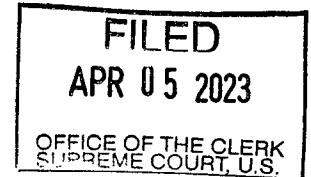


22-7403
No. _____

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2022



ANTHONY CARL ECCARIUS,

Petitioner

v.

MENDOCINO COUNTY SOCIAL SERVICES, et al.,

Respondent.

On Petition For a Writ of Certiorari to the United States Federal
District Court for the Ninth Circuit & the United States Court of
Appeals for the Ninth Circuit.

PETITION FOR WRIT OF CERTIORARI

Anthony Carl Eccarius
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Question Presented For Review

1) Shall the People exclude a single citizen's 10th Amendment power in equity?

Parties to the Proceeding

The State parties to the proceeding include the incumbent Governor for the State of California, the California Medical Board (CMB), the California Department of Fair Employment & Housing (DFEH), and Mendocino County Social Services, the County of Mendocino, Health and Human Services Agency (HHSA). Federal parties to the proceeding include the National Labor Relations Board (NLRB), the Equal Employment and Opportunities Commission (EEOC), and the incumbent President of the United States. The *pro-se* petitioner is Anthony Carl Eccarius. There were no parties to the proceeding other than those named above, and with all respect incorporated and referenced herein for caption.

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Certificate of Service.....filed separately

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- A. Mendocino County Human Resources complaint, National Labor Relations Board charge and appeal.
- B. Certified letter to incumbent California Governor with 21-page-packet, State DFEH findings and notice. California Medical Board complaint findings and notice.
- C. Equal Employment Opportunity Commission's Substantial Weight Review findings and determination, and right-to-sue notice.
- D. Incumbent President of the United States and White House correspondence.
- E. Supreme Court Justice Kagan letter requesting extraordinary review.
- F. Opinions and Orders from both the United States Federal District Court for the Ninth Circuit, and the United States Court of Appeals for the Ninth Circuit.

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PETITION FOR WRIT OF CERTIORARI

The petitioner, Anthony Carl Eccarius, respectfully petitions
this Court for a Writ of Certiorari to review the judgment and
opinion under Law and Fact of the State and Federal governance of

power. Delegated powers by the parties named herein, and organized in this request for review, before this Court where relief is sought.

Opinions and Orders Below

The original March 18, 2021, complaint sent to Mendocino County Human Resources, and the April 30, 2021, National Labor Relations Board charge filed by petitioner, including the response from the NLRB denying relief for Weingarten, dated May 7, 2021, and the denial of petitioner's 10th Amendment appeal by the NLRB, General Counsel, dated May 17, 2021, are attached hereto as Appendix A.

The June 10, 2021, USPS certified 21-page-packet letter petitioner sent to the incumbent California Governor, and the State's DFEH findings with notice of case closure for insufficient evidence, dated April 18, 2022, and the California Medical Board's complaint receipt notice, dated September 1, 2021, including their investigative findings, dated January 7, 2022, are attached hereto as Appendix B.

The April 29, 2022, petitioner request for the Equal Employment Opportunity Commission to conduct a Substantial Weight Review, and their July 27, 2022, findings and determination notice, including a right-to-sue notice, are attached hereto as Appendix C.

Petitioner's letter to the incumbent President of the United States, dated July 8, 2022, and the White House response letter, dated September 16, 2022, are attached hereto as Appendix D.

The October 25, 2022, correspondence to U.S. Supreme Court Justice Kagan requesting extraordinary review of petitioner's Habeas Corpus request, and the Clerk of the Court's response, dated October 26, 2022, are attached hereto as Appendix E.

The October 13, 2022, ORDER OF DISMISSAL; DENYING CERTIFICATE OF APPEALABILITY, and the October 13, 2022, JUDGMENT from the United States Federal District Court for the Ninth Circuit, as well as the January 4, 2023, NOTICE OF APPEAL, and the January 26, 2023, ORDER of dismissal from the United

States Court of Appeals for the Ninth Circuit, are attached hereto and incorporated as Appendix F.

Jurisdiction

According to Article 3, section 2 of U.S. Constitution, "...in all other cases before mentioned, the supreme Court shall have jurisdiction...." Insomuch as the State and a Citizen enjoy party to the proceeding, original jurisdiction is warranted and indicated as such.

Additionally, further emphasizing what is necessary and appropriate, 28 U.S.C. section 1251 assures the U.S. Supreme Court retains original jurisdiction held on matters discerning fair and equitable power distribution between two or more States, as well as granting Citizen relief in equity, to include matters of Law and Fact for review.

Timeliness of request for review falls within the 60-day time period suggested by the Clerk of the U.S. Supreme Court in

petitioner's October 25, 2022, request for Judge Kagan's exceptional review of petitioner's Habeas Corpus case from California's Federal District Court for the Northern District. (Appendix E) Aforesaid oversight and review allows this Court to further entertain and review petitioner's District case dismissal and denial to appeal, wherein said case was brought before the Federal District's court review stamped received on September 22, 2022.

The District Court dismissed petitioner's case and denied petitioner *Certificate of Appealability* asserting lack of jurisdiction on October 13, 2022. Petitioner filed Notice of Appeal with the United States Court of Appeals for the Ninth Circuit on January 3, 2023. The U.S. Court of Appeals ordered dismissal of petitioner's case on January 26, 2023, for lack of jurisdiction. (Appendix F) Petitioner offered the United States Supreme Court Writ of Certiorari on December 27, 2022, and again including an Addendum to Petition on April 11, 2023. Illustrated further, the Justices' October, 2022,

term-assigned Federal District Court oversight, opines request and review as the Court may so seasonably entertain.

Rule 13 for this Court provides 90-days for petitioner to file request for a Writ of Certiorari to the Federal District Court's ruling(s), as well as those of the U.S. Appeals Court, of which petitioner is within said time period to offer request.

Jurisdiction under this Court, according to the Judiciary Act of 1789, including application of the *Great Writ*, supports earlier original Court privilege as the National Labor Relations Act of 1935 ought not decide important Federal Law questions, as is aggrieved and relied upon in-part herein, in a way that conflicts with relevant decisions of this Court as detailed in Rule 10(c). Declared further, no other reasonable Federal, State, or Judicial remedy proved available, and additional inquiries as to Law and Fact for critique supports due cause for review, as well as on a last resort plea.

This Court's jurisdiction will serve to define, expand, and interpret individual American citizen 10th Amendment power, in aid

of both the appellate and the People, as well by encouraging future democratic participation and emphasizing a path toward greater social capital and the expansion of commerce. The appellate would preserve delicate last resort efforts and appeals seeking individual 10th Amendment equity, protection, and privilege. Frayed matters of Law and Fact are best suited for this Court to review under original jurisdiction, as indicated and satisfied by the petitioner thus far, and respectfully incorporated and relied upon herein.

Constitutional and Statutory Provisions Involved

A. Federal Constitutional Provisions

The Fifth Amendment of the United States Constitution provides, in part: "...nor be deprived of life, liberty, or property, without due process of law...."

The Tenth Amendment of the United States Constitution provides: "The powers not delegated to the United States, nor

prohibited by it to the States, are reserved to the States respectively, or to the People.”

The Fourteenth Amendment of the United States Constitution provides: “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.”

The National Labor Relations Act, Section 2(2), provides: “The term ‘employer’ includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States....”

B. State Statutory Provisions

The Tenth Amendment of the United States Constitution provides: “The powers not delegated to the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the People.”

Statement of the Case

Petitioner maintained employment with the County of Mendocino, in the State of California, between May 15, 2015 and May 15, 2021.

On Wednesday morning, March 17, 2021, the petitioner received an inter-office email from SEIU Local 1021's Union representative. The email acknowledged the representative's awareness of the Weingarten situation having occurred during Tuesday's late afternoon staff meeting between petitioner and management, prior to stopping work that day. The SEIU representative further offered, "We have a meeting coming up with HHSA management that I think would be the best venue to bring this up in." Finally, the representative adds, "There is no exemption for Weingarten Rights because a manager thinks some of the information might be sensitive or confidential."

During six years of employment with the County of Mendocino, petitioner contacted Human Resources once previously

for a complaint of discrimination on October 16, 2019. Petitioner utilized trainings and similar basic knowledge of County policy and procedure as he had in 2019. A Weingarten violation report to human resources seemed most reasonable given petitioner's overall reported concerns since 2019. Compounded with the current situation from Tuesday's staff meeting outcome, importance was now escalated. Petitioner submitted said complaint to the County's Human Resources department on Thursday, March 18, 2021. Ahead of petitioner's next regularly scheduled shift on Monday, March 21, 2021, worsening and increasing medical and mental health symptoms led petitioner to utilize accumulated sick leave, then estimated to last through April 19, 2021, and was physician-documented on behalf of the petitioner for timely County employee records. As petitioner's symptoms persisted, he soon applied for and was granted disability leave under California's State Disability Insurance program (CASDI) starting March 30, 2021. Petitioner has a

decades-long medical history of recurring mental illness, related disability, with consistent treatment.

Petitioner sent an email on April 26, 2021, to SEIU Local's 1021 representative requesting disability accommodation, to which the rep. stated he was unclear of both the Weingarten situation, as well as what disability leave considerations are agreed upon petitioner's return to work. The rep. added further, "I'm not sure what you are asking for," and continued, "I heard from [STAFF STEWARD] that he had attended the meeting but then left when the manager said it wasn't a discipline meeting."

Petitioner filed charge with the National Labor Relations Board for Weingarten review on March 30, 2021, and subsequently, 30 days later, the Case was filed with the Board on April 30, 2021. The NLRB dismissed the case on May 7, 2021, for lack of jurisdiction, asserting Section 2(2) established under the National Labor Relations Act (NLRA) of 1935, thereby disallowing recognition of petitioner's 10th Amendment right, without grievance accountability, on the

basis that Mendocino County is immune or exempt from Court oversight through the *Act's* employer provision. NLRB notice for appealing the Board's decision to dismiss was provided for petitioner to contact the NLRB General Counsel in Washington, D.C., supporting petitioner's appeal.

Petitioner appealed the Board's decision to dismiss on May 16, 2021, and provided for record the following improvised appeal:

"As an American, I Anthony Eccarius do hereby Appeal the decision to dismiss and humbly invoke my 10th Amendment right under the United States Constitution, wherein excess power supplants my right to due process under the same enumerated powers acting to dismiss my grievance through impunity."

Petitioner received receipt confirmation of appeal and accompanying material on May 17, 2021. Not long after receipt, the General Counsel of the NLRB offered denial on May 24, 2021, stating current NLRB board law as measure for reason, and reiterated the Board's stance from May 7, 2021, holding the National Labor Relations Act permits disallowing recognition of petitioner's 10th Amendment right, without grievance accountability, on the basis

that Mendocino County is immune or exempt to Court oversight through the *Act's* employer provision. (Appendix A)

On June 10, 2021, petitioner mailed incumbent California Governor via United States Postal Service (USPS) Certified mail with return receipt, a 21-page-packet requesting an investigation, and included correspondence material and supportive evidence for the Governor's consideration. Petitioner received postal-receipt verification from the Governor's office on June 14, 2021. Petitioner also faxed the same 21-page-packet of material to the incumbent California Governor, verified as confirmed sent on June 10, 2021. Finally, petitioner provided same 21-page-packet copies digitally to each the NLRB and the DFEH via file upload to public-provided digital portal case management access.

On July 28, 2021, petitioner signed a California DFEH drafted complaint alleging that discrimination and retaliation had occurred, and provided relevant interview and material evidence for State investigation and review. The 180-day guideline provided by the

State to investigate said complaint had elapsed, and petitioner received notice the investigation had concluded, with the complaint closed for insufficient evidence on April 18, 2022. (Appendix B) Petitioner requested an EEOC Substantial Weight Review on April 29, 2022, and was later notified on July 27, 2022, their Substantial Weight Review determination findings simply were to adopt State or local government agency's investigative findings. (Appendix C)

On September 1, 2021, petitioner filed complaint with the California Medical Board alleging malpractice, fraud, etc., whereby treating physician was found to have correctly assessed petitioner's medical disability claim (CASDI). The Board determined insufficient evidence to meet the Medical Board's burden-of-proof, which is higher than that of most civil case proceedings. On January 7, 2022, petitioner received correspondence stating that the California Medical Board's review of the complaint had been completed and was now closed. (Appendix B)

On July 8, 2022, petitioner mailed a letter to the incumbent President of the United States requesting support. Then, on September 22, 2022, petitioner received White House correspondence confirming petitioner's request for White House support, therein offering the administration's help and advocacy by indicating supportive direction provided to the appropriate Federal agency. (Appendix D)

Petitioner filed a Writ for Habeas Corpus with Northern California's Federal District Court for the Ninth Circuit on September 22, 2022, requesting Court intervention, oversight, and relief. The District Court dismissed petitioner's case and denied petitioner *Certificate of Appealability* asserting lack of jurisdiction on October 13, 2022. On January 3, 2023, petitioner filed Notice of Appeal with the United States Court of Appeals for the Ninth Circuit. On January 26, 2023, the Court dismissed the case for lack of jurisdiction. On December 27, 2022, petitioner offered Writ of Certiorari with the U.S. Supreme Court, and again on April 11, 2023,

requesting to add an Addendum to the prior December 27th petition. (Appendix F) The Clerk of the United States Supreme Court offered 60-days from April 12, 2023, for Writ re-submission.

Reasons for Granting the Writ

This Court Should Allow The Writ In Order To Decide Important Questions Of 10th Amendment Constitutional Law, To Resolve Conflict In State And Federal Courts On This Issue, And Determine Continuing Validity Of The National Labor Relations Act of 1935.

Petitioner has a significant medical history of mental illness, with recurrent major episodes, hospitalizations, and disability, as well as consistently-received treatment for more than thirty years.

In March of 2021, when petitioner contacted Mendocino County Human Resources (HR) to make a Weingarten complaint, it was not known what would result. Petitioner only knew County HR would hopefully investigate as they had done previously with petitioner's 2019 complaint to HR. Petitioner was not aware the

many complications, and acknowledged the matter would simply be met with similar 2019 cooperation from HR. Mendocino County staff, and likely other bad actors, acted in poor faith of 42 U.S.C. 1983 by subjecting petitioner to deprivation of his civil rights.

The National Labor Relations Board, in their May 7, 2021 and May 24, 2021, decisions, denied and violated petitioner's Constitutional right of appeal and 10th Amendment protection. The National Labor Relations Act (NLRA) of 1935 provides with Section 2(2) a provision allowing Government employers to illegally suspend and deny 10th Amendment protection over citizen employees, without permission, oversight, or due process. The Judicial Act of 1789 surely did not intend for the NLRB or the National Labor Relations Act to be so inherently unconstitutional in its application as to usurp the Bill of Rights. An American enjoys Constitutional protections commensurate with the NLRA, or the Act is plainly unconstitutional as is, lacking equal protection. Equal protection is guaranteed by the 14th Amendment of 1868, and

requires the 1935 National Labor Relations Act to extend the same guarantee of equal 10th Amendment protection. Admittedly, while perhaps not simply decreed as virtue, 10th Amendment power delegated to the People ought not exclude each citizen's power in equity. Federal and State delegated powers have a precedence and a legislative narrative, all capitulation of power to the People also ought not exclude each citizen's power in equity for design.

The incumbent California Governor served as petitioner's last resort means to timely State contact and notice to in-part address the mishandling of Constitutional rights, in addition to simply seeking State review, support, and appreciation. The State's DFEH investigative findings and disclosure to petitioner were not inclusive as to reflect email disclosure evidence *seized* from the petitioner when digital County employee access was abruptly terminated during petitioner's disability. This seizure of digital evidence occurred without notice and affords convenience to the State, detriment to the petitioner, and expense for the People, rather than

simply being representative to its People. Petitioner was able to photo-document some necessary and sufficient emails before this digital seizure of evidence occurred. Petitioner also provided said photo-documented evidence to the DFEH for State record through digital case management access.

Petitioner's complaint to the California Medical Board seemed an appropriate due diligence measure. Petitioner provided an overview of grievances to the Board, and was neither part of their direct investigation, nor was petitioner provided with inclusive disclosure of investigative steps and exclusive Medical Board findings per discovery. Between the Governor of California and the California Medical Board, the petitioner is advocating for State requirements of delegated powers, as is indicated in the 10th Amendment. California had a Special Gubernatorial Recall Election beginning in August 2021, and ending in September 2021, timely capturing the voice of the People and their vote for State representation. This Special Election occurred after petitioner's

appeal to the Governor, and ended before petitioner's State DFEH investigation had ended. The incumbent California Governor maintained privilege of office upon results of the Recall Election. Petitioner received no direct contact from the Governor's office since June 14, 2021. Petitioner invoking his 10th Amendment right before the NLRB is mutually exclusive from petitioner exercising his right to vote in the 2021 Special Gubernatorial Recall Election for the People of California.

Rule 10 of this Court indicates the Court may exercise discretion over petitioner's 10th Amendment appeal for compelling reasons. Petitioner's broad 10th Amendment declaration in aid to the appellate certainly garners concern for extra measure, this seems especially compelling where an American citizen invokes 10th Amendment protection, afforded here through an appeal, despite lack of control over jurisdiction and clarity for the Court. Included broader admiration is commonly afforded to other protections in the

Bill of Rights, such as “pleading the 5th” or exercising one’s right to free speech.

The opinions and orders provided by the Federal District Court for the Ninth Circuit asserts petitioner not being “in custody” as a reason for petitioner’s dismissal. *Maleng v. Cook*, (1989), highlights the fact that this Court continues its struggle to define being “in custody” as related to disputed jurisdiction now 65 years since the original 1958 conviction date. In *Jones v. Cunningham*, (1963), the Court determined the custody requirement had been met for jurisdictional “in custody” purposes, because the prisoner was on parole and subject to Court oversight. Similarly, in the same manner for which a parolee is subject to “custody and control” oversights by Court officers, this petitioner too is subject to the custody and control of Court officers required for this Court to review petitioner’s Habeas Corpus assertions, grievances, etc. Habeas Corpus cannot be defined simply in terms of “in custody” as *the body is being brought forward* to then challenge legal status as well

as the *body's* custody. Any disputes regarding the insufficient termed "in custody" syntax ought not prevent the Court from hearing petitioner's Habeas Corpus assertions, as the legality of custody is separate from actual custody. The NLRB is holding this petitioner "in custody" to a refuted 10th Amendment appeal by depriving petitioner of life, liberty, or property, without due process of law, as promised by the 14th Amendment, and the 5th Amendment. Further supporting this, the NLRB clearly asserted required jurisdictional standing in Mendocino County as criterion for denying petitioner's appeal of 10th Amendment privilege, which means the custody requirement for jurisdiction was satisfied in denying petitioner on May 7, 2021, and the Federal District Court for the Ninth Circuit erred in its decision by not adjudicating equal protections to the petitioner, and failing to send petitioner two copies of the District Court's civil rights complaint form. If the custody requirement is jurisdictional, and the NLRB established necessary and sufficient jurisdiction when denying petitioner equal relief, then the District


Court, and the NLRB, ought to instead yield to this Court to better address how the 10th Amendment intersects with the NLRA.

The President of the United States recently said that “capitalism without competition is exploitation.” Failing to uphold 10th Amendment protections equally for all Americans instead endorses exploitation and inequality between Americans. Petitioner is both a protected citizen and an employee at the same time, not separate and unequal as the NLRB suggests. Americans are Constitutional seeds of the same plant, each having the same innate basic requirements to be dignified.

For all of the above reasons, petitioner respectfully prays for relief and requests the writ be allowed.

Dated: April 22, 2023

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. C. Eccarius', written over a horizontal line.

Anthony Carl Eccarius
Pro Se Petitioner