ct. App. 2023) (recounting that even New Mexico's executive-branch summary suspension of a physician was noticed on an asserted clear and immediate danger to the public). Petitioner received what no reported decision sustains: no petition, no service, no notice, no show-cause opportunity, no finding, and no prompt hearing after the fact.

D. The suspension also violates New Mexico's own rules, which even a court of last resort must respect when it acts under them.

For a matter not involving a criminal conviction or adjudicated incapacity, Rule 17-207(A)(1)(e) NMRA prescribes the path to an interim suspension: a petition filed and served by chief disciplinary counsel demonstrating a substantial probability of harm, loss, or damage to the public. Under *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–67 (1954), *Service v. Dulles*, 354 U.S. 363 (1957), and *Vitarelli v. Seaton*, 359 U.S. 535, 539–40 (1959), governmental action taken in disregard of the government's own prescribed procedures cannot stand. Petitioner

anticipates the objection that the *Accardi* line addresses executive agencies, and that a state supreme court's inherent superintending authority over the bar cannot be cabined by a rule of court. The objection fails twice over. First, the *Accardi* principle is not about the branch of government; it is about the rule of law — a sovereign that promulgates binding procedures to protect individuals must follow them, and New Mexico's Supreme Court promulgated Rules 17-207 and 17-211 as binding law governing exactly this situation. Second, and independently, the constitutional violation stands on its own: whatever the reach of inherent authority, its exercise remains subject to the Due Process Clause, and inherent authority supplies no exemption from notice, hearing, and findings. *Ex parte Bradley* itself involved a court's summary removal of an attorney in excess of its powers; the existence of judicial power over the bar has never immunized its summary exercise from constitutional limits.

II. THE SUSPENSION RESTS EXCLUSIVELY ON MATERIALS NEW MEXICO LAW WITHDREW AND PROHIBITS FROM ANY USE, AND IT PENALIZES THE EXERCISE OF RULE-CONFERRED AND CONSTITUTIONALLY PROTECTED RIGHTS.

A. Rule 17-211(C) withdrew the only materials beneath the order.

When the court rejected the conditional consent disposition, Rule 17-211(C) NMRA operated by its plain terms: the admission was withdrawn, and the

agreement, the factual stipulations, and everything presented at the hearing held to consider the agreement “cannot be used against the attorney or disciplinary counsel in any subsequent disciplinary proceedings or in any other judicial proceeding.” Yet the June 5 order's own recitals identify precisely those materials — the conditional agreement, the stipulated disciplinary history, and the May 14 consent-hearing argument — as its bases. Once those materials are set aside, as New Mexico law commands, nothing remains beneath the suspension: no findings by any hearing committee, no evidence taken under oath, no adjudication of any kind — only contested, unproven charges that Petitioner has answered and denied.

Petitioner anticipates two responses. The first is that Rule 17-211(C)'s prohibition reaches only merits adjudications, not a supervisory interim measure. The rule's text forecloses that reading: it bars use “in any subsequent disciplinary proceedings or in any other judicial proceeding” — language of total exclusion, with no carve-out for interim or protective orders, and an interim suspension entered by a court in a disciplinary case is on any account a subsequent disciplinary proceeding. The second response is that the mere pendency of the Specification of Charges supplied an independent basis for the order. But *Barchi* answers that: unproven, contested charges — standing alone, with no probable-cause assessment and no danger finding — cannot constitutionally support the immediate deprivation of a professional license. And the order's recitals refute the premise: the court did not recite the pendency of charges as its basis; it recited the

withdrawn agreement, the withdrawn stipulations, and the withdrawn hearing.

B. The protections surrounding consensual resolution cannot be unilaterally disregarded by the government that promised them.

Rule 17-211(C) is an exclusionary promise of the same family as the protections surrounding plea negotiations and settlement discussions, which exist to encourage the candid, voluntary resolution of disputes. This Court has emphasized that such protections are subject to waiver *by voluntary agreement of the parties* — not to unilateral disregard by the government after the fact. *See United States v. Mezzanatto*, 513 U.S. 196 (1995). Petitioner never waived Rule 17-211(C); he invoked it. Using his conditional admissions against him after the consent process failed springs exactly the kind of procedural “trap” this Court condemned in *Ruffalo*: good-faith participation in a process the rules invite, converted into the instrument of the participant's punishment. 390 U.S. at 550–51.

C. The sequence penalizes the exercise of protected rights.

The matter was pending for more than fourteen months without any suggestion that interim suspension was necessary. The suspension issued within three weeks of one event and one event only: Petitioner's exercise of his express right under Rule 17-211(B)(1)(a) NMRA to decline the court's proposed modification. Petitioner anticipates the response that

temporal proximity alone does not establish retaliation, and that the collapse of a consent process may legitimately prompt a court to consider interim protection. But that response presupposes what is missing here: a protective determination. A court that concludes, after a consent process fails, that the public needs interim protection makes a finding to that effect — the finding Rule 17-207(A)(1)(e) requires. This order contains none. Nothing about Petitioner's dangerousness changed between May 14 and June 5 except his refusal, and the order identifies nothing else. Official reprisal for constitutionally protected activity offends the Constitution, *Hartman v. Moore*, 547 U.S. 250 (2006); *Nieves v. Bartlett*, 587 U.S. 391 (2019), and the underlying statements for which Petitioner is charged were themselves petitioning activity in a court of law, a right whose protection extends to all departments of government, *BE&K Construction Co. v. NLRB*, 536 U.S. 516 (2002). Whether analyzed as retaliation or simply as arbitrariness, a professional-license deprivation must bear a rational connection to fitness and public protection, *cf. Barsky v. Board of Regents*, 347 U.S. 442 (1954); an order whose only identified predicates are legally unusable materials and whose only temporal trigger is the exercise of a rule-conferred right bears none.

The systemic stakes extend far beyond this Petitioner. Consent procedures — Rule 17-211 and its counterparts in every jurisdiction — depend on the assurance that an attorney who negotiates candidly, makes conditional admissions, and ultimately walks away is restored to the status quo ante. If a state's highest court may strip that assurance away, and no

court may say otherwise, every rational attorney facing charges must refuse to negotiate, and disciplinary systems nationwide lose the consensual resolutions on which they depend. The consent decree becomes an offer that cannot be refused.

III. ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT.

Rule 20.1 requires the petition to set out with particularity why the relief sought is not available in any other court. Here that showing can be made with unusual precision, forum by forum.

A. The state system affords no remedy for the interim deprivation.

The order under challenge is an order of the Supreme Court of New Mexico itself. There is no higher state court. Petitioner sought rehearing under Rule 12-404 NMRA and a stay; both were denied in a one-page order without findings. The remand to the Disciplinary Board affords no remedy for the *interim* suspension: the Board proceeds toward an eventual merits adjudication, but the suspension — entered by the court that supervises the Board — remains in force throughout, and the Board has no power to dissolve its supervising court's order. Petitioner will vigorously litigate the charges before the Board and expects to prevail; but a favorable final adjudication months or years from now cannot restore the interim years of practice, the clients lost, or the reciprocal discipline imposed in the meantime. That is the *Barchi* point: a licensee who can suffer the full

practical penalty before ever putting the State to its proof has been denied due process, and a merits forum that convenes later is not a remedy for the deprivation happening now.

A claim under the New Mexico Civil Rights Act, NMSA 1978, §§ 41-4A-1 to -12, likewise offers no adequate avenue. Such a claim must be brought in a New Mexico district court — a court inferior to the respondent — against a public body. In *Bolen v. New Mexico Racing Commission*, 578 P.3d 1121 (N.M. 2025), the Supreme Court of New Mexico held that a public body may raise judicial immunity, which the Act expressly preserves, NMSA 1978, § 41-4A-10, as an affirmative defense to Civil Rights Act damages claims, applying a function-based framework. Whether that immunity would ultimately defeat a claim for injunctive relief against the Supreme Court itself is untested; but Rule 20 does not require Petitioner to spend the life of his interim suspension litigating a novel theory, against a preserved immunity defense the respondent court itself announced, in a trial court being asked to enjoin the highest court of its own state. A remedy that is structurally anomalous, legally unprecedented, and immunity-encumbered is not “adequate relief” within the meaning of Rule 20.1.

B. The lower federal courts are closed.

Every avenue in the lower federal courts is foreclosed, several times over. The Supreme Court of New Mexico, as an arm of the State, is not a “person” subject to suit under 42 U.S.C. § 1983 for any form of relief. *Will v. Michigan Department of State Police*,

491 U.S. 58 (1989). The Eleventh Amendment bars damages claims against the court's Disciplinary Board and its members in their official capacities. *Guttman v. Widman*, 188 F. App'x 691 (10th Cir. 2006); *Ysais v. New Mexico Judicial Standards Commission*, 616 F. Supp. 2d 1176 (D.N.M. 2009). And prospective relief fares no better: this Court reaffirmed in *Whole Woman's Health v. Jackson*, 595 U.S. 30 (2021), that *Ex parte Young*, 209 U.S. 123 (1908), does not permit an injunction against a state court or its machinery, and the District of New Mexico has applied that principle to New Mexico's disciplinary apparatus specifically, *Marshall v. Bacon*, 2023 WL 7703946 (D.N.M. Nov. 15, 2023); see also *Elephant Butte Irrigation District v. Department of Interior*, 160 F.3d 602 (10th Cir. 1998) (*Ex parte Young* inapplicable where relief would intrude excessively on a special state sovereign interest).

Suit against the individual Justices is separately barred by statute and doctrine. The 1996 amendment to § 1983 provides that in any action against a judicial officer for an act taken in a judicial capacity, injunctive relief “shall not be granted” unless a declaratory decree was violated or declaratory relief was unavailable — and neither exception is available here, because no declaratory decree exists and Petitioner can and does raise his constitutional objections in the state proceeding. *Catanach v. Thomson*, 718 F. App'x 595 (10th Cir. 2017). A claim confined to declaratory relief fails as well: the District of New Mexico has held such a claim not cognizable under § 1983 where declaratory relief was not unavailable in the state proceeding, *Pueblo of Santa Ana v. Nash*, 854 F. Supp. 2d 1128 (D.N.M.

2012), and the Tenth Circuit has affirmed the denial of declaratory relief against judicial officers as a matter of remedial discretion even where not statutorily barred, *Hatton v. Combs*, 793 F. App'x 801 (10th Cir. 2019). The June 5 order was a judicial act; the Tenth Circuit has held that even informal attorney disciplinary matters presented to a state's highest court are judicial proceedings. *Stein v. Disciplinary Board of the Supreme Court of New Mexico*, 520 F.3d 1183 (10th Cir. 2008).

Abstention and jurisdictional doctrines close whatever might remain. This Court held in *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 U.S. 423 (1982), that *Younger* abstention applies to ongoing state attorney disciplinary proceedings, and the District of New Mexico and the Tenth Circuit have applied *Middlesex* to dismiss an attorney's federal suit to enjoin New Mexico disciplinary proceedings, *Stein v. Legal Advertising Committee of the Disciplinary Board*, 272 F. Supp. 2d 1260 (D.N.M. 2003), *aff'd*, 122 F. App'x 954 (10th Cir. 2004); when the *Younger* conditions are satisfied, claims for declaratory as well as injunctive relief are subject to outright dismissal, *Graff v. Aberdeen Enterprizes, II, Inc.*, 65 F.4th 500 (10th Cir. 2023). To the extent a federal complaint were instead framed as an attack on the June 5 order itself, the *Rooker-Feldman* doctrine deprives the lower federal courts of jurisdiction: every federal court of appeals has held that an attorney may not challenge the result of a state disciplinary proceeding in a lower federal court, including by attacking the process leading to the decision. *Kline v. Biles*, 861 F.3d 1177 (10th Cir. 2017); *see Lance v. Dennis*, 546 U.S. 459 (2006). The

two doctrines bracket the case: one bars relief while the state proceeding is pending, the other once it concludes.

Petitioner acknowledges the argument that these doctrines have edges — that *Younger's* premise of an adequate state opportunity might be contested where the interim order itself is the violation, or that an “independent claim” might be theorized around *Rooker-Feldman*. But Rule 20.1 asks whether adequate relief *can be obtained* elsewhere, not whether an ingenious complaint might survive a motion to dismiss in some other circuit. In this district, on these facts, the controlling authorities — *Will*, *Whole Woman's Health*, *Marshall*, the 1996 amendment, *Middlesex*, *Stein*, *Graff*, and *Kline* — leave no realistic path, and *Middlesex* itself directs the constitutional claims into the very state proceeding whose interim order cannot be reached there. A remedy that requires threading five overlapping doctrines, in the teeth of on-point adverse precedent, while the deprivation runs, is not adequate relief in any meaningful sense.

C. Certiorari from a final judgment cannot repair an interim deprivation.

Nor is eventual certiorari review an adequate substitute. The deprivation is operative *now*. By the time the Disciplinary Board convenes a hearing committee, takes evidence, makes findings, and the Supreme Court of New Mexico enters a final judgment reviewable under 28 U.S.C. § 1257(a), the interim suspension will have run its full destructive course — clients lost, matters surrendered, reciprocal discipline

imposed on the strength of the interim order, and a reputation publicly branded — all without any adjudication of misconduct, ever. This Court's cases recognize that the procedural posture of a case does not strip constitutional questions of their claim to this Court's attention, *cf. NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958), and *Ex parte Bradley* recognizes that where the ordinary channels cannot reach a court's summary removal of an attorney, mandamus exists precisely so that the attorney is not left “utterly remediless.” *Ex parte Wall*, 107 U.S. 265 (1883), is not to the contrary: there the writ was denied because the disbarring court had acted within its jurisdiction after notice and an opportunity to respond. Here the court acted outside the exclusive procedural path its own rules prescribe, with no notice and no opportunity at all — the *Bradley* side of the line, not the *Wall* side.

IV. THE WRIT IS IN AID OF THIS COURT'S APPELLATE JURISDICTION, AND THE CIRCUMSTANCES ARE EXCEPTIONAL.

The writ would issue in aid of this Court's appellate jurisdiction because this Court possesses prospective certiorari jurisdiction over any final judgment in the underlying disciplinary proceeding, 28 U.S.C. § 1257(a), and because the interim suspension, left in place, will drain that eventual review of practical meaning: the federal questions will arrive at this Court, if at all, only after the deprivation has become irreversible and after the state order has been replicated through reciprocal discipline across the federal system and in every jurisdiction of

Petitioner's admission. That replication is not speculative. The United States District Court for the District of New Mexico issued its reciprocal-discipline show-cause order within weeks of the state suspension, and reciprocal-discipline regimes elsewhere expressly attach to interim, non-final orders. *Matter of Liebowitz*, 200 A.D.3d 124 (N.Y. App. Div. 2021); *Matter of Bacotti*, 214 A.D.3d 34 (N.Y. App. Div. 2023). The All Writs Act confers discretionary power to issue mandamus in exceptional circumstances as an instrument of supervisory judicial administration, *La Buy v. Howes Leather Co.*, 352 U.S. 249 (1957), and only this Court sits in a supervisory posture over the judgments of a state's highest court.

Petitioner anticipates the objection that the petition is premature because no final judgment exists, and that the *Selling* mechanism — the independent due process review that federal courts conduct before imposing reciprocal discipline, *Selling v. Radford*, 243 U.S. 46 (1917); *Theard v. United States*, 354 U.S. 278 (1957); *In re Ruffalo*, 390 U.S. at 547 (state discipline entitled to respect but not conclusively binding on federal courts) — is the system's built-in safeguard. Three answers. First, prematurity inverts the problem: it is precisely *because* no final judgment exists that § 1257 review is unavailable and mandamus is the only writ that can reach the deprivation while it matters; a doctrine that makes relief unavailable both before finality (prematurity) and after it (mootness of the interim harm) is a description of the trap, not a justification for it. Second, the *Selling* mechanism protects only Petitioner's *federal* admissions, one show-cause

proceeding at a time, at Petitioner's expense in each; it cannot restore the New Mexico license itself, which is the source of the injury and of every reciprocal consequence. Third, the exceptional-circumstances inquiry looks to the character of the violation, and this record is exceptional by any measure: a state supreme court (i) bypassed the exclusive interim-suspension procedure its own rules prescribe; (ii) rested the suspension, by its own recitals, on materials its own rules withdraw from “any” use; (iii) acted within three weeks of the attorney's exercise of a right the rules expressly confer; (iv) made no finding of misconduct, probable cause, or public harm; (v) provided no prompt post-deprivation hearing; and (vi) denied rehearing in one page, without reasons. Petitioner does not ask this Court to adjudicate the underlying charges; he has answered them and demanded the evidentiary hearing to which he is entitled. He asks only that the interim deprivation — imposed without process and sustained without explanation — be vacated, or that the State be required to afford the process its own rules and the Fourteenth Amendment prescribe.

CONCLUSION AND RELIEF SOUGHT

The petition for a writ of mandamus and/or prohibition should be granted. The Court should issue a writ directing the Supreme Court of the State of New Mexico to vacate its June 5, 2026 order of interim suspension in *In the Matter of Gene N. Chavez, Esq.*, No. S-1-SC-41313; or, in the alternative, a writ directing that court to afford Petitioner the process required by the Due Process Clause of the Fourteenth

Amendment, *Barry v. Barchi*, 443 U.S. 55 (1979), and by Rule 17-207(A)(1)(e) NMRA — a petition, notice, an opportunity to be heard, findings on probable cause and on the probability of harm to the public, and a prompt hearing — before any interim suspension may take or remain in effect; or, in the alternative, a writ of prohibition restraining enforcement of the June 5, 2026 order pending final adjudication of the disciplinary charges. Petitioner further requests such other relief as the Court deems just and proper.

Respectfully submitted,

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August 2026

APPENDIX

APPENDIX — INDEX

Appendix A — Order of Suspension, In the Matter of
Gene N. Chavez, Esq., No. S-1-SC-41313 (N.M.
June 5, 2026)

Appendix B — Order Denying Motion for Rehearing
and Motion to Stay, No. S-1-SC-41313 (N.M.
June 16, 2026)

APPENDIX A

*[Filed: Supreme Court of New Mexico, June 5, 2026,
11:47 a.m., Office of the Clerk]*

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

June 5, 2026

NO. S-1-SC-41313

**IN THE MATTER OF
GENE N. CHAVEZ, ESQ.,**

**An Attorney Suspended from the Practice of
Law Before the Courts of the State of New
Mexico**

ORDER

WHEREAS, this matter initially came on for consideration by the Court upon the parties' *conditional agreement not to contest the allegations and consent to discipline*, complete disciplinary history of Respondent Gene N. Chavez filed at the Court's request, and argument of the parties heard on May 14, 2026;

WHEREAS, following oral argument, the Court issued an order proposing a modification to the conditional agreement under Rule 17-211(B)(1)(a) NMRA;

WHEREAS, Respondent filed a notice on May 15, 2026, rejecting the proposed modification;

WHEREAS, this Court has inherent authority to regulate and discipline attorneys under the Court's power of "superintending control over all inferior courts," granted by the New Mexico Constitution, Article VI, Section 3;

WHEREAS, the Court having considered the foregoing and being sufficiently advised; Chief Justice Julie J. Vargas, Justice Michael E. Vigil, Justice C. Shannon Bacon, Justice David K. Thomson, and Justice Briana H. Zamora concurring;

NOW, THEREFORE, IT IS ORDERED that Respondent is hereby SUSPENDED from the practice of law pending further proceedings before the Disciplinary Board;

IT IS FURTHER ORDERED that this matter is remanded to the Disciplinary Board for further proceedings under Rule 17-211 NMRA;

IT IS FURTHER ORDERED that Respondent shall comply with Rule 17-212 NMRA, as applicable; and

IT IS FURTHER ORDERED that this suspension shall be published in the *Bar Bulletin*.

IT IS SO ORDERED.

WITNESS, the Honorable
Julie J. Vargas, Chief
Justice of the Supreme
Court of the State of New
Mexico, and the seal of said
Court this 5th day of June,
2026.

[SEAL]

Elizabeth A. Garcia, Clerk
of Court
Supreme Court of New
Mexico

By: /s/ Kristin R. Edwards
Deputy Clerk

[Certification: "I CERTIFY AND ATTEST: A true copy was served on all parties or their counsel of record on date filed. Kristin Edwards, Deputy Clerk of the Supreme Court of the State of New Mexico."]

APPENDIX B

*[Filed: Supreme Court of New Mexico, June 16, 2026,
11:43 a.m., Office of the Clerk]*

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

June 16, 2026

NO. S-1-SC-41313

**IN THE MATTER OF
GENE N. CHAVEZ, ESQ.,**

**An Attorney Suspended from the Practice of
Law Before the Courts of the State of New
Mexico**

ORDER

WHEREAS, this matter came on for consideration by the Court upon Respondent's opposed motions for rehearing and stay; and

WHEREAS, the Court having considered the foregoing and being sufficiently advised; Chief Justice Julie J. Vargas, Justice Michael E. Vigil, Justice C. Shannon Bacon, Justice David K. Thomson, and Justice Briana H. Zamora concurring;

NOW, THEREFORE, IT IS ORDERED that both motions are DENIED.

IT IS SO ORDERED.

WITNESS, the Honorable
Julie J. Vargas, Chief

Justice of the Supreme
Court of the State of New
Mexico, and the seal of said
Court this 16th day of
June, 2026.

[SEAL]

Elizabeth A. Garcia, Clerk
of Court
Supreme Court of New
Mexico

By: /s/ Kristin R. Edwards
Deputy Clerk

[Certification: "I CERTIFY AND ATTEST: A true copy
was served on all parties or their counsel of record on
date filed. Kristin Edwards, Deputy Clerk of the
Supreme Court of the State of New Mexico."]