

App No. _____

ORIGINAL

In The
Supreme Court of the United States

HOWARD R. HERSHIPS,

Applicant,

V.

The California Superior Court County of Santa Clara,

Respondents.

On Application for an Extension of Time to File Petition for a Writ of
Certiorari to the United States Court of Appeals for the Ninth Circuit

HOWARD R. HERSHIPS
P. O. Box 1501
Carmichael, Ca 95609-1501
415 933 5190
EMAIL:HHERSHIPS@GMAIL.COM

Applicant In Pro Se



To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit: In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicant Howard R. Herships respectfully requests that the time to file its petition for a writ of certiorari be extended for 60 days, up to and including Friday, January 8, 2027. The Court of Appeals issued its opinion on April 24, 2026 (Exhibit B) and denied rehearing En Banc on August 11, 2026 (Exhibit A). Absent an extension of time, the petition would be due on November 9, 2026. The jurisdiction of this Court is based on 28 U.S.C. 1254 (1)

Applicant is a Qualified individual being hearing-impaired and needs the use of hearing aids to be able to effectively communicate.

This case presents an important question on the application of the absolute immunity by a Superior Court in which Respondent Court never developed public policy ensuring effective communications of the Court system's programs and services for parties that request accommodations for their hearing-impairment".

Applicant made a court appearance in Respondent Court on January 17, 2020, in this criminal case and made requested accommodations and the Court never inquired into Applicant's disability which was required under 28 CFR § 35.160 (b) (2).

Respondent Court sentenced Applicant to 6 months in the County Jail without having any ability to have effective communication with Court Appointed legal counsel.

Applicant from custody filed a Writ of Mandate In Pro Per on January 29, 2020, pursuant to California Rules of Court, Rule 1.100 (g) seeking review from the denial of accommodations a protective activity under 42 U.S.C. § 12203 (a) and (b).

The Sixth Appellate District on Feb. 7, 2020, required Respondent Court to respond to Applicant's Writ of Mandate and electronically served the Court, the California Attorney General's Office and the Santa Clara County Public Defender's Office.

Purportedly Applicant was served by mail however, that mail was never served on Applicant as the "County Mail Log" shows no legal mail was ever served on Applicant Exhibit C.

The Superior Court and the State of California instead of addressing of holding a hearing to address the denial of accommodations the Respondent Court filed two requests for extensions of time and never ever bothered to serve Applicant.

Applicant still without any means to communicate with Court Appointed legal counsel on Feb. 25, 2020, requesting a hearing for 30 days of

custody credits in respondent Superior Court due to the Applicant's hearing-impairment with no means of having effective communications.

Applicant's filing of the above motion caused the Santa Clara County Public Defender's Office submit a "Rush Request for Calander Setting for a hearing for custody credits' which the Respondent Court set for March 6, 2020, see Exhibit D.

Respondent Superior Court Trial Judge took adverse action on March 3, 2020, by issuance of an Ex Parte Order denying Applicant's 30 days of custody credits was done in retaliation to prevent a hearing with legal representation as custody credits have a "liberty interest" which was pending for March 6, 2020, the Ex Parte Order violated this Court's decision in Wolff v McDonnell 418 U.S. 539 (1974)

These acts violated 42 U.S.C. sections 12203 (a) and (b) and according to subsection (3) states a cause of action under 42 U.S.C. § 12133.

These acts created a systematic violation of the both the ADA and section 504 of Rehabilitation Act continued in the State Court appeal process.

The Appeal was docketed in the Appellate Division of the Superior Court who over Applicant's Objection refused to disqualify themselves from hearing an appeal in which the reviewing court had a direct, personal, substantial pecuniary interest in the outcome of the case.

The Appellate Panel proceeded to issue an Order Striking my Pro Se Filig” my motion to disqualify the Appellate Panel.

The Appellant Panel held that “The court cited to no authority in support of its order denying prior credits.”

The Appellate Panel held; “The record is silent as to the date of Herships's release after that initial sentence, and neither party raises any concern that Herships was not properly released at the conclusion of that sentence. Accordingly, we conclude Herships is entitled to at least 30 days custody credit from that confinement. (Evid. Code § 664.)”

The Appellant Panel Opinion then stated “[I]n light of our determination above that Herships has served his sentence in full, any other issues raised in his appeal are deemed to be moot. Further, we decline to find the other claims of error to present ‘Issue[s] of broad public interest that [are] likely to recur,’ and so do not address them further”.

Clearly, permitting an Appellate Panel to hear an appeal in which the reviewing must decide if the in fact the Limited jurisdiction Court violated the ADA and the section 504 of the Rehabilitation Act constitutes “structural error under this Court’s decision in Williams v Pennsylvania 579 U. S. 1 (2016) prohibiting when one appellate panel member had an interest in the case and here all three members had a direct interest in the case as a decision that hold that Superior Court violated Applicant a hearing-impaired

defendant's rights under the 14th Amendment rights to would impose liability under 42 U. S. C. section 12202 as Congress abrogated the 11th Amendment under Tennessee v Lane and U.S. v Georgia.

All of the above was supported by a writ of Certiorari that was submitted to this Court contesting the Criminal case that denied Applicant's 14th Amended rights.

However, Deputy Clerk Clayton R. Higgins made a judicial determination that a writ of mandate was a civil proceeding that could not be used as exhaustion of state remedies in a Petition for Certiorari which was timely filed and meet all of this Court requirements for filing as this Court granted an Extension of time No. 23A119, see Exhibit E.

Deputy Clerk Higgins deny access to this Court and return Applicant's Cert Petition even through the Petition for Certiorari now this denial of access to Court has implications as Respondent Court asserts that Rooker-Feldman doctrine prevent Applicant from contesting the void Appellant Panel's decision that the violations that occurred in the "*Respondent Court are not in the broad public interest and we decline to address these issues.*"

It Applicant's contention that the refusal to file the Petition for Certiorari was in excess of the Deputy Clerk's Jurisdiction as the Petition for Certiorari was timely and in proper form.

The 11th Circuit opinion *Shorz v City of Plantation* 344 F.3d 1166 (2003) held that 42 U.S.C. § 12203 (a) and (b) imposes liability on the parties for these violations in Title II cases.

In the only other case that addresses violations of 42 U.S.C. section 12203 (a) and (b) is an unreported opinion in *Minkley v. Eureka City Sch.* LEXIS 161338 on Sept. 29, 2017, in the Northern District of California citing approval of the well-reasoned opinion of the 11th Circuit in the *Shorz* case permitted the civil suit to proceed over the violations.

The District Court as well as the Ninth Circuit held that the Superior Court of California has absolute immunity under the 11th Amendment which is contrary to both this Court's Opinions in both *Tennessee v. Lane* and *U.S. v Georgia*.

This is an important issue here that has never been addressed is can a denial of accommodations by a superior court that violates a qualified individual's rights to a hearing with legal representation be heard by an Appellate Panel of the very Superior Court who was already under a Settlement Agreement placing the reviewing panel to rule in their own case.

Obviously, the Ninth Circuit Panel never made **de novo review** as an examination of the Respondent Court opinion conforms that Applicant's 14th Amendment rights were violated when the trial judge retaliated while a writ of mandate was pending with responses due on the denial of accommodations giving **zero deference** to the previous ruling

The 11th Circuit opinion *Shorz v City of Plantation* 344 F.3d 1166 (2003) held that 42 U.S.C. § 12203 (a) and (b) imposes liability on the parties for these violations in Title II cases.

In the only other case that addresses violations of 42 U.S.C. section 12203 (a) and (b) is an unreported opinion in *Minkley v. Eureka City Sch.* LEXIS 161338 on Sept. 29, 2017, in the Northern District of California citing approval of the well-reasoned opinion of the 11th Circuit in the *Shorz* case permitted the civil suit to proceed over the violations.

The District Court as well as the Ninth Circuit held that the Superior Court of California has absolute immunity under the 11th Amendment which is contrary to both this Court's Opinions in both *Tennessee v. Lane* and *U.S. v Georgia*.

This is an important issue here that has never been addressed is can a denial of accommodations by a superior court that violates a qualified individual's rights to a hearing with legal representation be heard by an Appellate Panel of the very Superior Court who was already under a Settlement Agreement placing the reviewing panel to rule in their own case.

Obviously, the Ninth Circuit Panel never made **de novo review** as an examination of the Respondent Court opinion conforms that Applicant's 14th Amendment rights were violated when the trial judge retaliated while a writ of mandate was pending with responses due on the denial of accommodations giving **zero deference** to the previous ruling

These facts are all undisputed and Applicant needs an additional 60 days including January 8, 2027, to file the Petition for Certiorari.

Applicant is currently being medically treated for skin cancer and surgery set for October 27, 2026 and as such Applicant will be unable to complete the Petition for Certiorari due by November 9, 2026.

Petitioner is in Pro Se as there are no attorneys in the State of California who litigate Title II case and due to the highly controversial nature of filing a lawsuit against a Superior Court who fully believes that both the ADA and the Rehabilitation Act “violations are not in the broad public interest and we decline to address these issues”.

Dated October 15, 2026

A handwritten signature in cursive script, reading "Howard R. Herships", written over a horizontal line.

Howard R. Herships

Declaration in Support for Extension of Time

I declare as follows;

- 1. I am the Petitioner in this request for Extension of time to file a writ of Certiorari in this Court which is based upon first hand personal knowledge.**
- 2. That I currently under medical treatment for skin cancer and have been under going treatment for some 30 days and have an appointment for Mohs Surgery for October 27, 2026.**
- 3. I have been inform by my surgeon that I will be unable work on or prepare my Certiorari Petition for some three weeks.**
- 4. That I have been unable to complete my Petition for Certiorari due to my medical treatment which is currently due on November 9, 2026.**
- 5. Both the District Court and the Ninth Circuit Opinions asserting that violations that deny a hearing-impaired party of accommodations that raises to 14th Amendment violations such as here that denied 30 days of custody credits via issuance of Ex Parte Order that took adverse action to prevent a hearing with legal representation held that the 11th Amendment the Superior Court has absolute immunity.**
- 6. The undisputed facts of this case addresses violations of 42 U.S.C. sections 12203 (a) and (b) in a Title II case which has never been addressed by this Court.**

7. **Applicant need any additional 60 days to prepare this Petition for Certiorari as Applicant will need at least two weeks to recover from surgery which has been set for October 27, 2026.**
8. **That I will be denied access to court if this application is not granted as currently the policies and practices of the California Superior Court County of Santa Clara is that these violations of the ADA and the section 504 of the Rehabilitation Act are *“not in the broad public interest and we decline to address these issues to enforce Federal Law”*.**
9. The issues in this case show that Respondent Court does treat disabled parties who request accommodations and systematically deny the remedial nature of ADA and section 504 of the Rehabilitation Act leaving the disabled parties to be denied their 14th Amendment rights which what occurred here.

I declare under penalty of perjury that all of the foregoing is true and correct.

Dated October 15, 2026

At Sacramento County



Howard R. Herships