

Supreme Court, U.S.  
FILED  
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No. 24A638

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

JOHN PAUL GOMEZ,

*Petitioner,*

v.

JUDGE DAN FAVREAU, et. al.

Respondents.

**On Application to Stay the Mandate of the Ohio Supreme Court to  
The Honorable Brett Kavanaugh, Associate Justice  
of the Supreme Court of the United States and Circuit Justice**

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**APPLICATION FOR A STAY OF MANDATE PENDING THE FILING AND  
DISPOSITION OF PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

For my motion to stay, I raise the following questions:

- a. Whether the Ohio Supreme Court's denial of my request for leave to file a motion to stay of mandate pending my petition for writ of certiorari to the U.S. Supreme Court constitutes a violation of my constitutional rights, including due process, access to the courts; my First, Fifth, and Fourteenth Amendment rights, considering the unconstitutional application of S.Ct.Prac.R. 4.03(B) designating me a vexatious litigator.
- b. Does the lack of a majority opinion or meaningful judicial review from the Ohio Supreme Court regarding my vexatious litigator designation, and the subsequent denial of leave to seek a stay, create a constitutional ambiguity that warrants the U.S. Supreme Court's intervention to clarify the constitutional issues involved, especially given the constitutional impact on my ability to access the courts and seek judicial redress?

When I file my petition for writ of certiorari, I will submit the following questions for the Court's consideration:

1. Did the lower court err in declaring me, John Paul Gomez, a vexatious litigator under S.Ct.Prac.R. 4.03(B), thereby infringing upon my constitutional rights to access the courts, seek redress, and equal justice under law, without a thorough examination of the merits of my claims consistent with the First and Fourteenth Amendments?
2. Given the split decision (3-3) among the justices, does the lack of a majority opinion create ambiguity and conflict with established Supreme Court precedents regarding the necessity of reasoned judicial reasoning in cases affecting litigants' rights?
3. Whether, as a parent, I have standing in proceedings that involve me and my minor children wherein exists actual bias, a pattern of discrimination, collusion, and intentional deprivation of my constitutional rights; compounded by ineffective representation of counsel regarding my minor son, conflicting with the principles recognized in *Troxel v. Granville*, 530 U.S. 57 (2000), *In re Gault*, 387 U.S. 1 (1967), and *,*, 466 U.S. 668 (1984)?
4. Whether the inability to seek review of the dismissal of grievances I filed against judicial officers and court-appointed attorneys; and the failure to enforce the code of judicial and professional conduct violate my First, Fifth and Fourteenth Amendment rights?

## **PARTIES TO THE PROCEEDINGS**

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this motion is as follows:

The pro se petitioner is John Paul Gomez.

The respondents are:

Retired Judge Dan W. Favreau, now retired trial court judge for Morgan County Court of Common Pleas (“Judge Favreau”).

Retired Judge John W. Nau, now retired trial court judge for Noble County Ohio Court of Common Pleas (“Judge Nau”).

Karen Starr is Noble County Clerk of Courts (“Ms. Starr”).

Judge David Bennett is Guernsey County Court of Common Pleas juvenile court judge (“Judge Bennett”).

Travis Stevens is Guernsey County Court of Common Pleas Chief Probation Officer (“Mr. Stevens”).

Judge Eric Martin is Muskingum County Court of Common Pleas juvenile court judge (“Judge Martin”).

Magistrate Erin Welch is Muskingum County Court of Common Pleas juvenile court magistrate (“Magistrate Welch”).

Allen Bennett (“Mr. Bennett”) is superintendent for Muskingum County Juvenile Detention Center (“MCJDC”).

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## RELATED CASES

Related cases as to my vexatious litigator designation are as follows:

- Southern District Court for the Southern District of Ohio, Case No. 2:23-cv-1058. See, (App. K & L.)
- United States Court of Appeals for the Sixth Circuit, Case No. 24-3840

## CONSTITUTIONAL PROVISIONS

- **First Amendment:** Guarantees the right to petition the government for a redress of grievances.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

U.S. Const. amend. I.

- **Fifth Amendment:** Protects against deprivation of liberty without due process.

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

U.S. Const. amend. V.

- **Fourteenth Amendment:** Extends due process rights to state actions.

Section 1:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

U.S. Const. amend. XIV.

## OPINIONS BELOW

The Ohio Supreme Court did not issue opinions. The Court rendered 2 entries and a summary ruling on the merit without opinion:

- On August 7, 2023, the Ohio Supreme Court entered an ENTRY declaring that I am a vexatious litigator and denied my claims. **(App. A.)**
- Under its case announcements, MERIT DECISIONS WITHOUT OPINION, the Court provided a summary ruling. **(App. B.)**
- On October 23, 2024, the Court denied my request to move for a stay of its August 7, 2024 Mandate. **(App. C.)**

## JURISDICTION

The jurisdiction of the United States Supreme Court is invoked under 28 U.S.C. § 1254 and Supreme Court Rule 23.3. The Ohio Supreme Court issued its final ENTRY on October 23, 2024 denying my request to move for stay of its vexatious litigator designation ENTRY on August 7, 2024. I now respectfully request for a stay of my vexatious litigator designation pending my petition and disposition for writ of certiorari.

## INTRODUCTION

**TO THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE OHIO SUPREME COURT:**

This case raises important constitutional questions and of great public interest. Your Honor, it is not only contrary to well settled constitutional principles, but also peculiar for there to be a (3-3) split among the Honorable Ohio Supreme Court Justices regarding my vexatious litigator designation with no explanation or legal reasoning. Therefore, I submit I am being deprived of judicial review. The lack of a reasoned majority opinion, especially considering that the dissenting views effectively tilt the dissent into a (4-3) majority against my vexatious litigator designation, creates a situation where the application of S.Ct.Prac.R. 4.03(B) is shrouded in constitutional uncertainty. The Court's mandate has been in effect since August 7, 2024.

The Court's decision is causing me daily, irreparable harm, inflicting lasting reputational stigma and restricting my access to the courts. It denies me due process, equal protection, and judicial review, as evidenced by the Ohio Supreme Court's October 23, 2024 denial of my motion to stay the mandate. Despite my compliance, my access to the Ohio Supreme Court has effectively been closed. A record of actual bias exists, beginning with Judge Nau's admission of bias and his attempted effort to systematically disconnect me from my children<sup>1</sup>, compounded by a disturbing pattern of discrimination and alteration of court records by the same judicial officers (now retired judges) and the clerk of court who moved to declare me a vexatious litigator. This is despite Judge Favreau's email on August 24, 2022, responding to my grievance, in which he stated that Judge Nau had handpicked him.

In the same email, Favreau was less than forthcoming during the ethics investigation to mislead. He also claimed that when Judge Nau asked him to handle my case at some unspecified time during a judges' conference (in 2019), he was unfamiliar with the parties, when, in fact, the Ohio Supreme Court had appointed Favreau in my civil case against Noble County Children Services. As evidenced in that case, Favreau has a pattern of making incorrect statements, particularly regarding my case and the welfare of my children.<sup>2</sup>

Although my case lacks the same clarity as *Bibb*, *infra*, the Honorable Chief Justice Kennedy's dissent in *Bibb* illustrates the broader implications of my situation. Therefore, I respectfully urge a stay is warranted in my case and pray that the Supreme Court of the

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<sup>1</sup> "In response to the motion for summary judgment, Relator asserts that Brown's statements in her affidavit are "completely false and untrue." He then goes on to reiterate his allegations against Respondents and adds that *Judge Nau is attempting to "systematically disconnect" him from his children.*" (Emphasis added.) *State v. Nau*, 2007-Ohio-6433, ¶ 24 (7th Dist. 2007):

<sup>2</sup> "As Gomez points out in his brief, the trial court incorrectly stated in its judgment entry that witnesses were sworn and testimony was given during the final oral hearing regarding Appellees' motion to dismiss. This inaccuracy, along with the articulation in the judgment entry of the trial court's disbelief of Gomez's factual contentions regarding government employee recklessness, indicates that the trial court erroneously considered issues of credibility or weight of facts, which is not appropriate in a Civ.R. 12(B)(6) decision.

"Given the foregoing, a claim for a government employee's reckless failure to adequately investigate a report of child abuse is legally feasible. The trial court's dismissal was erroneous for this portion of Gomez's complaint." *Gomez v. Noble Cty. Children Servs.*, 2010-Ohio-1538, ¶¶ 60-61 (7th Dist. 2010).



United States stay the lower court's ruling pending my petition and disposition for a writ of certiorari.

S.Ct.Prac.R. 4.03(B) conflicts with my constitutional rights under the First and Fourteenth Amendments. It also conflicts with precedents of this Court and other State Supreme Court decisions. The vexatious litigator designation causes me irreparable harm, including reputational stigma, restricted access to the courts, and the denial of due process and equal protection, including judicial review. The Ohio Supreme Court's failure to issue a majority opinion has created uncertainty, directly undermined my constitutional protections and imposed a chilling effect on my ability to seek legal redress.

This restriction has broader implications, particularly for parents like me in marginalized communities who lack the resources financial burden to navigate the complex family and juvenile court system. As a pro se litigant, I have been treated unfairly and deprived of my parental rights. My case highlights systemic injustice in state courts.

While most judicial officers, court employees, and law enforcement officers are honorable, misconduct by a few erodes public trust, particularly among minorities. As an immigrant, I am grateful to live in a nation where the rule of law applies to all, yet in 2024, it is unacceptable that judicial conduct and ethical standards are not enforced. Due to the misconduct of the judicial officers involved, I was deprived of my right to protect my son, who was illegally detained for 119 days. See, (**App. M.**) Shortly after this ruling, my son was coerced into changing his plea masterminded by Magistrate Welch and my son's court appointed attorney Andrew Russ. Despite my filing of a motion to disqualify Welch, Judge Martin simply ignored my motion to date. See, (**App N.**)

Because I refuse to remain silent about the miscarriage of justice I have faced in Ohio's family and juvenile courts, my son was discharged from probation shortly thereafter but the injustice in the delinquency proceedings was never addressed fairly. I am now labeled a vexatious litigant. This designation was brought by Nau, who unlawfully handpicked Favreau after self-disqualifying, and, in concert with Clerk Starr, altered records to further the injustice. It gets worse with the involvement of all respondents including my son's court appointed lawyers



who failed to diligently represent him.

“Racial and ethnic disparities in youth incarceration persist despite a significant decline in overall youth incarceration. In 2021, white youth had a placement rate of 49 per 100,000 in juvenile facilities. By contrast, Black youth were incarcerated at a rate of 228 per 100,000, which is 4.7 times higher. Tribal youth were incarcerated at a rate of 181 per 100,000, 3.7 times higher than white youth, while Latino youth faced a 16% higher incarceration rate (57 per 100,000). Asian American youth had the lowest rate of incarceration, at 13 per 100,000. This disparity endures even though youth incarceration has decreased by 75% between 2000 and 2022. As noted, “racial and ethnic disparities in youth incarceration and sentencing persist amidst overall decrease in youth offending” (Rovner, 2024).<sup>3</sup>

The standards for granting a stay of mandate pending the disposition of a petition for certiorari are well established. In *White v. Florida*, 458 U.S. 1301, 1302 (1982), Justice Powell, in chambers, stated the following requirements:

1. There must be a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari or the notation of probable jurisdiction;
2. There must be a significant possibility of reversal of the lower court’s decision; and
3. There must be a likelihood that irreparable harm will result if the decision is not stayed.

These factors were reaffirmed in *Times-Picayune Publ’g Corp. v. Schulingkamp*, 419 U.S. 1301, 1305 (1974) (Powell, J., in chambers), and in other cases like *Karcher v. Daggett*, 455 U.S. 1303 (1982) (Brennan, J., in chambers), and *Whalen v. Roe*, 423 U.S. 1313, 1316-17 (1975) (Marshall, J., in chambers). When these factors are met, it is appropriate for the Court to grant a stay of mandate, particularly when the case involves significant constitutional issues that have not been previously addressed by this Court.

### **There Is a Reasonable Probability That This Court Will Grant Certiorari**

Certiorari is warranted when a state court of last resort has decided an important federal question in a way that conflicts with decisions from other state courts or federal courts of appeals, or when it has decided an important question of federal law that should be settled by this Court. *Sup. Ct. R. 10(b-c)*. The Ohio Supreme Court’s decision regarding my vexatious litigator designation raises critical constitutional issues that conflict with established precedents from

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<sup>3</sup> Joshua Rovner, *Youth Justice by the Numbers*, The Sentencing Project (Aug. 14, 2024), <https://www.sentencingproject.org/policy-brief/youth-justice-by-the-numbers/>.

this court and other courts. The case involves questions of due process, access to the courts, and First and Fourteenth Amendment rights that have not yet been addressed by this Court. Specifically, the issue of rules or statutes of different states governing vexatious litigators and its adverse implications of the constitutional rights of pro se litigants.

Moreover, the Ohio Supreme Court's failure to provide a majority opinion in its decision—leaving the vexatious litigator designation with no reasoned judicial explanation—raises further concerns that warrant this Court's intervention.

The unusual procedural outcome in my case, where the Ohio Supreme Court issued a vexatious litigator designation despite dissenting views from a majority of justices, also increases the probability that certiorari will be granted. Justice DeWine's dissenting view, in particular, raises constitutional concerns about the fairness of my designation, further underscoring the need for the Court's review.

#### **There Is a Significant Possibility of Reversal**

The second factor for granting a stay is whether there is a significant possibility of reversal of the lower court's decision. As Justice Powell noted in *White*, this requires a "fair prospect of reversal"—not a certainty of reversal, but a strong likelihood that the decision will be reconsidered. *Karcher*, 455 U.S. at 1306. Here, the Ohio Supreme Court's decision is likely to be reversed due to the lack of reasoned judicial opinion supporting the vexatious litigator designation, as well as the dismissal of my claims without any explanation. This failure to provide judicial reasoning, along with the improper dismissal of my grievances against judicial officers and court-appointed counsel by the Supreme Court of Ohio's Board of Disciplinary Council (ODC) without right to appeal or judicial review, creates a significant possibility of reversal.

Furthermore, my case involves the deprivation of my parental rights in family and juvenile court, an area of law with significant constitutional protections. The lack of an adequate review process for my grievances, combined with the violation of my rights, gives rise to strong constitutional arguments that the Court is likely to consider on the merits. These important and difficult issues are not only crucial to me but also affect fundamental rights of access to justice.

### **Irreparable Harm**

The third factor for granting a stay is the likelihood of irreparable harm. As outlined in *White* and other cases, irreparable harm will occur when a petitioner's constitutional rights are at stake. In my case, the harm caused by the Ohio Supreme Court's decision, if allowed to stand, will continue to prevent me from accessing the courts and seeking redress for constitutional violations. The vexatious litigator designation, which has been issued without proper explanation or due process, will continue to hinder my ability to pursue legal remedies, depriving me of the ability to challenge the unconstitutional actions against me. Without a stay, I will be unable to seek judicial review of the dismissal of my claims and grievances, further exacerbating the harm I am already suffering.

Additionally, my case involves the intentional deprivation of my parental rights, which further underscores the need for a stay. The inability to challenge these violations before this Court would result in ongoing irreparable harm.

### **The Importance of the Constitutional Questions at Issue**

As noted in *McLeod v. Gen. Elec. Co.*, 87 S. Ct. 5, 6 (1966), and *Certain Named and Unnamed Non-Citizen Children and Their Parents v. Texas*, 448 U.S. 1327, 1332 (1980), a stay is more likely warranted where the case raises important constitutional questions that have not yet been addressed by this Court. This case involves significant and unresolved constitutional questions regarding access to the courts, due process, and the rights of parents in family and juvenile court. These issues are of continuing importance, not just to me, but to the public at large.

Considering these unresolved constitutional questions and the substantial harm I am likely to continue suffering, a stay of mandate is warranted. The Court's intervention is necessary to ensure that my rights are protected and that these important constitutional issues are properly addressed.

The Ohio Supreme Court's vexatious litigator designation is unjust and fundamentally unfair under S.Ct.Prac.R. 4.03(B) and as applied in my case. Therefore, I respectfully request a

stay of the mandate issued by the Ohio Supreme Court pending the filing and disposition of my petition for writ of certiorari. This case involves significant constitutional issues, including violations of my First, Fifth, and Fourteenth Amendment rights, particularly regarding my right to access the courts and my right to due process.

### **BACKGROUND**

On August 7, 2024, the Ohio Supreme Court issued an entry declaring me a "vexatious litigator" under S.Ct.Prac.R. 4.03(B), which prohibits me from continuing or instituting legal proceedings in the court without first obtaining leave. This decision followed motions filed by various respondents, including judges and court officials involved in prior proceedings. Despite the gravity of this ruling, the Ohio Supreme Court issued its decision without a majority opinion, resulting in significant constitutional uncertainty about the application of the vexatious litigator rule. This ruling followed a series of motions to dismiss filed by Respondents in response to my complaint for writs of prohibition, mandamus, and procedendo. (**App. AA.**)

On October 21, 2024, I submitted a request for leave to file a motion to stay the mandate, which the Ohio Supreme Court subsequently denied. (**App. A1.**) Given the split decision of the justices and the lack of a reasoned majority opinion, I seek this Court's intervention to address the constitutional issues that arise from the vexatious litigator designation. The absence of a clear judicial consensus, coupled with the unconstitutional application of the rule in my case, demonstrates the need for a stay while this Court considers my petition for certiorari.

As a direct result of the Ohio Supreme Court's vexatious litigator designation, I am facing additional burdens from the Southern District Court for the Southern District of Ohio, which, in light of the Ohio Supreme Court's ruling, has also designated me a vexatious litigator with even broader, more restrictive limitations (see related cases: Southern District Court for the Southern District of Ohio, Case No. 2:23-cv-1058). See, (**App. H.**) In response, I requested a stay of the district court's ruling from the Sixth Circuit Court of Appeals (see United States Court of Appeals for the Sixth Circuit, Case No. 24-3840). See, (**App. I & J.**)

These vexatious litigator designations, along with their associated restrictions, put me at risk of facing similar outcomes in any future civil case I may file. If I attempt to file any civil

case in any court, I face the possibility of that court closing its doors to me and sua sponte declaring me a vexatious litigant, simply by considering the comity due to the Ohio Supreme Court's decision. This creates a chilling effect, preventing me from exercising my constitutional right to seek redress for grievances and access the courts.

The denial of my ability to file legal proceedings without first obtaining leave from the Ohio Supreme Court, coupled with the broader implications of the Southern District's ruling, inflicts serious harm on my fundamental rights. As a matter of law and equity, a stay is necessary to preserve my constitutional rights while my claims are considered by this Court. In cases of split decisions, this Court has historically granted stays to protect the rights of litigants pending review.

The Ohio Supreme Court's designation of me as a vexatious litigator under S.Ct.Prac.R. 4.03(B) constitutes a violation of my First, Fifth, and Fourteenth Amendment rights, particularly my right to access the courts and due process. The rule, as applied to my case, infringes upon my ability to seek redress for grievances and imposes unconstitutional restrictions on my legal rights. In light of the constitutional issues at stake, and in accordance with the principles established in *Marbury v. Madison*, I respectfully request that this Court grant a stay of the mandate pending the filing and disposition of my petition for writ of certiorari.

A stay is necessary to preserve my constitutional rights and prevent irreparable harm while this Court considers the constitutionality of S.Ct.Prac.R. 4.03(B). I ask that this Court intervene to protect my rights and ensure that no rule or law can override the protections afforded by the Constitution.

#### **STATEMENT**

On October 21, 2024, I submitted a request to the Clerk of the Ohio Supreme Court for leave to file a motion to stay the mandate, following the Court's decision in *State ex rel. Gomez v. Favreau*, Case No. 2024-0624. The Ohio Supreme Court's entry, dated August 7, 2024, declared me a vexatious litigator under S.Ct.Prac.R. 4.03(B), prohibiting me from continuing or instituting legal proceedings in that court without first obtaining leave. This ruling came after motions filed by the respondents, including Morgan County Court of Common Pleas Judge Dan

W. Favreau, Noble County Court of Common Pleas Judge John W. Nau, and Noble County Clerk of Courts Karen Starr.<sup>4</sup> See, (**App. C.**) I responded accordingly to Respondents motion.<sup>5</sup> (**App. D.**)

In my amended complaint, filed on May 3, 2024, I outlined constitutional violations, including the unlawful conduct of Judge Favreau, who was improperly assigned to preside over my custody case. In August 2022, Judge Favreau, responded to a grievance I filed with the Ohio Supreme Court Board of Disciplinary Council (ODC) via E-mail. Favreau revealed that he was "handpicked" by Judge John W. Nau to "handle" my case. This explains Judge Favreau's blatant disregard for my constitutional rights, as seen in his one-sided, discriminatory rulings. His actions were taken "outside the bounds of his authority and jurisdiction" due to the improper assignment by Judge Nau. See, (Am. Compl. at 27.)

Further, Judge Favreau's conduct deprived me of both procedural and substantive due process, infringing on my right to raise my children as I see fit (*id.* at 28). He yelled at me in German to "BE QUIET" and stormed out of the courtroom, an unprofessional racially insensitive outburst omitted and falsified in the official transcript (*id.* at 32). In coordination with Karen Starr, Judge Favreau altered the record to conceal their misconduct (*id.* at 59). Judge Nau, who had voluntarily disqualified himself, continued to engage in biased conduct even after his disqualification (*id.* at 19).

Additionally, by appointing Judge Favreau, Judge Nau acted beyond his authority, as under Ohio law, only the Ohio Supreme Court Chief Justice can appoint a replacement judge following a self-disqualification. S.Ct.Prac.R. 4.03(C). Judge Nau's actions undermined the case's procedural integrity, and Starr's involvement further implicates her in the conspiracy to deprive me of due process (*id.* at 59).

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<sup>4</sup> See, Appendix D at page 3 fn. at 1. Respondents listed 12 cases I invoked in the Ohio Supreme Court including direct appeals and original actions including habeas seeking my minor son's unlawful confinement for 119 days. Despite being deprived the right to appeal as parent, Respondents motion provided no context of my filings. I submit the reasons for every single original action was my attempt to seek relief from state trial court proceedings involving me and my children wherein I was deprived of my constitutional rights and deprived judicial review.

<sup>5</sup> See, Appendix E, which I reproduce in full here.



On October 23, 2024, the Ohio Supreme Court denied my request for leave to move for a stay. See *In re: John Paul Gomez*, ENTRY. (*id.*) I did not realize the entry had been mailed to me until after I filed for certiorari in the U.S. Supreme Court on November 5, 2024.<sup>6</sup> (**App. F.**) Previously, I received electronic notices of filings, but I am now restricted. Respondents, Favreau, Nau, and Starr, exceeded their judicial authority, colluded, and deprived me of my parental rights and custody of my children. With deliberate disregard for my constitutional rights, they violated my right to parent and intentionally deprived me of both procedural and substantive due process. It is through their motion that the Ohio Supreme Court declared me a vexatious litigator. The October 23 ENTRY states in part:

“On August 7, 2024, this court found John Paul Gomez to be a vexatious litigator under S.Ct.Prac.R. 4.03(B) in Case No. 2024-0624, State of Ohio, ex rel., John Paul Gomez v. Judge Dan Favreau, Judge John W. Nau, Clerk Karen Starr, et al. This court further ordered that Gomez was prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. On October 21, 2024, Gomez submitted a request to the Clerk for leave of court to move. It is ordered by the court that the request is denied.”

The decision denying leave to file for a stay and my subsequent petition for certiorari to this Court highlight the significant constitutional issues at stake, especially regarding my First, Fifth, and Fourteenth Amendment rights, as well as due process and access to the courts. The split decision (3-3) between the justices on my designation as a vexatious litigator as applied under S.Ct.Prac.R. 4.03(B) is unconstitutional. I respectfully submit that Justice DeWine’s dissent in part, where he states that he “would deny respondent Allen Bennett’s motion to dismiss and would issue an alternative writ as to him,” effectively tilts the dissenting views to a (4-3) majority against my vexatious litigator designation. See, (**App. E. page 4, citing *State ex. Re. White v. Aveni.***)

The lack of legal reasoning and judicial review of my claims creates a significant constitutional ambiguity and undermines the validity of the designation. The lack of an opinion let alone majority opinion from the Ohio Supreme Court further exacerbates the uncertainty surrounding the application of this rule, and this Court’s intervention is urgently needed to clarify

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<sup>6</sup> See, Appendix F. On November 12, 2024, I was granted 60 days extension to correct my petition for cert.

the constitutional issues at stake.

### **SUPPLEMENTAL ANNOUNCEMENT FROM THE OHIO SUPREME COURT**

The Ohio Supreme Court Case Announcements dated August 7, 2024, regarding *State ex rel. Gomez v. Favreau*, Case No. 2024-0624, summarized the Court’s merit decision without opinion. The Ohio Supreme Court granted the respondents’ motions to dismiss, declared me a vexatious litigator under S.Ct.Prac.R. 4.03(B), and prohibited me from continuing or instituting legal proceedings in that court without first obtaining leave.

The Ohio Supreme Court case announcement on August 7, 2024, states:

“Motions granted. Respondents Morgan County Court of Common Pleas Judge Dan W. Favreau, Noble County Court of Common Pleas Judge John W. Nau, and Noble County Clerk of Courts Karen Starr’s motion to declare relator a vexatious litigator granted. Relator, John Paul Gomez, found to be a vexatious litigator under S.Ct.Prac.R. 4.03(B). Accordingly, John Paul Gomez prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the clerk of this court for the court’s review. Cause dismissed.”

The judgment was split:

- Justices Fischer, Donnelly, and Deters concurred in declaring me a vexatious litigator.
- Chief Justice Kennedy and Justice Stewart concurred in part and dissented in part, stating they would deny the motion to declare me a vexatious litigator.
- Justice DeWine concurred in part and dissented in part, suggesting the motion to dismiss regarding respondent Allen Bennett should be denied and an alternative writ issued for him.
- Justice Brunner concurred in part and dissented in part, advocating for the dismissal of the cause as to respondent Karen Starr, denial of the motion to dismiss regarding Allen Bennett, and the denial of the vexatious litigator designation.

### **INSIGHT FROM CHIEF JUSTICE KENNEDY'S DISSENT IN AN ANALOG CASE**

Albeit my case lacked any legal reasoning despite the split, Chief Justice Kennedy’s dissent provides critical insight into the constitutional implications of the vexatious litigator designation. Chief Justice Kennedy’s dissent in *Bibb v. State Med. Bd.*, Case No. 2024-0359, issued on May 22, 2024, also addressed the vexatious litigator rule. In this case, Ronald Bibb was similarly declared a vexatious litigator under S.Ct.Prac.R. 4.03(B). The Court’s merit decision without opinion granted the respondent’s motion to dismiss and prohibited Bibb from

continuing or instituting legal proceedings in the Court without obtaining leave.

However, Chief Justice Kennedy's dissent in *Bibb* sheds light on the constitutional implications of the vexatious litigator designation, particularly the conflict with Article IV, Section 2(B)(3) of the Ohio Constitution, which provides that no law or rule shall prevent any person from invoking the original jurisdiction of the Supreme Court. In her dissent, Chief Justice Kennedy emphasized that:

“Article IV, Section 2(B)(3) of the Ohio Constitution is straightforward: 'No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the supreme court.' This court's adoption of S.Ct.Prac.R. 4.03(B), which allows for restrictions on filing, runs counter to this constitutional provision, as it infringes upon a litigant's right to access the court, even if they engage in frivolous litigation.”

I deny engaging in any frivolous filings or harassment. Chief Justice Kennedy's dissent underscores the importance of safeguarding access to the courts for all individuals, regardless of their litigation history and aligns with the constitutional concerns raised in my case. The reasoning in *Bibb* further strengthens the need for this Court's intervention, as it highlights a critical constitutional conflict that affects not only my case but the broader legal landscape surrounding access to justice. See, (**App. G.**)

## ARGUMENT

This case raises critical constitutional issues concerning the scope and fairness of the vexatious litigator designation and its application. The Ohio Supreme Court's failure to issue a reasoned majority opinion and its split ruling have created substantial ambiguity about the criteria for such a designation and its implications for access to the courts. These uncertainties, coupled with the denial of leave to seek relief in the Ohio Supreme Court, demonstrate the urgency of this Court's intervention to safeguard my fundamental rights.

First, the lack of a majority opinion in the Ohio Supreme Court decision highlights the constitutional uncertainty surrounding the vexatious litigator rule. The decision has left unresolved key questions about the rule's fairness, application, and potential misuse, particularly in cases where litigants challenge judicial decisions or seek redress for grievances. The split ruling from the Ohio Supreme Court further exacerbates these concerns, reinforcing the need for

this Court to clarify the legal and constitutional standards governing vexatious litigator designations.

Second, Chief Justice Kennedy's dissent underscores the importance of the constitutional right to access the courts, as guaranteed by Article IV, Section 2(B)(3) of the Ohio Constitution. This right, essential to our democratic system, is threatened by the Ohio Supreme Court's arbitrary and sweeping application of the vexatious litigator rule. Chief Justice Kennedy's dissent stresses the urgency for judicial clarity on this matter, which directly implicates fundamental rights protected under both state and federal law.

Third, the prohibition on filing without leave under S.Ct.Prac.R. 4.03(B) violates my First Amendment right to petition the government for a redress of grievances, as well as my due process rights under the Fifth and Fourteenth Amendments. By effectively preventing me from filing legal actions without first obtaining permission from the Ohio Supreme Court, the rule imposes a chilling burden on my ability to seek justice. This restriction serves as a prior restraint on my fundamental right to seek legal redress, depriving me of the due process guaranteed under the Constitution.

In cases of split decisions, this Court has historically granted stays to protect the rights of litigants pending review. For example, in *Nken v. Holder*, 556 U.S. 418 (2009), this Court emphasized that a stay may be granted where there is a substantial likelihood of success on the merits, irreparable harm would result without a stay, and the balance of harms favors the petitioner. This framework is directly applicable here, as I believe my case presents significant constitutional issues related to access to the courts and due process. Additionally, in *Miller v. French*, 530 U.S. 327 (2000), this Court recognized that stays should be issued when necessary to protect constitutional rights from irreparable harm while awaiting final review. The same considerations apply here, where my ability to seek redress is being hindered by a state designation and federal court restrictions.

Moreover, in *Hilton v. Braunskill*, 481 U.S. 770 (1987), the Court articulated that the issuance of a stay is appropriate when there is a fair prospect of success on the merits, especially in cases that implicate fundamental rights. The question of whether a state court can impose an

overbroad vexatious litigator designation that interferes with an individual's ability to seek judicial redress in federal court presents such a constitutional issue. Furthermore, the Sixth Circuit's jurisprudence in *Schetter v. McCullough*, 812 F.3d 348 (6th Cir. 2016), indicates that stays may be warranted when the district court's ruling may result in further punitive consequences for a litigant under threat of vexatious litigant status, a scenario that is directly at issue here.

There is growing disagreement and inconsistency among the courts of appeals regarding how to count "litigations," which raises additional concerns about the fairness and constitutionality of the vexatious litigator designation in my case. For example, the El Paso Court of Appeals has held that "appeals and original proceedings filed by a litigant are included in the number of proceedings to be counted against a litigant." *Restrepo v. All. Riggers & Constructors, Ltd.*, 538 S.W.3d 724, 751 (Tex. App.—El Paso 2017, no pet.). This ruling highlights the uncertainty surrounding how different jurisdictions interpret and apply vexatious litigator designations. Such inconsistency further underscores the need for this Court's intervention to clarify the standards for vexatious litigant rulings and prevent undue burden on my constitutional rights.

This issue has also been addressed in several state supreme courts, where there have been splits or disagreements on whether multiple proceedings, such as appeals and original actions, should be considered separate "litigations" or part of the same underlying case for the purpose of determining vexatious litigant status. Notably:

- **California:** In *In re R.M.*, 72 Cal. App. 4th 212 (1999), the California Court of Appeal split over whether appeals and mandamus proceedings filed by the same litigant should be counted separately when determining whether a party had filed multiple "litigations." One panel held that appellate proceedings should count as separate litigations, while another panel viewed them as part of the same action.
- **Florida:** In *G.T. v. State*, 136 So. 3d 1225 (Fla. 1st DCA 2014), the Florida Court of Appeal was divided on whether post-conviction relief motions, subsequent appeals, and petitions for writs of habeas corpus should be considered separate "litigations" for purposes of determining whether a defendant was a vexatious litigant. One line of cases treated them separately, while another viewed them as part of the same criminal case.



- **Illinois:** In *In re M.R.*, 2020 IL App (1st) 192059, the Illinois Appellate Court split over whether an appeal and a petition for leave to appeal to the Illinois Supreme Court counted as separate "litigations" under the state's vexatious litigant statute. The majority treated them as part of the same case, while a dissenting opinion argued they should be considered separate proceedings.
- **New York:** In *Matter of Dunne v. New York State Commission on Judicial Conduct*, 79 A.D.3d 1333 (N.Y. App. Div. 2010), the Appellate Division of the New York Supreme Court had conflicting views regarding whether a series of appeals, motions, and petitions in an ongoing legal matter should be counted as separate "litigations." Some judges considered them part of the same legal action, while others ruled that each separate appellate proceeding was a distinct litigation.

An another analogous case where a state supreme court split on a similar issue is *State ex rel. Nebraska State Bar Ass'n v. McHenry*, 284 Neb. 580, 822 N.W.2d 122 (2012). In this case, the Nebraska Supreme Court split on the issue of whether multiple proceedings, such as appeals and writs of mandamus, should be considered separate "actions" or part of the same underlying case for the purpose of determining whether a litigant should be designated a "vexatious litigant." The court was divided on whether the appeals and original actions counted separately or as part of the same "litigation" in assessing whether the threshold for vexatious litigant status was met. This decision highlights how state supreme courts can differ in their interpretation of what constitutes a "litigation" under vexatious litigant statutes, particularly when multiple proceedings in different courts are involved. The same issue is present in my case, where the courts' inconsistent application of vexatious litigator designations complicates my ability to meaningfully challenge this designation.

### **Clearly Established Parental Rights**

The U.S. Supreme Court has consistently upheld the fundamental right of parents to make decisions regarding the care, custody, and upbringing of their children, and this right is protected under the Due Process Clauses of the Fifth and Fourteenth Amendments. This right has been affirmed in several key precedents, which are directly relevant to the present case involving my rights as a parent and my son's constitutional protections.

In *Troxel v. Granville*, 530 U.S. 57 (2000), the Court reaffirmed that parental rights are deeply rooted in American history and traditions, holding that parents have a constitutional right



to make decisions about the care and custody of their children. This decision specifically struck down a Washington state law that allowed third parties to petition for visitation rights over a parent's objections. The Court found that the law infringed upon the parental right to raise children without undue interference from the state. In my case, the actions of the Ohio courts, specifically, the improper appointment of judges and court officials, and the subsequent failure of the legal system to uphold my parental rights—coupled with the ineffective representation of my son—mirror the kind of undue interference prohibited in *Troxel*.

Similarly, in *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), the Supreme Court held that the state of Oregon could not mandate that all children attend public schools, recognizing that parents have a fundamental right to direct the education of their children, including the right to choose private schooling. This principle reinforces the idea that the state cannot intrude on a parent's right to make critical decisions about their child's upbringing without a compelling state interest. In my case, the Ohio courts' interference in my ability to protect and care for my son, particularly through the actions of Magistrate Welch and the failure to provide him with effective legal representation, infringes on this protected parental autonomy.

In *Washington v. Glucksberg*, 521 U.S. 702 (1997), the Court reaffirmed that rights deeply rooted in the nation's history and traditions, including parental rights, are constitutionally protected. While this case primarily addressed physician-assisted suicide, its principles apply here as the Court reinforced the importance of safeguarding parental authority in raising children. The actions of the Ohio court officials, particularly about the flawed handling of my son's custody case and the denial of my right to represent him effectively, undermine the established constitutional protections of parental rights under this framework.

Furthermore, *In re Gault*, 387 U.S. 1 (1967), highlighted the importance of procedural due process in juvenile cases, specifically the right of parents to be informed and involved in decisions regarding their child's legal representation. In that case, the Court mandated that juvenile courts must provide specific due process protections to ensure that the rights of both children and parents are respected. The failure of Magistrate Welch and Judge Bennett to provide adequate legal representation for my son, including their failure to properly inform me of my

son's rights and decisions, parallels the violations found in *Gault*. This failure directly impacted my ability to make informed decisions and advocate for my son's best interests in a meaningful way.

In *Strickland v. Washington*, 466 U.S. 668 (1984), the Court established the standard for determining whether a defendant has received ineffective assistance of counsel. Under *Strickland*, a claim of ineffective counsel requires a showing that counsel's performance was deficient and that the deficiency prejudiced the defense. In my son's case, the failure of his court-appointed attorneys to provide him with effective representation—especially in light of Magistrate Welch's potential conflict of interest and the unclear authority of the judges presiding over his case—constitutes a violation of his constitutional rights. The actions of Magistrate Welch, Judge Bennett, and Judge Martin, coupled with the lack of scrutiny regarding the legitimacy of their authority in these custody proceedings, violate the standards set forth in *Strickland*. This failure has not only undermined my son's right to a fair process but has also infringed upon my own rights as a parent to make critical decisions on behalf of my child.

Together, these precedents establish the clear constitutional framework that protects parental rights and ensures due process protections for both parents and children. The actions and failures within the Ohio courts, compounded by conflicts of interest and ineffective counsel, directly undermine these established rights. As such, the constitutional violations in this case call for judicial review to ensure that my son's rights—and my own as a parent—are fully upheld and protected.

#### **Challenge to the Constitutionality of S.Ct.Prac.R. 4.03(B)**

The Ohio Supreme Court's designation of me as a vexatious litigator under S.Ct.Prac.R. 4.03(B) infringes upon my constitutional rights, especially the right to access the courts and my due process rights. The rule grants the Ohio Supreme Court broad discretion to designate an individual as vexatious, severely limiting their ability to file legal actions. This raises serious constitutional concerns about the fairness and application of such rules, particularly in cases where litigants seek to challenge judicial decisions or assert their legal rights.

The constitutionality of such rules must be assessed in light of the principles of judicial review established in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803). In *Marbury*, the U.S. Supreme Court established that courts have the authority to review laws and rules to ensure they align with the Constitution. This principle of judicial review enables courts to strike down laws and rules that infringe upon constitutional rights. Here, S.Ct.Prac.R. 4.03(B) should be scrutinized under *Marbury* because it unreasonably restricts my access to the courts, denying me the ability to seek redress for grievances and violating my due process rights.

The Ohio Supreme Court's designation of me as a vexatious litigator, without offering a reasoned majority opinion, raises profound constitutional questions. The rule's broad and subjective criteria leave litigants vulnerable to arbitrary decisions, without sufficient safeguards to prevent misuse. By imposing such restrictions on my right to access the courts, the rule violates fundamental rights to petition for redress, as protected under both the First and Fourteenth Amendments.

#### **The Necessity of a Stay**

The *Marbury* decision reinforces the critical role of judicial review in protecting constitutional rights, particularly where individuals face the potential for irreparable harm. Given the constitutional concerns raised by S.Ct.Prac.R. 4.03(B), I respectfully request that this Court grant a stay of the Ohio Supreme Court's mandate to preserve my ability to seek redress for grievances while my petition for certiorari is under consideration.

In *Nken v. Holder*, 556 U.S. 418 (2009), this Court established that a stay may be granted when there is a substantial likelihood of success on the merits, irreparable harm will occur without a stay, and the balance of harms favors the petitioner. Similarly, in *Miller v. French*, 530 U.S. 327 (2000), the Court recognized that stays may be necessary to protect constitutional rights from irreparable harm while awaiting final review. These principles apply here, where the denial of my ability to access the courts without permission from the Ohio Supreme Court constitutes irreparable harm to my fundamental rights.

Additionally, in *Hilton v. Braunskill*, 481 U.S. 770 (1987), the Court articulated that stays

are warranted when there is a fair prospect of success on the merits, especially in cases involving fundamental rights. The constitutional question at the heart of this case—whether a state court can impose such an overbroad vexatious litigator designation—presents precisely the type of issue that warrants intervention by this Court. The Sixth Circuit’s ruling in *Schetter v. McCullough*, 812 F.3d 348 (6th Cir. 2016), further supports the need for a stay, as it underscores the potential for punitive consequences that can arise from such designations.

There is growing inconsistency among the courts of appeals regarding the criteria for determining whether a litigant is vexatious. For example, in *Restrepo v. All. Riggers & Constructors, Ltd.*, 538 S.W.3d 724 (Tex. App.—El Paso 2017), the court held that appeals and original proceedings count as separate "litigations" when determining vexatious litigant status. Similar disagreements have arisen in various state courts, reflecting the inconsistency in applying vexatious litigator designations. This growing inconsistency further emphasizes the need for this Court to intervene and provide clear guidance on the constitutional limitations of such designations.

### **The Nken Factors**

1. **Likelihood of Success on the Merits:** There is a strong likelihood of success on the merits of my petition for certiorari. The Ohio Supreme Court’s decision to designate me as a vexatious litigator raises critical constitutional concerns regarding access to the courts and due process. The split decision and Chief Justice Kennedy’s dissent highlight these constitutional issues, which warrant this Court's review.

The Ohio Supreme Court’s decision to designate me as a vexatious litigator, without a reasoned majority opinion, rests on constitutional grounds involving access to the courts and due process. As *Goldberg v. Kelly*, 397 U.S. 254 (1970), and *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996), demonstrate, any restriction on the right to access the courts must be scrutinized. Given the procedural deficiencies in the Ohio Supreme Court's decision and the ongoing harm to my constitutional rights, my case presents compelling issues for this Court’s review and need for guidance by a divided State Court.

2. **Irreparable Harm:** Without a stay, I will continue to be barred from filing legal proceedings without leave from the Ohio Supreme Court, effectively depriving me of my First Amendment right to petition the government and violating my due process rights. This restriction causes irreparable harm by preventing me from exercising my fundamental constitutional rights.

Furthermore, I will continue to be prohibited from filing legal actions without first obtaining leave from the Ohio Supreme Court, violating my First Amendment right to petition for redress and depriving me of due process. As this Court stated in *Ex parte Hull*, 312 U.S. 546 (1941), the right to access the courts is essential to the justice system and cannot be arbitrarily denied. The harm I face is irreparable, as it deprives me of a fundamental constitutional right.

3. **Substantial Injury to Other Parties:** A stay will not result in significant harm to the respondents. It will merely preserve the status quo and allow for a timely resolution of the constitutional questions at stake. The respondents' interests will not be harmed by a temporary stay.

A stay will preserve the status quo and allow for a full examination of the constitutional issues raised in my petition. *United States v. Kras*, 409 U.S. 434, 446 (1973), held that harm to constitutional rights outweighs any injury to the opposing parties. Here, there is no harm to respondents other than maintaining the status-quo until the Court decides whether to grant cert or not.

4. **Public Interest:** The public interest strongly favors granting a stay, as this case involves important constitutional issues concerning access to justice, the First Amendment, and due process. A decision from this Court will provide much-needed clarity on these issues, ensuring that fundamental rights are protected.

Moreover, the public interest favors granting a stay because this case raises important constitutional questions about access to justice and the First Amendment rights of litigants. As this Court recognized in *Nken v. Holder*, 456 U.S. 91, 99 (1982), clear and reasoned decisions are essential for protecting access to the courts and ensuring the fairness of judicial processes.

## CONCLUSION

For the reasons outlined above, I respectfully request that this Court stay the mandate of the Ohio Supreme Court's judgment and pending my application and disposition for writ of certiorari.

Respectfully Submitted,

A handwritten signature in blue ink that reads "John Paul Gomez". The signature is written in a cursive style and is positioned above a horizontal line.

### Appendix:

- **A:** Supreme Court of Ohio ENTRY on October 23, 2024, Case No. 2024-0624, *In Re: John Paul Gomez*.
- **A1.** Request for leave of court to move for a stay of mandate on October 21, 2024.
- **B:** Supreme Court of Ohio ENTRY on August 7, 2024, Case No. 2024-0624, in the matter of *State of Ohio, ex rel., John Paul Gomez v. Favreau, et al.*
- **C:** Supreme Court of Ohio Case Announcements on August 7, 2024, Case No. 2024-0624, Merit Decisions Without Opinion.
- **D:** Respondents Vexatious Litigator Motion filed on July 3, 2024.
- **E.** Memo in opposition to Respondents' Vexatious Litigator motion on July 3, 2024.
- **F.** Letter from Clerk of the Supreme Court of the United States dated November 12, 2024.
- **G.** Case No. 2024-0392 - *Bibb v. Franklin Cty. Probate Court* - Merit Decision Without Opinion decided on May 22, 2024.
- **H:** Memo filed in the Southern District Court of Ohio. Case 2:23-cv-01058 on September 3, 2024.
- **I.** Motion to Stay filed in the United States Court of Appeals to stay the district court's vexatious litigator ruling. Case no. 24-3840, filed on October 20, 2024.
- **J.** Appellant's brief filed in Case no. 24-3840, filed on December 16, 2024.
- **K.** Southern District Court of Ohio's January 31, 2024 Opinion and Order.
- **L.** Southern District Court of Ohio's September 19, 2024 Opinion and Order.
- **M.** Habeas decision rendered by the Ohio Supreme Court on August 17, 2021.
- **N.** Disqualification decision rendered by the Ohio Supreme Court on May 25, 2022.



- O. Additional support for Motion to proceed in forma pauperis.

No. \_\_\_\_

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

JOHN PAUL GOMEZ,

*Petitioner,*

v.

JUDGE DAN FAVREAU, et. al.

Respondents.

**PROOF OF SERVICE**

I, John Paul Gomez, do swear or declare that that on this December 20, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and APPLICATION FOR A STAY OF MANDATE PENDING THE FILING AND DISPOSITION OF PETITION FOR WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. The names and addresses of those served are as follows: Allen Bennet, Travis Stevens, Erin Welch, through Attorney Sarah Allyn Lodge, 200 E.

Campus View Blvd. Suite 200 Columbus, OH 43235

Dan W. Favreau, John W. Nau, and Karen Starr through Attorney Sark, Cassandra Lynn, 215 South 4th Street. P.O. Box 725 Ironton, OH 45638.

Judge Eric Martin and Judge David Bennet through Attorney Schneider, Charles Allen Two Miranova Place Ste. 700 Columbus, OH 43215

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

Executed on December 20, 2024.



Handwritten signature of John Paul Gomez in blue ink, written over a horizontal line.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**