

No. 26–95

In the Supreme Court of the United States

JOHN ZHONG, ET AL.,
Petitioners,

v.

SUPERIOR COURT OF CALIFORNIA,
LOS ANGELES COUNTY, ET AL.,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEAL OF CALIFORNIA
SECOND APPELLATE DISTRICT

BRIEF IN OPPOSITION

William Litvak
Counsel of Record
DARPEER, ROSENBLIT & LITVAK, LLP
11500 W. Olympic Blvd
Ste 500
Los Angeles, CA 90064
(310) 477–5575
wlitvak@drllaw.com

Attorney for Respondent City of Diamond Bar

AUGUST MMXXVI

QUESTION PRESENTED

Whether this Court should grant review of a state-court order denying disqualification of the presiding judge where petitioners did not 1) present their federal due-process theory in the verified disqualification statement or the exclusive Court of Appeal writ petition; 2) the ruling denying disqualification rested on state-law timeliness and sufficiency grounds; 3) the alleged bias consists only of adverse judicial rulings and a tentative ruling; and 4) where review was requested and denied by the Supreme Court of California.

PARTIES TO THE PROCEEDINGS

Petitioners, and defendant-appellant below are John Zhong and Catherine Li.

Respondents are the Superior Court of California, Los Angeles County and Hon. Salvatore T. Sirna.

Respondent City of Diamond Bar (the City) is the real-party-in-interest in the writ of mandate proceedings below. This brief is filed only on behalf of the City.

RELATED PROCEEDINGS

The petition omits the following related proceedings from the same Superior Court action.

Court of Appeal of California (2nd App. Dist., Div. 5):

City of Diamond Bar v. Catherine Li et al., No. B335376 (opinion entered Mar. 12, 2025; order denying permission to file an untimely rehearing petition entered Apr. 3, 2025)

Supreme Court of California:

City of Diamond Bar v. Catherine Li et al., No. S290298 (Jun. 18, 2025) (petition for review denied)

Supreme Court of the United States:

John Zhong et al. v. Superior Court of California, Los Angeles County, et al., No. 26A145 (Aug. 3, 2026) (stay application denied)

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Appendix A

Opinion [not precedential], Court of Appeal of California, Second Appellate District, *City of Diamond Bar v. Catherine Li and John Zhong*, No. B335376 (Mar. 12, 2025) App–1

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OPINIONS AND DISPOSITIONS BELOW

The Supreme Court of California disposition is reproduced at Pet. App. 1a. The Court of Appeal order is reproduced at Pet. App. 2a. The Superior Court order striking the statement of disqualification and its conditional verified answer are reproduced at Pet. App. 3a–9a.

JURISDICTION

The petition invokes 28 U.S.C. §1257(a). The City disputes that the order is a final judgment reviewable under that statute because the underlying nuisance action remains pending and petitioners have not demonstrated that the disqualification-writ ruling falls within an exception to the final-judgment requirement. See Reason I, p. 6–7, *infra*.

STATEMENT OF THE CASE

I. The Underlying Nuisance Action and Related Appeal

This petition arises from an ongoing municipal nuisance-abatement action, *City of Diamond Bar v. Zhong and Li*, Los Angeles Superior Court No. 23PSCV02124. The City alleges that petitioners used residential property for prohibited short-term rentals. In December 2023, the Superior Court entered a preliminary injunction prohibiting violations of the City’s short-term-rental ordinances.

Petitioners appealed. The Court of Appeal of California affirmed in an unpublished March 12, 2025 opinion. The court stated that there was “no dispute” petitioners violated the ordinances by advertising and using the property for overnight rentals; that the City

had issued nine citations and two notices of violation; and that petitioners filed no written opposition to the preliminary-injunction motion. *City of Diamond Bar v. Li*, No. B335376, slip op. 2–4 (Cal. Ct. App. Mar. 12, 2025) (“PI Op.”). The court held that substantial evidence supported the injunction and that petitioners’ remaining challenges were either not properly before it or unsupported by the record. *Id.*, at 1, 4–8.

Permission to file an untimely rehearing petition was denied on April 3, 2025. The Supreme Court of California denied review on June 18, 2025, No. S290298. Those directly related proceedings arose from the same trial-court action but are absent from the petition’s related-proceedings list. Pet. ii.

II. The Disqualification Statement

In September 2025, while the nuisance action remained pending, the Superior Court posted a tentative ruling concerning petitioners’ motion for leave to file a cross-complaint and the City’s motion for appellate attorney’s fees. The tentative stated that it could be changed before the hearing. Tentative Ruling 1 (Sept. 30, 2025). Petitioners filed a verified statement of disqualification on October 2, before the motions were heard. Verified Statement of Disqualification 1–4 (Oct. 2, 2025) (Disq. Stmt.).

The statement invoked California Code of Civil Procedure sections 170.1 and 170.3. Disq. Stmt. 1. Its stated grounds were that the judge had repeatedly ruled against petitioners, that the tentative fee ruling allegedly showed prejudgment, and that the judge allegedly failed to follow controlling law. *Id.*, at 2–3. It asked for disqualification under California’s appearance standard. *Id.*, at 3. The statement did not

cite the Fourteenth Amendment, the Due Process Clause, *Murchison*, *Tumey*, *Caperton*, or *Williams*. Its sole citation to a decision of this Court was *Sole v. Wyner*, 551 U.S. 74, 86–87 (2007), for the unrelated proposition that a preliminary injunction is provisional. Disq. Stmt. 2–3.

That record matters because the petition now states that the disqualification motion “expressly invoked the Due Process Clause of the Fourteenth Amendment and this Court’s precedents governing structural judicial bias.” Pet. 2. It did not.

III. The Reasoned Superior Court Order

Petitioners assert that the trial court declined disqualification “without findings, analysis, or explanation addressing the federal constitutional standard.” Pet. 3. The record shows otherwise. The Superior Court issued a six-page written order addressing timeliness, the tentative nature of the September 30 ruling, petitioners’ reliance on adverse judicial rulings, the factual sufficiency of the allegations, California’s objective appearance-of-partiality standard, and the judge’s duty to decide matters when not disqualified. Pet. App. 3–8. Judge Sirna also filed a verified answer denying bias and explaining that his rulings were based on the record and his understanding of the law. Pet. App. 9. Petitioners’ underlying verified statement is reproduced at Resp. App. 18a–20a; it did not present the federal due-process theory asserted in the petition.

The court held that allegations based on rulings issued by August 25 were not raised at the earliest practical opportunity and were untimely under section 170.3(c)(1). Pet. App. 3a–5a. Second, it explained

that the September 30 tentative ruling was not final and that disagreement with judicial rulings, even if the rulings were erroneous, does not by itself establish bias. *Id.*, at 5a–6a. Third, it held that petitioners had alleged opinions and conclusions rather than facts and applied an objective standard requiring evaluation of the proceeding as a whole. *Id.*, at 6a–7a. Fourth, it expressly applied California’s appearance-of-partiality standard and found the statement factually insufficient. *Id.*, at 7a–8a. Finally, it explained the judge’s duty to decide cases when not disqualified. *Id.*, at 8a.

The order included a verified answer denying bias and stating that the rulings were based on the record and the judge’s understanding of the law. Pet. App. 9a. The order explained that the answer was filed conditionally in case an appellate court concluded that an answer, rather than a strike, was required. *Id.*, at 8a–9a.

IV. Writ Review and the Petition for Review

California law provides exclusive writ review of a judicial-disqualification determination. Cal. Code Civ. Proc. §170.3(d). Petitioners therefore filed an original writ petition in the Court of Appeal on October 6, 2025. That petition presented three state-law issues: timeliness under section 170.3(c)(1), strike authority under section 170.4(b), and objective appearance of partiality under section 170.1(a)(6)(A)(iii). Petition for Writ of Mandate 2–6, No. B349374 (Cal. Ct. App. filed Oct. 6, 2025) (C.A. Pet.). Like the disqualification statement, the writ petition did not invoke the Fourteenth Amendment or this Court’s constitutional-bias decisions.

The Court of Appeal stated that it had “read and considered” the petition, denied it because petitioners had not demonstrated error, and cited section 170.4(b), *Tri Counties Bank v. Superior Court*, 167 Cal. App. 4th 1332, 1337–1338 (2008), and *People v. Armstrong*, 6 Cal. 5th 735, 798 (2019). Pet. App. 2a. The order was brief, but it was not an unexplained refusal to consider the matter.

Petitioners then filed a petition for review in the Supreme Court of California. That filing, for the first time, characterized the matter as federal structural due process and argued that the judge had acted as both party and adjudicator. Petition for Review 4–13, No. S293574 (Cal. filed Oct. 20, 2025) (“Cal. Pet.”). The Supreme Court of California denied review and a stay on October 22, 2025. Pet. App. 1a.

V. Proceedings in This Court

The petition was filed on December 30, 2025 and docketed July 21, 2026 under No. 26–95. This Court’s docket identifies the lower-court judgment as the Court of Appeal’s October 14, 2025 order and shows a response due August 20, 2026. Petitioners later filed a related stay application docketed under No. 26A145. Justice Kagan denied that application on August 3, 2026.

REASONS FOR DENYING THE PETITION

The petition should be denied. It presents a serious section 1257 finality problem; the federal question was not raised in the state filings that produced the judgment under review; the judgment rests on state-law grounds; no S. Ct. R. 10 conflict exists; and the actual allegations do not approach the exceptional

circumstances in which this Court has found a constitutional probability of bias. The petition also depends on material descriptions of the record that its own appendix refutes.

I. The Petition does not establish a final state-court judgment reviewable under 28 U. S. C. §1257.

Section 1257(a) limits this Court’s review to “final judgments or decrees” of the highest state court in which a decision could be had. A state judgment ordinarily must be final not only because no further state appellate review remains, but also because it effectively determines the litigation rather than an interlocutory step. *Jefferson v. City of Tarrant*, 522 U. S. 75, 81 (1997). The finality rule is an important limitation on federal review of state proceedings. *Id.*

The order here did not determine the nuisance action. It resolved only whether the assigned judge would continue to preside. The complaint, defenses, fee issues, cross-complaint issues, and merits remained pending. The petition itself acknowledges that the civil enforcement action is “pending.” Pet. 1. It nevertheless states, without analysis, that the Supreme Court of California’s denial of review “renders the judgment final.” Pet. 4.

There are limited exceptions to ordinary finality. *Cox Broadcasting Corp. v. Cohn*, 420 U. S. 469, 477–483 (1975), identifies categories in which a federal question finally decided by a state court may be reviewed despite additional proceedings. And *Atlantic Richfield Co. v. Christian*, 590 U. S. 1, 12–13 (2020), treated a Montana supervisory-control proceeding as

final because Montana law made it a self-contained lawsuit rather than an interlocutory appeal.

The petition does not attempt to fit this case within *Cox* or establish that California treats a denied section 170.3(d) writ as the same kind of self-contained lawsuit described in *Atlantic Richfield*. Nor does it explain why later review would necessarily be unavailable under federal finality doctrine rather than merely unavailable as a matter of California's internal procedure. Compare *Jefferson*, 522 U. S., at 82–83 (no finality where later review remained possible and the federal issue might become immaterial).

Petitioners may rely on section 170.3(d)'s exclusive-writ provision to argue that the disqualification issue is complete. That contention presents a nonfrivolous jurisdictional question, but the petition does not develop it, and this case is not an appropriate vehicle for resolving it. The Court need not decide the issue because preservation, independent state grounds, Rule 10, and the merits each independently warrant denial.

II. The Federal Question was not preserved in the proceedings that produced the judgment under review.

A petitioner seeking review of a state judgment must show where and how the federal question was timely raised and passed upon. S. Ct. R. 14.1(g)(i). This Court ordinarily will not decide a federal question unless the record shows it was pressed or passed upon below. *Adams v. Robertson*, 520 U. S. 83, 86–87 (1997) (per curiam); *Howell v. Mississippi*, 543 U. S. 440, 443–445 (2005) (per curiam); see also *Cardinale v. Louisiana*, 394 U. S. 437, 438 (1969).

The petition does not provide the record specification Rule 14.1(g)(i) requires. It simply says the Due Process Clause was “expressly raised and preserved.” Pet. 4. The record refutes that conclusion.

The verified statement did not mention the Fourteenth Amendment or federal due process. It did not cite *Murchison*, *Tumey*, *Caperton*, or *Williams*. It invoked California’s statutory appearance standard and argued that adverse rulings and a tentative fee ruling created an appearance of prejudice. Disq. Stmt. 1–3. The October 6 writ petition likewise framed only state statutory issues and cited California appearance-of-bias law. C.A. Pet. 2–6.

The federal theory first appeared in the discretionary petition for review filed in the Supreme Court of California. Cal. Pet. 4–13. Raising a federal claim for the first time in a discretionary-review petition does not show that it was properly presented to, or decided by, the tribunal whose judgment is under review. *Adams*, 520 U. S., at 86–87; *Howell*, 543 U. S., at 443–445. The Court of Appeal had no occasion to decide whether the alleged circumstances created the exceptional constitutional probability of actual bias addressed by this Court’s cases.

Nor did the state statutory claim necessarily preserve the federal one. California’s appearance standard is broader than the constitutional floor. A claim that a reasonable observer might question impartiality under state law is not the same as a claim that the probability of actual bias is constitutionally intolerable. Petitioners’ failure to present the federal standard below is therefore substantive, not merely a missing label.

This preservation defect alone is sufficient reason to deny the petition. It also makes the case a particularly poor vehicle for announcing the new procedural rule petitioners appear to seek.

III. The decision rests on independent state-law grounds.

This Court does not review a state judgment that rests on an adequate and independent state ground. *Michigan v. Long*, 463 U.S. 1032, 1041 (1983). The order below rested on California statutory rules that did not depend on federal law.

As to rulings issued by August 25, the Superior Court held that the October 2 statement was untimely under section 170.3(c)(1). Pet. App. 3–5. As to the September 30 tentative ruling, the court held that it was not final and that disagreement with rulings was legally insufficient to establish bias. *Id.*, at 5–6. It further held that petitioners alleged conclusions rather than facts and failed to satisfy California’s objective appearance standard. *Id.*, at 6–8. The Court of Appeal then denied relief under section 170.4(b) and California cases. Pet. App. 2.

Those grounds independently support the result. The petition does not show that a federal answer to its proposed question—whether a reasoned federal analysis was required—would eliminate the untimeliness or facial-insufficiency holdings. Indeed, the petition does not challenge the regularity or adequacy of California’s timeliness rule as a federal matter. It instead assumes that a federal bias claim was properly before the courts. It was not.

At minimum, the interaction between the unpreserved federal theory and the independent state

grounds creates another substantial vehicle problem. The Court should not grant certiorari to decide a constitutional question that may not affect the judgment.

**IV. The Petition identifies no S. Ct. R. 10
Reason for Review.**

Certiorari is granted only for compelling reasons. S. Ct. R. 10. The petition identifies no conflict among federal courts of appeals, state courts of last resort, or a state high court and a federal court of appeals. It cites no case holding that due process requires a written explanation whenever a state court denies a recusal request. Its statement that state procedures “vary widely” is unsupported by any authority or example. Pet. 3.

None of the four decisions cited in the petition establishes the procedural right petitioners propose. *Murchison*, *Tumey*, *Caperton*, and *Williams* identify exceptional substantive circumstances in which a decisionmaker’s role or interest created a constitutionally intolerable risk. They do not require a full written opinion at each stage of state discretionary writ review. And here the premise of no explanation is false in any event: the trial court gave a detailed explanation, and the Court of Appeal identified its conclusion and authorities.

The petition therefore asks this Court to review, at most, whether California courts correctly applied settled recusal principles to a particular statement based on particular rulings. Rule 10 explains that certiorari is rarely granted for alleged erroneous factual findings or misapplication of a properly stated rule. This case presents no broader issue.

V. The record does not present constitutional judicial bias.

A. Adverse rulings ordinarily do not establish bias.

The actual statement identifies judicial rulings and a tentative ruling. Disq. Stmt. 2–3. That is not the type of interest or role that triggers the Due Process Clause. In *Liteky v. United States*, this Court explained that judicial rulings alone “almost never” constitute a valid basis for a bias or partiality motion; absent an extrajudicial source or deep-seated favoritism or antagonism making fair judgment impossible, rulings are matters for appellate review. 510 U.S. 540, 555–556 (1994).

The Superior Court applied the same ordinary rule. Pet. App. 5a–6a. Petitioners had already used appellate review to challenge the preliminary injunction, and the Court of Appeal had affirmed. PI Op. 1–8. A judge’s rulings for one side, even repeatedly, do not become constitutional bias simply because the losing party characterizes them as legally wrong.

B. This Court’s constitutional-bias decisions involved extraordinary interests or incompatible roles absent here.

Tumey v. Ohio, 273 U.S. 510 (1927), involved a mayor-judge with a direct financial and institutional interest in convictions. *In re Murchison*, 349 U.S. 133 (1955), involved a judge who acted as a one-man grand jury and then tried contempt charges arising from that proceeding. *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813 (1986), involved a justice whose own

pending litigation gave him a direct stake in the legal rule he adopted. *Williams v. Pennsylvania*, 579 U. S. 1 (2016), involved a justice who, as district attorney, had personally approved seeking the death penalty in the same prosecution.

Caperton likewise stressed that most disqualification questions do not rise to a constitutional level and found a violation only in an “exceptional” case involving extraordinary and disproportionate campaign support by a litigant while a major case was pending or imminent. 556 U. S. 868, 876, 884–887 (2009).

Petitioners allege none of those circumstances. They identify no financial interest, personal stake, prosecutorial participation, prior accusatory role, extrajudicial information, relationship with a party, or campaign influence. They allege only rulings in the case. The petition’s assertion that the unidentified facts would establish an “objectively intolerable” risk is a conclusion, not a comparison to the facts of the cited cases.

C. California’s strike procedure and conditional answer did not make the judge a litigant in his own cause.

Petitioners’ later state petition characterized the strike and verified answer as unconstitutional “self-adjudication.” Cal. Pet. 4–13. That characterization disregards the statutory sequence. Section 170.4(b) expressly permits the challenged judge to strike a statement that is untimely or facially discloses no legal ground. Only a statement not stricken on those grounds must be assigned to another judge for decision. Cal. Code Civ. Proc. §§ 170.3(c)(5), 170.4(b).

The court exercised that limited gatekeeping authority and gave reasons. Pet. App. 3a–8a. It filed a verified answer conditionally to preserve the record if the Court of Appeal disagreed with the strike procedure. *Id.*, at 8a–9a. The answer created no financial or personal interest and did not adjudicate a disputed external fact. The Court of Appeal, a neutral tribunal, then reviewed the strike and found no error. Pet. App. 2a.

No decision cited by petitioners holds that due process forbids a judge from deciding the legal sufficiency of a recusal request under an established state procedure. And *Williams*’ structural-error analysis is relevant only after a constitutional disqualification has been established. It does not convert ordinary adverse rulings into a constitutional violation.

VI. The Petition’s material misstatements and omissions counsel denial.

S. Ct. R. 15.2 directs respondents to identify material misstatements bearing on the issues properly before the Court. Several statements here require correction.

A. The claimed federal preservation is contradicted by the filings.

The petition says the disqualification motion “expressly invoked” federal due process and this Court’s structural-bias precedents. Pet. 2. The statement and Court of Appeal writ petition contain no such claim. Disq. Stmt. 1–4; C.A. Pet. 2–7. The petition also supplies no record quotation or specific reference satisfying Rule 14.1(g)(i).

B. The trial court did not act without analysis.

The petition says the trial court declined disqualification “without findings, analysis, or explanation.” Pet. 2. The appendix reproduces a multi-part order addressing timeliness, ripeness, adverse rulings, pleading sufficiency, the objective standard, appearance of bias, and the duty to decide. Pet. App. 3a–8a. The petition’s qualifying phrase “addressing the federal constitutional standard” does not cure the misimpression because the federal standard had not been presented in the statement.

C. The Court of Appeal order was brief, not devoid of explanation.

The petition repeatedly describes the Court of Appeal ruling as an unexplained summary denial. Pet. 1, 2–4. The court stated that it had read and considered the petition, found no demonstrated error in striking the statement, and cited the governing statute and two authorities. Pet. App. 2a. That is not a full opinion, but it is more than the petition acknowledges.

D. The petition omits the allegations necessary to evaluate bias.

The petition says the allegations, “if true,” establish intolerable bias but never states the allegations. Pet. i, 1–4. The omitted statement shows that they are adverse rulings and a tentative ruling. Disq. Stmt. 2–3. Omitting the operative allegations prevents ready evaluation of the proposed constitutional question and conflicts with Rule 14.4’s requirement of

accuracy, clarity, and an adequate presentation of essential facts.

E. The related-proceedings list is incomplete.

Rule 14.1(b)(iii) requires directly related proceedings arising from the same trial-court case. The petition lists only the disqualification proceedings. Pet. ii. It omits the preliminary-injunction appeal, No. B335376, the April 3, 2025 rehearing order, and the June 18, 2025 denial of review in No. S290298. Those proceedings provide important context: they show a prior appellate merits review, preservation rulings, and the source of many adverse-ruling allegations.

These are not technical defects standing alone. Together they conceal the absence of federal preservation, overstate the lack of reasoned consideration, and prevent meaningful comparison between the allegations and the exceptional cases cited. They reinforce the threshold and merits reasons for denial.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

William Litvak
Counsel of Record
DARPEER, ROSENBLIT & LITVAK, LLP
11500 W. Olympic Blvd
Ste 500
Los Angeles, CA 90064
(310) 477-5575
wlitvak@drllaw.com

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Attorney for Respondent
City of Diamond Bar