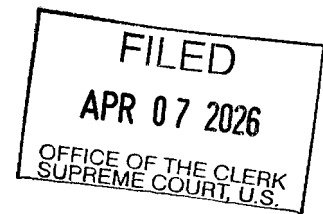


26-5192

No. _____



IN THE SUPREME COURT OF THE UNITED STATES

DAPHNIE NEWMAN BOUDY,

Petitioner,

v.

ORIGINAL

**MCCOMB SCHOOL DISTRICT, MCCOMB SCHOOL DISTRICT
BOARD OF TRUSTEES, and JAMES HARVEY, former Interim**

**Principal now Assistant
Principal and in his official capacity,
Respondents.**

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit**

PETITION FOR WRIT OF CERTIORAR

**Daphnie Newman Boudy, disabled, pro se
Filing with help from her daughter
Mailing address: 111 Oak Street
McComb, Mississippi 39648
Phone: 985.285.8712
Email: daphnieboudy@outlook.com**

**Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12101),
Rehabilitation Act of 1973, Title VII codified at 42 U.S.C. 2000e and Title IX
of the Education Amendments of 1972**

QUESTIONS PRESENTED

This case is of national significance and is one of the worst ADA violations of federal civil pro se cases in U.S. history. The 5th Circuit sets a dangerous precedent for marginalized groups, minorities, individuals with disabilities, employees with reasonable ADA accommodations, and children of indigent, disabled parents with preexisting mental illnesses, who are pro se litigants with little options, legal recourse, and faced with massive and intentional judicial bias. This petition highlights clear errors, significant violations of legal fairness, violations of ADA, complete failure of the *14th Amendment*, and shows systemic failures from the supervisor, school, superintendent, school district, school board, school board attorneys, Petitioner's attorneys, the Southern District of Mississippi and the 5th Circuit Court of Appeal.

The following questions are presented:

1. Did the 5th Circuit Court set a dangerous precedent, clear err, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when it **affirmed dismissal of Petitioner's case (Appended 1) based on the same notarized affidavit, evidence, dates, facts and medical records used to approve her Motion to Appoint Counsel (Appended 9, pg. 2; exhibits 1 - 43)** and remanded and vacated a Judgement and Sanctions on attorney fees?
2. Does the 5th Circuit need guidance as it ignored its own precedent in three cases?
 - 1.) ***James Harvey, Jr. v. Marion County, Mississippi, et.al No. 2:03cv606GuRo*** (*Boudy vs. The McComb School District, et. al. 5:23-CV30-KS-BWR* - Motions to Appoint Counsel & Supplemental Complaint, Doc. 32, Dated 7/21/2023), where the 5th Circuit agreed and determined **Defendant James Harvey** has a history of abusing his power and taking advantage of vulnerable subordinates he supervised for his own personal gain; 2.) *Bodnar v. Bodnar, 441 F.2d 1103, 1103-04 (5th Cir. 1971)* where Petitioner never refused to take a Mental Examination as she filed a Response showing she was unable to pay all fees ordered by the District Court due to her fixed monthly Social Security Disability Income (SSDI) of \$1,067.00; and 3.)

Tullos vs. City of Nassau Bay Case No. 0:04-cr-20335 where the 5th Circuit ruled and suggested that multiple diagnoses of mental illnesses, combined with exceptional circumstances may provide a necessary threshold for a successful pro-plaintiff fact pattern and appointment of counsel as Petitioner filed a Motion to Appoint Counsel on a Limited Basis and three (3) Motions to Appoint Counsel with medical evidence and supporting documents as the 5th Circuit noted in their Opinion.

3. Did the 5th Circuit Court set a dangerous precedent, clear err, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when the District Court alleged "contumacious behavior" "false paper trail" "she did what she wanted to do" and fictitious "warnings" on dates Petitioner experienced near fatal medical emergencies, hospitalizations and/or under doctor's care as she (and her minor daughter) notified the court and opposing side (documented in the record and **Approved Motion to Appoint Counsel for this Appeal** - Appended 9)? From **June - September 2023**, Petitioner experienced major side effects from constant changes in medication management and additional mental illness symptoms. Petitioner admitted herself into an inpatient psychiatric treatment hospital in Jackson, MS from **September 29 - October 5, 2023**. On **June 12, 2024** (Appended 3 and 9), Petitioner had a minor heart attack, chest pain and severe anxiety and panic attacks as she was diagnosed with septal infarct and an abnormal ECK. From **June 14 - 28, 2024** (Appended 3 and 9), Petitioner was infected with a contagious shingles virus on the left side of her face that caused swelling, sores with oozing fluid and crust near her mouth and from her left eye, permanent blurred vision in her left eye from **June 18, 2024 - current** (Appended 3 and 9), light sensitivity, cataracts, permanent left side facial herpetic neuropathy, and was advised by her doctors to not spread the contagious virus and to avoid vulnerable populations. When Petitioner learned hearings and conferences were being held without her knowledge, she requested to be afforded the same opportunities as Defendants and their attorneys to appear in court via Zoom, but her request was denied as the 5th Circuit noted in their Opinion.

4. Did the 5th Circuit Court set a dangerous precedent, clear error, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when it ruled on Petitioner's case as a **Title VII case only**? During Oral Arguments on **September 2, 2025**, 5th Circuit Court Judge Prsicilla Richman asked Defendants Attorney Mary Clark Joyner if this was a disability case. Attorney Mary Clark Joyner replied, "No...this is a Title VII case" as the 5th Circuit has a duty of factual findings per *FRCP 52(a)(6)*. On April 24, 2023, Petitioner filed her original employment discrimination claim and 35 attached exhibits (Appended 2) with preexisting mental

illnesses for violations of her American with Disabilities Act (ADA) rights, Rehabilitation Act, Title VII and Title IX claims. The District Court did not rule on any claims in this case.

5. Did the 5th Circuit Court set a dangerous precedent, clear err, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when it ignored, disregarded and failed to consider in Defendants own Reply Brief where they referenced **Petitioner's Motion to Disqualify Attorney Kashonda L. Day** pursuant to *FRCP 3.7 Lawyer As Witness and Conflict of Interest* in *5th Circuit Court of Appeal In re: Daphnie Newman Boudy Dated 7/28/2023 Case No. 23-60401*? Attorney Kashonda L. Day is listed as one of **Petitioner's necessary witnesses** as she approved the elimination of Petitioner's job and ADA accommodations with the McComb School District. Attorney Day's testimony and notes are vital in this case. Attorney Kashonda Day never opposed being called as one of Petitioner's witnesses as Petitioner moved to have Attorney Day disqualified, which was denied. In *Disability Rights Mississippi vs. the McComb School District, et. al. No. 5:22-cv-00091-DCB-BWR*, its documented that **Defendants and their legal counsel (Attorney Kashonda L. Day)** have a history of discriminating, violating federal law and state law in "the reporting, exploitation and abuse/neglect of students" and "impeding DRMS from exercising its federal mandate and duty to protect and advocate for individuals with mental illness."

6. Did the 5th Circuit set a dangerous precedent and cause Circuit splits when it declared Petitioner's two attorneys withdrew because of "**major disagreements**" versus they withdrew for major "**ethical violations**" to justify the District Court denying Petitioner's Motion to Appoint Counsel on a Limited Basis and three Motions to Appoint Counsel and/or refusal to consider Appointment of Guardian Ad Litem in *Sturdza v. United Arab Emirates, 562 F.3d 1186, 1190 (D.C. Cir. 2009)* (Appended 5) and *Ferrelli v. River Manor Health Care Ctr., 323 F.3d 196, 202 (2nd Cir. 2003)* (Appended 5)? The 5th Circuit Court failed to consider in Defendants second Motion to Dismiss and Memorandum, **Defendants made the District Court and Petitioner aware of her two attorneys (James Priest and Robert Olgatree) fraudulent behaviors**. Petitioner's two attorneys stated they work together on federal cases, they enrolled together and withdrew together because they failed to properly serve Defendants, made false statements to the Court and filed a fraudulent Affidavit into the record by the process server (Attorney James Priest's father).

7. Did the 5th Circuit Court set a dangerous precedent, clear error, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when it failed to consider Petitioner's **April 2024** Motions to Disqualify District Judge Kenneth Starrett and Magistrate Judge Bradley W. Rath pursuant to *28 U.S. Code § 455 (a)(b)(1) in 5th Circuit Court of Appeal In re: Daphnie Newman Boudy Dated 6/5/2024 Case No. 24-60276?* After Petitioner filed her Motion to Disqualify in **April 2024**, then and only then, she displayed "contumacious" behavior, "did what she wanted to do", created a "false paper trail" and was fictitiously "warned" her case could be dismissed if she did not follow court orders on dates she was hospitalized, under doctor's care and/or had near fatal medical emergencies in **September 2023, June 12, 2024 and June 14 - June 28, 2024**, (Appended 3 and 9) and permanent left eye blurred vision from **June 18, 2024 - current** (Appended 3 and 9). The District Court also issued a defective **May 2024** Mental Evaluation and Stay order ordering Petitioner to pay all associated fees for her mental evaluation knowing Petitioner was unable to pay as she received a fixed monthly income of about \$1,067.00 from Social Security Disability Income (SSDI) (Appended 2, 8 and 9). Petitioner (with help from her minor daughter), filed a Response to mental evaluation order; waited on a response, relief and amended orders from the court, which never came.

LIST OF PARTIES

MCCOMB SCHOOL DISTRICT, MCCOMB SCHOOL DISTRICT BOARD OF TRUSTEES, and JAMES HARVEY, former Interim Principal now Assistant Principal and in his official capacity,
Respondents.

All parties appear in the caption of the case on the cover page; served through attorneys.

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I. PETITION FOR WRIT OF CERTIORARI

Daphnie Newman Boudy petitions the Court for a writ of certiorari to review the
judgment of the United States Court of Appeals for the Fifth Circuit.

II. OPINIONS BELOW

The Fifth Circuit's published opinion affirmed dismissal of Petitioner's Title VII claim,
but disregarded her Americans with Disabilities Act (ADA) claim, Rehabilitation Act

claim and Title IX claim. The Fifth Circuit remanded and vacated judgment on sanctions and attorney fees and attached as Appendix 1.

III. JURISDICTION

The Fifth Circuit entered judgment on February 24, 2026 attached as Appendix 1. A Petition for Rehearing & Rehearing En Banc was timely filed on March 3, 2026 Appendix 3. The Fifth Circuit denied Petition for Rehearing on March 26, 2026 attached as Appendix 4. This petition is timely filed and invokes this Court has jurisdiction under 28 U.S.C. § 1254(1).

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the relationships between the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12101), Rehabilitation Act of 1973, Title VII codified at 42 U.S.C. 2000e, Title IX of the Education Amendments of 1972 and:

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V. STATEMENT OF THE CASE

On April 24, 2023, Petitioner filed her employment discrimination disability claim, ADA, Rehabilitation Act, Title VII and Title IX claim with preexisting mental illness against the McComb School District, et. al. (*Boudy vs. McComb School District, et. al, Original Complaint; Document 1-5, pgs. 1-2; Appended 2, 3 and 9*).

Petitioner was employed with the McComb School District from October 2021 - January 2023. At the time of her employment, Petitioner received outpatient psychiatric treatment at Serenity Psychiatric Outpatient in McComb, MS (Appended 2, 3 and 9). Petitioner provided the McComb School District and her immediate supervisors (Ms. Betty Wilson-McSwain and Defendant James Harvey) with her doctor's note (*Boudy vs. McComb School District, et. al, Document 1-5, pgs. 1-2; Appended 2 and 3*) and request for reasonable accommodations, which were granted (*Boudy vs. McComb School District, et. al, Document 1-5, pgs. 1-2; Appended 2, 3 and 9*). Once Petitioner became a full-time employee and her ADA accommodations were approved, she terminated her SSDI benefits because of her Substantial Gains according to the Social Security Administration rules. Petitioner resumed her SSDI benefits in June 2023, due to her mental health (attached to First Motion to Appoint Counsel).

Petitioner never met Defendant James Harvey until she became employed with the McComb School District. On April 14, 2022, Defendant James Harvey, interim principal, informed, interviewed and hired Petitioner all on the same day as the new fulltime Academic Interventionist/ELA Teacher at Denman Junior High School, where

Petitioner worked under the Federal Programs Department. During the interview, Petitioner informed Defendant James Harvey of her disabilities, her current ADA accommodations as a part-time Academic Interventionist, and that she still receives SSDI monthly income. On the same day (April 14, 2022), Defendant James Harvey agreed to continue her current ADA accommodation and hired Petitioner as the ELA Academic Interventionist/ELA Teacher with an annual salary of \$54,500.00 with additional annual benefits of \$5,500.00 (*Boudy vs. McComb School District, et. al, Document 1-23; Employment Contract with the McComb School District - Appended 2*).

a. Defendant James Harvey maliciously targeted Petitioner and wanted to date her.

According to the 5th Circuit Court's own precedent and ruling, Defendant James Harvey has a history of abusing his power and taking advantage of vulnerable subordinates he supervises for his own personal gains in *James Harvey, Jr. vs. Marion County, Mississippi, et.al No. 2:03cv606GuRo*. Defendant James Harvey maliciously targeted Petitioner and wanted to date her. Petitioner was forced, sexually assaulted, manipulated, threatened and coerced into a quid quo pro sexual relationship with Defendant James Harvey in exchange for ADA accommodations and job protection. Each time Petitioner tried to end their quid quo pro sexual relationship, Defendant James Harvey continued to threaten, abuse, embarrass and manipulate Petitioner.

b. On November 30, 2022, Petitioner filed a Sexual Harassment Report Form against Defendant Harvey.

On November 30, 2022, Petitioner filed a Sexual Harassment Report Form against Defendant James Harvey (*Boudy vs. McComb School District, et. al, Original*

Complaint. Exhibit Doc. 1-23, pg. 1 of 1; Appended 2 and 3), in which Defendants acknowledged receiving in their Answer.

c. On December 1, 2022 (the very next day), Petitioner's job was eliminated, ADA accommodations were removed

On December 1, 2022 (the very next day), Petitioner's job was eliminated, ADA accommodations were removed, and her personal assistant was taken away. On December 1, 2022, Petitioner was forced to resign in fear of having anxiety and panic attacks, a mental health episode and nervous breakdown on campus.

d. *Cedrick Ellis vs. the McComb School District, et. al. No. 5:23-cv-00096-DCB -FKB*

At the time of Petitioner's employment with the McComb School District, Superintendent Dr. Cedrick Ellis was one of the individuals that approved the elimination of Petitioner's job, removal of her ADA accommodations and removal of her assistant on December 1, 2022 when Petitioner filed a Sexual Harassment Report Form against Defendant James Harvey on November 30, 2022 (Appended 2 and 3). In *Cedrick Ellis vs. the McComb School District, et. al. No. 5:23-cv- 00096-DCB -FKB Document 1 - 4, Dated 11/06/2023, (Boudy vs. The McComb School District, et. al. 5:23-CV30 -KS-BWR; Document 81 - 2, Dated 1/16/2024; Appended 10)*. Defendant James Harvey's immediate supervisor Dr. Cedrick Ellis was terminated by the McComb School District. Instead of properly supervising his employee Defendant James Harvey, Dr. Cedrick Ellis was busy and preoccupied with his own dishonesty, malfeasance in office and other violations of federal and state laws.

e. Defendants Attorney Kashonda Day is listed as one of Petitioner's witnesses and agreed to have Petitioner's job eliminated and ADA accommodations removed

Defendants Attorney Kashonda Day, who is listed as one of Petitioner's witnesses, also agreed to have Petitioner's job eliminated and ADA accommodations removed on **December 1, 2022** when Petitioner filed her **November 30, 2022** Sexual Harassment Report Form against Defendant James Harvey (Appended 2, 3 and 9). Attorney Kashonda Day never opposed being called as one of Petitioner's witnesses as Petitioner moved to have Attorney Day disqualified, which was denied by the District Court and denied (*Federal Rule 3.7 Lawyer As Witness and Conflict of Interest. 5th Circuit Court of Appeal In re: Daphnie Newman Boudy Dated 7/28/2023 Case No. 23-60401*). In *Disability Rights Mississippi vs. the McComb School District, et. al. No. 5:22-cv-00091-DCB-BWR*, its documented that Defendants and their legal counsel (Attorney Kashonda L. Day) have a history of discriminating, violating federal law and state law in "the reporting, exploitation and abuse/neglect of students" and "impeding DRMS from exercising its federal mandate and duty to protect and advocate for individuals with mental illness."

August 2023, Petitioner filed a Motion to Appoint Counsel and/or Motion to Appoint Counsel on a Limited Basis with medical records, showing constant changes in medications management, stating she is not a medical expert, can no longer proceed pro se, gets confused reading court orders, rules and procedures, and attached her current SSDI income according to *FRCP 17(c)* standards, which was denied. In September 2023, Petitioner retained Attorneys Robert Olgatree and James Priest as

they stated they work together on federal cases. Due to Petitioner experiencing major side effects and constant changes in medication management, she admitted herself for a five day inpatient psychiatric treatment from September 29, 2023 - October 5, 2023 at a hospital in Jackson, MS.

f. Defendants own Motion to Dismiss and Memorandum informed the Court and Petitioner about her two attorneys, Robert Olgatree and James Priest fraudulent behavior

According to the Defendants own Motion to Dismiss and Memorandum, Petitioner two attorneys failed to properly serve them, filed false statements into the record and filed a false Affidavit by the process server (Attorney James Priest's father). Since Defendants brought this fraudulent behavior to the Court and Petitioner's attention, Petitioner requested her attorneys withdraw. Petitioner's two attorneys filed a Motion to Withdraw and Attorney James Priest stated to Petitioner, "Judge Rath wants this case off his docket." Petitioner immediately emailed the court since she was unable to file into the record. While their Motion to Withdraw was pending, District Judge Starrett dismissed Petitioner's case. With help from her daughter, Petitioner filed a Motion to Reconsider, which was granted. With help from the U.S. Marshall's Service and her daughter, Petitioner perfected service on Defendants. Petitioner filed two additional Motions to Appoint Counsel.

In April 2024, Petitioner filed Motions to Disqualify Judge Starrett and Judge Rath because she wanted another Judge to review her case, which were denied *5th Circuit Court of Appeal In re: Daphnie Newman Boudy Dated 6/5/2024 Case No. 24-60276*. In May 2024, Judge Starrett stayed the case, pending Petitioner's Mental

Evaluation with all costs to be paid by Petitioner. Even though the District Court and opposing side was aware of Petitioner's fixed monthly Social Security Disability Income (SSDI) of about \$1,000.00, Petitioner filed a Response to the Court Mental Examination outlining her inability to pay as Petitioner waited on a response, relief and amended orders from the court, which never came. Violating *FRCP 35. Physical and Mental Examinations (a)(2) Motion and Notice; Contents of the Order*, the District Court ordered (within five days) mentally ill disabled indigent, pro se Petitioner (with preexisting mental illnesses), who suffers from bipolar, depression, PTSD, paranoia, and severe anxiety and panic attacks with constant changes in medication management to work with Defendants' deceitfully skilled, bad-faith, dishonest attorneys to locate a forensic mental health examiner (who never treated Petitioner before) and requested Petitioner to pay all associated fees.

g. In May 2024, Petitioner filed a Response to Mental Examination and Stay Order, waited on a response, relief and amended orders from the Court, which never came

In **May 2024**, Petitioner filed a Response to Mental Examination and Stay Order, waited on a response, relief and amended orders from the Court for the Mental Examination, which never came. Petitioner (and her daughter) emailed the Court informing them of a family emergency out of town (in Louisiana). During her family emergency, Petitioner experienced her own two near fatal medical emergencies on June 12, 2024 and June 14 - 28, 2024. On **June 12, 2024**, Petitioner traveled from Louisiana to McComb MS where she lives to be treated, then traveled back to Louisiana for her family emergency. **June 14, 2024**, sores, swelling and pain started

appearing on the left side of Petitioner's face (Appended 3 and 9). On **June 17, 2024**, Petitioner traveled from Louisiana back to McComb, where she was diagnosed with the contagious shingles virus and herpes zoster on the left side of her face, with sores near her mouth and left eye (Appended 3 and 9).

Petitioner was informed there were no available ophthalmologists in McComb MS, in Jackson MS or in between and advised her to seek treatment in Louisiana where available ophthalmologists were. Petitioner was advised to not spread the contagious shingles and to avoid vulnerable populations. **June 18, 2024**, Petitioner woke up with fluid and crust coming from her left eye as she was advised to seek immediate medical attention because the contagious shingles virus was spreading to her left eye that could possibly cause blindness. Petitioner located a hospital in St. Tammany Parish, Louisiana (Appended 3 and 9) where her eye was swabbed confirming the contagious shingles virus had spread to her left eye (Appended 3 and 9).

On **June 18, 2024**, Petitioner was immediately scheduled, the same day, within the next few hours to visit Northshore Eye Care in Hammond, Louisiana (where the only ophthalmologist in the area was available). After an extensive eye examination, culture and swabbing, Petitioner was again confirmed to have the contagious shingles virus on the left side of her face and left eye as Petitioner was ordered to stay home from **June 18 - June 28, 2024**, advised to not spread the contagious shingles and to avoid vulnerable populations (Appended 3 and 9). From **June 18, 2024 - current**, Petitioner suffers from permanent blurred vision in her left eye, cataracts, and permanent herpetic neuropathy on the left side of her face.

h. Petitioner had near fatal medical emergencies as she awaited a response, relief and amended orders from the Court to the Mental Examination

While Petitioner awaited a response from the Court, relief and amended orders to the Mental Examination, Petitioner (and her daughter) was in constant communication with the Court and opposing side filed responses and medical records in the record, called, emailed and left voicemails informing them of Petitioner's family emergency and near fatal medical emergencies as District Court Judge Kenneth Starrett later called "contumacious" conduct, "false paper trail" "she did what she wanted to do" and "warnings".

While experiencing family emergencies and her own two fatal medical emergencies, the District Court was conducting hearings and conferences without Petitioner's knowledge. When Petitioner learned hearings and conferences were being held without her knowledge, Petitioner requested to be afforded the same opportunity as Defendants and their attorneys to attend hearings and conferences via Zoom as she was infected with a contagious shingles virus on the left side of her face and left eye that caused permanent left eye blurred vision from **June 18, 2024 - current** (Appended 3 and 9). In the 5th Circuit's own opinion, it stated Petitioner in fact requested to attend hearings via Zoom.

i. The District Court never ordered Petitioner to file a Motion for Continuance

In the 5th Circuit's opinion, it failed to mention that the District Court never ordered Petitioner to file a Motion for Continuance. In fact a Court Clerk emailed

Petitioner about filing a Motion for Continuance as Petitioner was confused because the District Court stated Court Clerks cannot give orders or advice to litigants.

j. Petitioner's Motion to Appoint Counsel for Appeal was approved

Petitioner's **Motion to Appoint Counsel** for Appeal was approved (Appended 3 and 9) based on the same medical records, Petitioner understands court rules, orders and proceedings with help, understands her case, can assist and have assisted her previous attorneys, she is not a medical expert, need help with complex federal questions, constant changes in medications management, severe medication side affects, anxiety and panic attacks, recent psychiatric impatience hospitalization in **September 2023, June 12, 2024** (Appended 3 and 9) treatment and diagnosis of a heart attack, septal infarct, chest pain, severe anxiety and panic attacks, and abnormal ECK, **June 14 - June 28, 2024** (Appended 3 and 9), contagious shingles virus on the left side of her face and left eye that caused permanent herpetic neuropathy, cataracts, permanent left eye blurred vision from **June 18, 2024 - current** and permanent left eye light sensitivity (Appended 3 and 9).

On February 24, 2026, the 5th Circuit affirmed dismissal with prejudice of Petitioner's case and remanded and vacated Judgement for sanctions and attorney fees (Appended 1).

VI. REASONS FOR GRANTING THE WRIT

This case is an urgent legal matter, of national significance, and is one of the worst Americans with Disabilities Act (ADA) violations of federal civil pro se cases in U.S. history. This petition highlights a dangerous precedent, clear errors, significant violations

of legal fairness, chronic violations of due process, violations of the Americans with Disability (ADA) Act, and complete failure to acknowledge the *14th Amendment of the U.S. Constitution* that provides equal protection of the law, which would have changed the outcome of this case. This Petition also shows systemic failures from the supervisor, school, superintendent, school district, school board, school board attorneys, Petitioner's attorneys, the Southern District of Mississippi and all the way to the 5th Circuit Court of Appeal.

a. This case is an urgent legal matter, of national significance as the 5th Circuit sets a dangerous precedent and sends a warning to children and families of marginalized groups, minorities, and individuals with disabilities

The 5th Circuit dismissal sets a dangerous precedent and sends a warning to children and families (of marginalized groups, minorities, individuals with disabilities, and pro se litigants who are disabled, mentally ill, and indigent) not to assist their parents (or family members), not to call the courts or not to file documents into the record unless they want fraudulent allegations, embarrassment and disgrace publicly tied to their names and/or their parents' names.

b. Petitioner's daughter, (a minor at the time) is a 21 year-old Emmy Award - Winning fulltime News Producer and a thirteen year-old news media genius

Petitioner's daughter, (a minor at the time) is a 21 year-old Emmy Award - Winning fulltime News Producer and a thirteen year-old news media genius. Petitioner's daughter began her news media career at age thirteen with WYES TV in New Orleans, Louisiana and began college at Delgado Community College at age thirteen as well. Petitioner's daughter helped (since the beginning) as best as she

could with receiving positive acknowledgement from District Judge Kenneth Starrett in his approved Motion to Serve Defendants Via U.S. Marshals Service.

District Judge Kenneth Starrett acknowledged Petitioner's minor daughter's assistance, but the District Court and the 5th Circuit failed to acknowledge Petitioner's preexisting mental illnesses, need for appointment of a guardian ad litem and/or need for appointment of counsel even on a limited basis, which are legal violations of Petitioner's due process pursuant to the 14th Amendment of the U.S. Constitution, *FRCP 17(c): Mental Competence and Explain Pre- Existing Condition and FRCP 35: Physical and Mental Examinations (a)(2) Motion and Notice; Contents of the Order and FRCP 52(a)(6)*. Justice Breyer, writing for the majority of the U.S. Supreme Court applied *FRCP 52(a)(6)*, stating "appellate courts must not set aside the factual findings of a lower court, unless those factual findings are clearly erroneous", which the 5th Circuit failed to do. Justice Thomas and the Second Circuit also weighed in on "this factual determination, like all other factual determinations, must be reviewed for clear error" *Teva Pharmaceuticals USA, Inc. v. Sandoz, Inc.*

These fraudulent claims and allegations by the District Court and the 5th Circuit have negatively affected Petitioner's daughter's self-esteem, self-confidence and reputation. Petitioner's daughter is a witness in this case and has first hand knowledge how the loss of Petitioner's employment and income has affected her mental and physical health. Petitioner's daughter's name and signature is on filed documents with the court that can be easily Googled. Petitioner's name Daphnie Newman Boudy is linked to her daughter's name. Petitioner's minor daughter was

relieved when District Judge Kenneth Starrett acknowledged her and finally felt help was on the way for her mother, which never came.

c. Petitioner's Approved Motion to Appoint Counsel for this Appeal and her near fatal medical emergencies June - September 2023, September 29 - October 5, 2023, June 12, 2024, June 14 - 28, 2024, and June 18, 2024 - current

The 5th Circuit Court set a dangerous precedent, clear err, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when they affirmed dismissal of Petitioner's case (Appended 1) based on the same notarized affidavit, evidence, dates, facts and medical records used to approve her **Motion to Appoint Counsel (Appended 9, pg. 2; exhibits 1 - 43)** and remanded and vacated a Judgement and Sanctions on attorney fees.

The 5th Circuit Court failed to apply *FRCP 52(a)(6)* standards when it alleged Petitioner and her minor daughter displayed "contumacious" behavior, created a "false paper trail" "she did what she wanted to do" with fictitious "warnings" on dates Petitioner was hospitalized, under doctor's care and/or experienced near fatal medical emergencies (Appended 2, 3 and 9) in **September 2023, June 12, 2024** (Appended 2, 3 and 9) and **June 14 - June 28, 2024** (Appended 2, 3 and 9) and permanent left eye blurred vision from **June 18, 2024 - current** (Appended 2, 3 and 9).

d. September 2, 2025 Oral Arguments where 5th Circuit Court Judge Prsicilla Richman asked Defendants Attorney Mary Clark Joyner if this was a disability case. Attorney Mary Clark Joyner replied, "No...this is a Title VII case"

The 5th Circuit need guidance on factual findings pursuant to *FRCP 52(a)(6)* setting another dangerous precedent, systematic denial of equal protection of the law,

clear error, major breach and violations of legal fairness and chronically violated

Petitioner's due process when it ruled on Petitioner's case as a **Title VII case only**:

- a. During **Oral Arguments on September 2, 2025**, 5th Circuit Court Judge Prsicilla Richman asked Defendants Attorney Mary Clark Joyner if this was a disability case. Attorney Mary Clark Joyner replied, "No...this is a Title VII case" as the 5th Circuit has a duty of factual findings per *FRCP52(a)(6)*.
- b. Petitioner filed her original employment discrimination claim with preexisting mental illnesses on April 24, 2023 for violations of her American with Disabilities Act (ADA) rights, Rehabilitation Act, Title VII and Title IX claims. The District Court did not rule on any claims in this case.
- c. The 5th Circuit Court and no other Court in these United States can simply ignore or delete preserved claims from a litigants compliant without proper protocol as this reversal will help restore marginalized groups, minorities, individuals with disabilities, disabled, indigent, mentally ill pro se litigants (and their families) trust and faith in our U.S. Constitution and in our U.S. Justice System and would have changed the outcome of Petitioner's case.

e. Defendants' Motion to Dismiss and Memorandum informed the Court and Petitioner of Petitioner's two attorneys (Robert Olgatree and James Priest) major "ethical violations"

The Circuits and District Courts needs guidance on fact findings and how to unbiasedly view attorney - client relationships without solely pointing the finger at marginalized groups, minorities, individuals with disabilities, the mentally ill, disabled, indigent pro se litigant as "major disagreements" and identify the relationship for what it truly is/was as major "ethical violations" committed on behalf of her attorneys as Defendants documented in their second Motion to Dismiss and Memorandum.

The 5th Circuit affirmed the "major disagreements" narrative to deny Petitioner's Motion to Appoint Counsel on a Limited Basis and three Motions to Appoint Counsel,

which chronically violated Petitioner's due process and 14th Amendment rights, shows another violation of legal fairness, denial of counsel, and another failure of factual findings pursuant to *FRCP 52(a)(6)* as Petitioner was systematically denied equal protection of the law, in which are grounds for reversal and granting the writ:

1. Petitioner never stated she would represent herself as that statement is nowhere in the record; the Federal Pro Se Help Desk assists with legal information not legal advice or representation in court; Petitioner's minor daughter, Sequoia Boudy, assisted her with filings and paying fees.
2. The 5th Circuit Court clearly err, caused a major breach in fairness and failed to apply *FRCP 52(a)(6)* standards when it affirmed dismissal with prejudice of Petitioner's case for alleged "**major disagreements**" with her two attorneys (Robert Olgatree and James Preist) versus major "**ethical violations**".

f. Bodnar vs Bodnar 441 F.2d 1103, 1103-04 (5th Cir. 1971)

The 5th Circuit needs guidance on how to apply its own precedents in *Bodnar vs Bodnar 441 F.2d 1103, 1103-04 (5th Cir. 1971)* where a litigant refused a mental health examination to determine her competency:

1. Petitioner did not refuse to take a mental examination.
2. In the 5th Circuit's own opinion, it states Petitioner agreed to a mental examination but failed to acknowledge Petitioner simply could not afford to pay all associated fees due to her fixed monthly SSDI income of about \$1,000.00. Petitioner filed a Response to Mental Examination, waited on relief and amended orders from the court that never came.

g. Sturdza v. United Arab Emirates, 562 F.3d 1186, 1190 (D.C. Cir. 2009)

The Circuits need guidance about how to apply *Sturdza v. United Arab Emirates, 562 F.3d 1186, 1190 (D.C. Cir. 2009)* (Appended 5), where a substantial question existed as to competency of pro se litigant, and the litigant refused to agree to mental examination. The D.C. Circuit ruled the proper process was for the district court to issue

a show cause order for the appointment of a guardian ad litem or to dismiss without prejudice.

1. Since the statute of limitation expired for Petitioner to refile her claim, a dismissal without prejudice was not an option.
2. The only option for Petitioner was for the District Court to issue a show cause order for the appointment of a guardian ad litem.

h. Ferrelli v. River Manor Health Care Ctr., 323 F.3d 196, 202 (2d Cir. 2003)

The Circuits need guidance about how to apply *Ferrelli v. River Manor Health Care Ctr., 323 F.3d 196, 202 (2d Cir. 2003)*(Appended 5), where the Second Circuit found *Krain v. Smallwood* imposes no *sua sponte* duty to examine a pro se litigant for incompetence:

1. Petitioner never stated she would represent herself as that statement is nowhere in the record;
2. In Petitioner's Motion to Appoint Counsel on a Limited Basis and three Motions to Appoint Counsel, she stated she assisted her attorney and understands legal proceedings with help, is a competent witness, and understands her case as the 5th Circuit stated.
3. Petitioner stated she can no longer proceed pro se, she gets confused reading orders, rules and procedures, suffers from severe anxiety and panic attacks, constant changes in medication management, severe side effects from medications, is not a medical expert, need help with jury selection, need help questioning opposing side and their expert witnesses, etc.

i. James Harvey, Jr. v. Marion County, Mississippi, et.al No. 2:03cv606GuRo.

The 5th Circuit needs guidance about how to apply its own precedents in *James Harvey, Jr. v. Marion County, Mississippi, et.al No. 2:03cv606GuRo*. Defendant James Harvey knew Petitioner suffered from mental illness and was aware, received and approved her reasonable accommodation. Yet that did not stop him from sexually exploiting his vulnerable disabled mentally ill employee as he maliciously targeted

Petitioner. In *James Harvey, Jr. v. Marion County, Mississippi, et.al* No. 2:03cv606GuRo, the 5th Circuit Court ruled and agreed that for Harvey's termination:

Stringer presented evidence of multiple, legitimate reasons for Harvey's termination, including the use of inmate labor on personal property; permitting illegal activities of certain inmates; permitting physical abuse of prisoners; and failure to follow proper procedure with regard to narcotics seized from prisoners. Such evidence satisfies Stringer's burden of articulating a legitimate, nondiscriminatory reason for terminating Harvey's employment. Harvey, in response, has failed to even attempt to provide evidence to counter most of Stringer's proffered reasons for his termination of Harvey".

j. Tullos vs. City of Nassau Bay Case No. 0:04-cr-20335

The 5th Circuit needs guidance on how to apply its own precedents in *Tullos vs. City of Nassau Bay Case No. 0:04-cr-20335*, where it ruled and suggested that multiple diagnoses of mental illnesses, combined with exceptional circumstances may provide a necessary threshold for a successful pro-plaintiff fact pattern and appointment of counsel. In this case, the 5th Circuit sets a dangerous precedent by ignoring its own rules where Petitioner not only suffers from multiple diagnoses of mental illnesses of bipolar, depression, PTSD, paranoia, and severe anxiety and panic attacks, she also has preexisting mental illnesses diagnosis and treatment and numerous situations of "exceptional circumstances" such as:

1. Recent September 2023 psychiatric inpatient hospitalization;
2. Constant changes in medication management, filed and documented medical evidence;
3. Petitioner stating numerous times she can no longer proceed pro se;
4. Petitioner gets confused and
5. With help, Petitioner understands court procedures, orders and rules;
6. Petitioner never stated she would represent herself;

7. Petitioner filed Motion to Appoint Counsel on Limited Basis and three Motions to Appoint Counsel;
8. Petitioner's Motion to Appoint Counsel for this appeal was approved based on the same medical evidence, notarized affidavits, and near fatal medical emergencies (Appended 9).

k. Petitioner's Motions to Disqualify District Judge Kenneth Starrett and Magistrate Judge Bradley W. Rath pursuant to 28 U.S. Code § 455 (a)(b)(1)

The 5th Circuit Court set a dangerous precedent, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when it failed to consider Petitioner's Motions to Disqualify District Judge Kenneth Starrett and Magistrate Judge Bradley W. Rath pursuant to *28 U.S. Code § 455 (a)(b)(1)* in *5th Circuit Court of Appeal In re: Daphnie Newman Boudy Dated 6/5/2024 Case No. 24-60276*:

1. After Petitioner filed her Motion to Disqualify in April 2024, then and only then, she displayed "contumacious" behavior, "did what she wanted to do", created a "false paper trail" and was "warned" her case could be dismissed if she did not follow court orders on fictitious dates she was hospitalized and had near fatal medical emergencies in **September 2023, June 12, 2024** (Appended 3 and 9), **June 14 - June 28, 2024** (Appended 3 and 9) and **June 18, 2024 - current** permanent left eye blurred vision (Appended 3 and 9).
2. The District Court and opposing side were immediately notified, emailed and called by Petitioner (and her daughter) informing them of Petitioner's near fatal medical emergencies. They were aware of the above dates, Petitioner's circumstances, and still conducted conferences and hearings without Petitioner's knowledge.
3. When Petitioner realized hearing and conferences were being held without her knowledge, she (and her minor daughter) immediately emailed/called requested to be afforded the same opportunity as opposing side to attend hearings and conferences via Zoom (**as the 5th Circuit acknowledged**) because she was diagnosed with a contagious shingles virus, was advised to not spread the virus, advised to avoid vulnerable populations, she was left with permanent cataracts and permanent left eye blurred vision and permanent herpetic neuropathy on the left side of her face, which was denied.

1. Petitioner's Motion to Disqualify Attorney Kashonda L. Day pursuant to Federal Rule 3.7 Lawyer As Witness and Conflict of Interest in Federal Rule 3.7 Lawyer As Witness and Conflict of Interest

The 5th Circuit Court sets a dangerous precedent, clear err, caused a major breach, violations of legal fairness and chronically violated Petitioner's due process when it ignored, disregarded and failed to consider in Defendants own Reply Brief they referenced Petitioner's **Motion to Disqualify Attorney Kashonda L. Day** pursuant to Federal Rule 3.7 Lawyer As Witness and Conflict of Interest in *Federal Rule 3.7 Lawyer As Witness and Conflict of Interest, 5th Circuit Court of Appeal In re: Daphnie Newman Boudy Dated 7/28/2023 Case No. 23-60401*:

1. Attorney Kashonda L. Day is listed as one of Petitioner's necessary witnesses as she approved the elimination of Petitioner's job and ADA accommodations with the McComb School District.
2. Attorney Day's testimony and notes are vital in this case. Attorney Kashonda Day never opposed being called as one of Petitioner's witnesses as Petitioner moved to have Attorney Day disqualified, which was denied.
3. In *Disability Rights Mississippi vs. the McComb School District, et. al. No. 5:22-cv-00091-DCB-BWR*, its documented that Defendants and their legal counsel (Attorney Kashonda L. Day) have a history of discriminating, violating federal law and state law in "the reporting, exploitation and abuse/neglect of students" and "impeding DRMS from exercising its federal mandate and duty to protect and advocate for individuals with mental illness."

VII. CONCLUSION

In recent rulings, equal access to justice is a major concern for the U.S. Supreme Court in reference to marginalized groups, minorities and individuals with disabilities. Children and family members of marginalized groups, minorities, individuals with disabilities, mentally ill, disabled, indigent pro se litigants try their

best to assist with filings, help pay fees and notify the Court and opposing side of their parents or family members "exceptional circumstances", low fixed monthly income, need for counsel and/or appointment of a guardian ad litem and medical emergencies only to be faced with:

1. Allegations of fraud;
2. Ruined reputations; and/or
3. Have their parent's or family member's cases dismissed for unsupported "contumacious" behavior, "false paper trail" allegations and fictitious "warnings" on dates while litigants have been hospitalized, under doctor's care and/or experienced near fatal medical emergencies.

Petitioner filed a Motion to Appoint Counsel on a Limited Basis and three Motions to Appoint Counsel as the 5th Circuit needs guidance on how to apply its own precedents to **FRCP 17(c)**:

1. Mental Competence: If a party's mental illness makes them unable to understand the proceedings or represent themselves, the court has the authority to appoint representation or a guardian, even if not formally declared incompetent by a state court.
2. Indigency and Merit: The court will evaluate if the plaintiff is truly indigent and if the civil case has merit.
3. Rule 17(c) Motion: File a motion asking the court to appoint a guardian ad litem or counsel, highlighting the mental health condition (with supporting documentation) and how it hinders the ability to litigate.
4. 5th Circuit Standard: The court generally looks at the complexity of the case, the ability to investigate, and the ability to present the case.
5. Submit Evidence: Provide medical records, social security disability determinations, or affidavits from professionals detailing the mental illness and its impact on the capacity to proceed.
6. Explain Pre-Existing Condition: Clearly explain that the illness existed before the lawsuit began, if that is relevant to why you cannot represent yourself.

The Circuits and District Courts need guidance on how to apply **FRCP 35**.

Physical and Mental Examinations (a)(2) Motion and Notice; Contents of the Order.

The 5th Circuit Court failed to consider Petitioner's argument that the District Court Mental Examination Order was defective according to *Federal Rules of Civil*

Procedure Rule 35:

1. The District Court ordered (within five days) mentally ill disabled indigent, pro se Petitioner (with preexisting mental illnesses), to work with Defendants' deceitfully skilled, bad-faith, dishonest attorneys to locate a forensic mental health examiner (who never treated Petitioner before) and requested Petitioner to pay all associated fees.
2. The District Court abused its discretion by failing to adhere to *FRCP Rule 35 (a)(2)*, which states the Mental Examination Order: (A) may be made only on motion for good cause and on notice to all parties and the person to be examined; and (B) must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.

VIII. PRAYER AND RELIEF

The granting and reversal of this petition is critical as our U.S. Constitution deserves better, which will help restore trust and faith in our U.S. Justice System. The granting of this Petition will also bring awareness as Petitioner continues to advocate for marginalized groups, minorities, individuals with disabilities, employees with reasonable ADA accommodations, and children and family members of indigent pro se disabled litigants with little options, legal recourse and intentional legal bias.

The loss of Petitioner's job with the McComb School District allowed her to become a volunteer Ordained Minister, volunteer Certified Christian Counselor and volunteer Sunday School Teacher. In December 2025, Petitioner became the founder of **Grief Counseling & Coaching at griefcc.org**, a religious organization where she offers free services eight hours per week to individuals in need of counseling and life changing experiences from around the country via Zoom and teleconference calls.

Petitioner also offers free monthly workshops at churches, schools, colleges and/or non-profit organizations as she partners with national and regional brands, local businesses and city government agencies who believe in her purpose and overall community efforts. Petitioner's two daughters also volunteer their time and resources with **Grief Counseling & Coaching at griefcc.org** because they know its an important religious organization to their mother and to the community. Petitioner also collaborates with local stores in McComb MS to operate a Food Pantry for elderly residents as all goods are picked up and distributed by the Boys & Girls Club of Southwest MS, where Petitioner has volunteered for almost ten years.

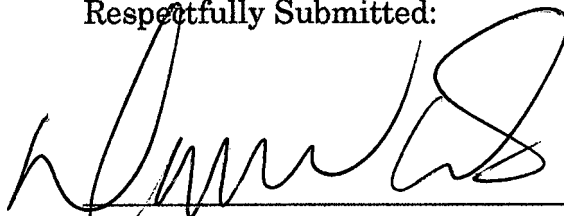
When marginalized groups, minorities, individuals with disabilities, and employees with reasonable ADA accommodations are maliciously targeted and experience systemic failures from the supervisor, school, superintendent, school district, school board, school board attorneys, and Petitioner's attorneys; then faced with unfounded fraudulent allegations by the Southern District of Mississippi, District Judge Kenneth Starrett and affirmed by the 5th Circuit Court of Appeal. These published, easily Googled false claims make it nearly impossible for a pro se disabled indigent, marginalized group or minority with preexisting mental illnesses needing ADA reasonable accommodations to find employment and/or get hired, which is the case with Petitioner. Petitioner has been unsuccessful in finding a full-time similar situated position with reasonable ADA accommodations in the small City of McComb MS and surrounding areas, due to her ruined reputation from this case. Petitioner is a Licensed Administrator, certified in eight different subject areas (Appended 2), yet she

is still unable to find full-time employment even though she is certified in three (3) critical shortage subject areas: Special Education, math and science.

As of August 2024, Petitioner works two or three days per month as a Substitute Teacher for the Tangipahoa Parish School System earning about \$200.00 per month (if that - Appended 6, 7 and 11). In June 2023, Petitioner resumed receiving monthly Social Security Disability Income (SSDI) of \$1,067.00 (Appended 2, 8 and 9), due to her preexisting mental illness since February 2008 (Appended 2, 8, and 9).

The granting and reversal of this petition is critical as our U.S. Constitution deserves better, which will help restore trust and faith in our U.S. Justice System. Petitioner prays this Court makes a historical decision, grants petition review and reversal. **Petitioner also prays this Court settles this case for \$1.00 (One Dollar)**, or what this Court deems fair, equitable and reasonable to all parties involved, as she waives all claims, monetary and punitive damages to bring awareness and to advocate for marginalized groups, minorities, individuals with disabilities, employees with reasonable ADA accommodations, and children and family members of pro se disabled indigent litigants with little options, chronic legal recourse and intentional legal bias.

Respectfully Submitted:



Daphnie Newman Boudy, disabled, pro se
Filing with help from her daughter
Mailing address: 111 Oak Street
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Phone: 985.285.8712
Email: daphnieboudy@outlook.com

April 21, 2026