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SUPREME COURT OF ARIZONA

<p>JEFFREY D. MOFFATT, Petitioner, v. Hon. William J. O'Neil, Presiding Disciplinary Judge</p>	<p>Arizona Supreme Court CV-160021 PDJ 2015-9115 [State Bar File No. 15-1449] PETITION FOR WRIT OF MANDAMUS -Amended</p>
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1. Zeller v. Rankin, 451 U.S. 939, 68, 101 S. Ct. 2020, 68 L. Ed. 2d 326 (1981) L.Ed 2d 326
2. TORTIOUS. Wrongful; of the nature of a tort. TORT (from Lat. torquere, to twist, tortus, twisted, wrested aside). A private or civil wrong or injury.
3. Stump v. Sparkman, 435 U.S. 349, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978)
4. The Legal Tender Cases, 110 U.S. 421, 4 S. Ct. 122, 28 L. Ed. 204 (1884)
5. Cannon v. Tinkham, 99 F.2d 133 (D.C. Cir. 1938);
6. Piper v. Pearson, 68 Mass. 120 (1854), cited in Bradley v. Bradley v. Fisher, 80 U.S. 335, 20 L. Ed. 646 (1871)

7. Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938)
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11. Marbury v. Madison, 5 U.S. 137, 180, 2 L. Ed. 60 (1803)
12. Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401, 3 L. Ed. 2d 5 (1958)
13. In re Sawyer, 124 U.S. 200, 8 S. Ct. 482, 31 L. Ed. 402 (1888); United States
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SOURCE:

<http://www.nationallibertyalliance.org/files/footnotes/Judicial%20Immunity.pdf>

RELIEF REQUESTED

WHEREFORE, Jeffrey D. Moffatt, Petitioner licensed by the State of Arizona on July 9th 2002, as attorney of the State of Arizona, petitions this Court for a Writ of Mandamus pursuant to Arizona Statute Chapter 11, Extraordinary

Legal Remedies – Mandamus, Article 2, §12-2028, reversing the Final Judgment and Order of Disbarment dated April 19th 2016, in [PDJ-2015-9115, State Bar of File No. 15-1449] *because William J. O’Neil’s “Oath of Office,” lacks jurisdiction* to disbar any attorney licensed WITHIN the State of Arizona and specifically Petitioner, in this case. Attached hereto is a true and correct copy of said Final Judgment and Order of Disbarment, marked as **Exhibit P1**.

ISSUE PRESENTED

Whether the State of Arizona requires an “Oath of Office” prior to a judge having jurisdiction over any court proceedings pursuant to the Arizona State Constitution and United States Constitution?

FACTUAL BACKGROUND

William J. O’Neil, Presiding Disciplinary Judge has not been sworn the same oath as mandated-required in the Arizona State Constitution, in order to be a lawful officer of the Arizona State Supreme Court, with the position of Presiding Disciplinary Judge. Attached hereto is a true and correct copy of what is purported to be the “Oath of Office” for William J. O’Neil, marked as **Exhibit P2**.

Therefore, Petitioner Jeffrey D. Moffatt speaking on behalf of himself, as well as all licensed attorneys and disbarred attorneys of the Arizona State Supreme Court, commences this Oath Challenge of William J. O’Neil. This challenge has

infinite merit regarding jurisdiction, such that O'Neil had no authority over Petitioner's case or any other case before the State Bar. William J. O'Neil's "Oath of Office," is so fatally flawed, that as it stands, this allows him to escape supporting and upholding both the Arizona State Constitution as well as the United States Constitution. Consequently, William J. O'Neil is a public safety threat to the State and any persons whom come before O'Neil, when he himself is not under Oath, to support the Arizona State Constitution or the United States Constitution, thereby making all Rulings, Orders and Decisions, "Null and Void."

Respondent William J. O'Neil's, "Oath of Office," is defective on its face for "ALL" the following pertinent reasons:

1. "Oath of Office", attached as **Exhibit #P2**, has not been subscribed with a signature and printed name (authenticated) by William J. O'Neil, pursuant to Ariz. Rev. Stat. Ann. § 38-231(E);
2. "Any officer or employee who fails to take and subscribe to the oath or affirmation provided by this section within the time limits prescribed by this section is not entitled to any compensation until the officer or employee does so take and subscribe to the form of oath or affirmation prescribed by this section," Ariz. Rev. Stat. Ann. § 38-231(B);

3. "Oath of Office" purported to be of William J. O'Neil does not have a time stamp by Deputy Court Clerk, as being received for filing with the Arizona Secretary of State;
4. "Oath of Office", purported to be for William J. O'Neil does not indicate what court jurisdiction O'Neil will be presiding over in the position of Presiding Disciplinary Judge;
5. "Oath of Office", purported to be for William J. O'Neil does not indicated the Oath of Office was sworn before a Notary Public;
6. "Oath of Office", purported to be for William J. O'Neil does not indicate a Notary Public conferred authenticity to Oath as a solemn promise to support the U.S. Constitution pursuant to Ariz. Rev. Stat. Ann. § 38-231(a)-(f);
7. "Oath of Office", purported to be for William J. O'Neil does not indicate a Notary Public conferred identity of O'Neil, pursuant to Ariz. Rev. Stat. Ann. § 38-231(a)-(f);
8. "Oath of Office", purported to be for William J. O'Neil does not indicate an Appointing Official (normally Governor) or initial terms to begin and end. "The "Oath of Office " applicable to "O'Neil" is absent compliance with the State of Ariz. Const. art. VI, § 37 and nor does the "Oath of

Office” have a begin date or an expiration date in accordance with Ariz. Const. art. VI, § 37;

9. “Oath of Office”, purported to be for William J. O’Neil does not indicate O’Neil being sworn in before the Arizona State Supreme Court, “at a salary as provided by law,” for the duties of Presiding Disciplinary Judge, pursuant to Ariz. Const. art. VI, § 37;
10. “Oath of Office,” purported to be for William J. O’Neil, is absent being registered and filed with the Arizona Secretary of State, statutorily required pursuant to Ariz. Const. art. VI, § 26.

“Oath of Office for the Ariz. Const. art. VI, § 26, reads in pertinent part: “Each ...judge ... shall, before entering upon the duties of his office, take an subscribe an Oath that he will support the Constitution of the United States and the Constitution of the State of Arizona, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.

The Oath of all judges of courts inferior to the superior court and the oath of justices of the peace shall be filed in the office of the county recorder, ***and the oath of all other justices and judges shall be filed in the office of the secretary of state.***” Therefore, Ariz. Const. art. VI, § 26, “Oath of Office,” purported to be for William J. O’Neil, is defective on its face, because it fails to meet the statutory

compliance with Arizona State Constitution. Thereby making the Final Disbarment Judgment against Petitioner is “Null and Void.”

Respondent, William J. O’Neil, by failing to take a “lawful Oath” pursuant to the State of Arizona Constitution to support, defend and uphold the Constitution of the United States, also warrants purview of the Federal Statutes, United States Code, 28 U.S.C.A. § 372 (West) et seq. regarding the removal of judges from office, when violating the required “Oath of Office.”

Respondent has violated his Oath to support the Constitution for the United States of America and Arizona State Constitution by denying Due Process, Equal Protection of the Laws, Disbarring Petitioner, when in fact Respondent had not in fact authenticated a statutory “Oath of Office. Therefore all Decisions, Orders, Sanctions and Final Judgment and Order of Disbarment, are “Null and Void,” entered against Petitioner and other wrongfully disbarred Arizona attorneys (Licensed Attorneys) Suspended Attorneys.

Respondent William J. O’Neil , without lawful authority, has intentionally deprived Petitioner of his license, thus causing irreparable harm to Petitioner’s reputation, which goes against the spirit under Canon 2, of the Code of Judicial Conduct.

Furthermore, Rule 81 under Canon 2, Respondent William J. O'Neil is in violation of the Code of Judicial Conduct, "a judge shall perform the duties of Judicial Office, Impartially, Competently and Diligently." A.R.S. Sup.Ct.Rules, Rule 81, Code of Jud.Conduct, R.81, Canon 2, Refs & Annos. Since Respondent's "Oath of Office" was not a lawful Oath, this creates an impossibility for Respondent O'Neil to be bound to support or uphold either the State Constitution of Arizona or the United States Constitution; Petitioner has been deprived his Constitutional protections guaranteed to Petitioner. Respondent usurped clearly established law and Constitutional prohibitions, and clearly had a special interest in violating Petitioner's rights.

Petitioner's wife's is a Republican State Senate Candidate and Petitioner is a Republican candidate for U.S. Congress, (2016); Respondent issuing an unlawful disbarment order impacts both state and Federal elections. Respondent has also violated his Code of Judicial Conduct to be impartial; Respondent has not been able to separate his Democratic personal views when dealing with Petitioner being a Republican U.S. Congressional Candidate.

Despite the fact Respondent issued a ruling past the statute of limitations, when done via fatal Oath issues, Respondent's rulings have no weight. When Respondent prosecuted Moffatt in light of Federal Jurisdiction being challenged, combined with being aware the State Bar of New Mexico, already Petitioner

adjudicated this same case before, in favor of Petitioner over 2 years ago should give some basic credibility to Petitioner in the appeals process; the fact Respondent was acting totally in an unauthorized matter creates liability for Respondent, as well as should remove the illegal and improper ruling in the present case. The fact that Respondent's entire body of other rulings are also void creates such a maelstrom of problems for Respondent that Petitioner does not even want to fathom the impact this will have on this Bodies trial colander; this goes down along the lines of the CIA's DNA department being recently found to be fraudulent, and all cases that were convicted using said DNA are being summarily reversed.

JUDICIAL IMMUNITY IS A FICTION

Here is a body of work, put together loosely such that the Court understands authority exists to hold Judges accountable, and reverse both judgments as well as hold said judges individually accountable. "When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost 1." ... "A judge is not immune for tortuous 2 acts committed in a purely Administrative, non-judicial capacity 3." ... "There is no such thing as a power of inherent sovereignty in the government of the United

States. It is a government of delegated powers, supreme within its prescribed sphere, but powerless outside of it. In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution, entrusted to it; all else is withheld 4 ... "There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is never-the-less liable in a civil action and cannot claim the immunity of the sovereign 5 ". ... "Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction 6 ." ... "A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts 7."

"When a judicial officer acts entirely without jurisdiction or without compliance with jurisdiction requisites he may be held civilly liable for abuse of process even though his act involved a decision made in good faith, that he had jurisdiction 8 ." ... "No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence 9 ." ... "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it... It is the only supreme power in our system of government, and

every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives 10 ."

"All law (rules and practices) which are repugnant to the Constitution are VOID. ... NO State shall make or enforce any law which shall abridge the rights, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law", this renders judicial immunity unconstitutional 11 ." ... "Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason 12 ." ... "no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it 13 ". **SOURCE:**

<http://www.nationallibertyalliance.org/files/footnotes/Judicial%20Immunity.pdf>

THIS COURT MUST ISSUE A WRIT OF MANDAMUS REVERSING THE RULING OF WILLIAM J. O'NEIL BECAUSE O'Neils "OATH OF OFFICE" IS DEFECTIVE ON ITS FACE

Petitioner Re-alleges Page one through Page nine, inclusive all paragraphs and below Conclusion.

CONCLUSION

WHEREFORE, Petitioner respectfully demands an investigation forthwith to ensue against future Judicial Misconduct by the above named William J. O'Neil who appears not be subscribed or affirmed before the Arizona State Supreme Court, by way of taking an "Oath of Office". Attached, herein is a true and correct copy of document purported titled "Oath of Office" marked as **Exhibit P2**.

Upon a finding of reasonable cause or suspicion, for the proscribed violation "Oath" not subscribed-authenticated, by William J. O'Neil, Petitioner Jeffrey D. Moffatt, requests the Court rescind (vacate Disbarment Order) because William J. O'Neil did not authenticate or affirm his "Oath of office", before the Arizona State Supreme Court.

Upon a finding of reasonable cause or suspicion, for the proscribed violation "Oath" of office, forthwith rescind (vacate Disbarment) of the above named Petitioner-Jeffrey D. Moffatt, because William J. O'Neil did not authenticate said Oath, before a Notary of Republic, who would have verified William J. O'Neil's identity as authorized to practice day-to-day operations before the Arizona State U.S. Supreme Court, position title Presiding Disciplinary Judge.

WHEREFORE, Respondent William J. O'Neil in his role interpreting Federal U.S. Constitutional Laws, State Constitutional Laws and other laws, his actions were meant to remain above tilting the scales of justice to injustice, by taking "Oath of Office" for the State Supreme Court of Arizona as Disciplinary Presiding Judge.

WHEREFORE, "State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law," even in the course of dealings with other attorneys licensed by the Arizona State Supreme Court, dues paying members of the State Bar of Arizona and specifically including Petitioner Jeffrey D. Moffatt, licensed by the State Supreme Court of Arizona.

WHEREFORE, Petitioner respectfully requests that his name be added back on the Roll of Attorneys licensed within the State of Arizona.

WHEREFORE, Petitioner respectfully requests that the court strike all motions and to strike all answers filed as responses of William J. O'Neil, Presiding Disciplinary Judge, because a statutorily "Oath of Office" had not been perfected as a "lawful Oath."

WHEREFORE, Petitioner respectfully requests that this Court to grant the Petition for Writ of Mandamus reversing the Final Judgment and Order of Disbarment dated April 19th 2016, in [PDJ-2015-9115, State Bar of File No. 15-1449] *because William J. O'Neil's "Oath of Office," lacks jurisdiction* to disbar any attorney licensed by the State of Arizona and specifically in this case Petitioner.

The Final Judgment and Order of Disbarment dated April 19th 2016, William J. O'Neil does not have jurisdiction due to defective "Oath of Office," not granted by the Arizona State Supreme Court.

For all the foregoing reasons, the petition for Writ of Mandamus is appropriate because Petitioner will be damaged or prejudiced in a way not correctable on appeal.

Respectfully submitted this 9th day of May 2016.

/s/

Jeffrey D. Moffatt, Attorney-Petitioner

STATEMENT OF RELATED CASES

To the knowledge of counsel, a related case is pending before this Court, in Case No. 16-15292, 9th Circuit Court of Appeals.

CERTIFICATE OF SERVICE

I hereby certify that on this 9th May 2016, I served the foregoing Petition for Writ of Mandamus by causing an electronic filing to the following individuals:

Copies of the foregoing e-mailed

This 9th day of May 2016 and mailed May 10, 2016 to:

Nicole S. Kaseta
State Bar of Arizona
4201 N. 24th street, Suite 100
Phoenix, Arizona 85016-6266
Email: Nicole.kaseta@staff.azbar.org

Payment Details

Filing Type	Appellate Courts Filings
Jurisdiction	Arizona Supreme Court - Arizona Supreme Court
Form Set #	1800244
Case #	CV-16-0021
Keyword/Matter #	
Submission Name	JEFFREY D MOFFATT v HON. O'NEIL/STATE BAR
Transaction Date	05/12/2016 3:48 PM MST
Transaction #	2U603019T2810770D
Payment Status	Paid
Paid By Credit Card	Visa Nickname: boa
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