

No. _____

In The
Supreme Court of the United States

BEVERLEY R. NETTLES,

Petitioner,

v.

CYNTHIA C. BULLINGTON, *et al.*,

Respondents.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Sixth Circuit**

PETITION FOR WRIT OF CERTIORARI

BEVERLEY R. NETTLES
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QUESTION PRESENTED

Whether the existence of probable cause should be a factor to preclude a retaliatory-claim under 42 U.S.C. § 1983 for a person's prior exercise of their constitutional right as a matter of law.

PARTIES TO THE PROCEEDING

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding whose judgment is the subject of this petition in their official and individual capacity are as follows:

Cynthia C. Bullington
William E. Collette
Marvin Robertson
Paul F. Fischer
Michigan Judicial Tenure Commission,
Michigan Attorney Grievance Commission,
John F. Van Bolt
Ingham County
John R. McGlinchey
Michigan Attorney Discipline Board

The following parties were dismissed in the lower courts:

Michigan Supreme Court
Daniel Nickerson
Angela Morgan
Alan M. Gershel
Philip J. Thomas
Richard Keusch
Ing. Cty. Circuit Court Judge
Mark Armitage

RULE 29.6 STATEMENT

The petitioner is an individual not a nongovernmental corporation, and does not have a parent corporation or shares held by a publicly traded company.

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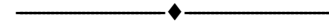
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Petitioner, Beverley R. Nettles (Nettles) respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit.



OPINIONS BELOW

For cases from the federal courts:

The decision of the United States Court of Appeals Sixth Circuit *Beverley R. Nettles v. Michigan Supreme Court et al.*, appears at Appendix 1 to the petition and is reported as an order affirming the district court judgment; before Panel, Keith, Kethledge, and Thapar, No. 18-1486, January 14, 2019, Unpublished.

The opinion of the federal court, western district *Beverly (sp) R. Nettles v. Michigan Supreme Court et al.* appears at Appendix 2 to the petition and is reported as an order and judgment granting all respondents motion to dismiss with prejudice, Bullinton's motion without prejudice, issued by Chief Judge Robert J. Jonker, No. 1:17-CV-0004, March 26, 2018, Unpublished.

The decision of the Federal Court, Western district *Beverly (sp) R. Nettles v. Cynthia C. Bullington, et al.* appears at Appendix 3 to the petition and is reported as an order dismissing Fischer and Nickerson's motion for sanctions, issued by Chief Judge Robert J. Jonker, No. 1:17-CV-0004, September 7, 2018, Unpublished.

The opinion and order of the Federal Court, Eastern District, *Hon. Beverley Nettles-Nickerson v. Paul Fischer*, is reported as granting Fischer's motion to Dismiss, No. 07-CV-1186, February 11, 2008, Unpublished.

The opinion and order of the United States Court of Appeals Sixth Circuit *Sylvia James v. Hilliard Hampton, et al.*, is reported as a reversal and remand before Cole, Griffin and Gwen, No. 12-1453, January 30, 2013, Unpublished.

The opinion of the United States Court of Appeals Sixth Circuit *Sylvia James v. Hilliard Hampton, et.al.* is reported as an order to remand before a Panel, Cole, Keith and Batchelder, No. 14-1151, January 7, 2015, Unpublished.

For cases from the state courts:

The Master's Findings of Fact and Conclusions of Law, Hon. Beverly (sp) Nettles Nickerson, is reported to the Judicial Tenure Commission, for removal of Nettles from the bench, issued by Hon. Leo P. Borrello, Formal Complaint No. 81, February 12, 2008, Published.

The Judicial Tenure Commission Decision and Recommendation For Order of Discipline, is reported to the Michigan Supreme Court, for removal of Nettles from the bench, Cost \$128,861.26, Complaint 81, Issued by Chairperson Hon. Barry M. Grant, April 21, 2008, Published.

The opinion and order of the Michigan Supreme Court, *In re Nettles-Nickerson*, 481 Mich. 321 (2008), is reported as adopting the Judicial Tenure Commission recommendation, removing Nettles from the bench, reducing Costs \$12,000.00 issued by Justice Michael F. Cavanagh, June 13, 2008, Published.

The opinion and order of the Kent County Circuit Court, Family Division, *Beverley Nettles-Nickerson v. Daniel E. Nickerson, Jr.*, is reported as Denying Motion to Set Aside Judgment of Divorce, issued by Judge Paul J. Denefeld, No. 05-08135-DM, October 2, 2009, Unpublished.

The decision, Attorney Discipline Board, Hearing Panel #2, *Grievance Administrator v. Beverley Nettles-Nickerson* is reported as finding one misconduct violation, signed by John Van Bolt, Chair Attorney Discipline Board Order of Discipline, issued by Chairperson Raymond R. Behan, No. 08-61-GA, May 26, 2010, Published

The decision, Attorney Discipline Board, Hearing Panel #2, *Grievance Administrator v. Beverley Nettles-Nickerson* is reported as Order of Suspension, 2 years 11 months, commencing September 17, 2010, Costs, \$3,580.47, issued by Chairperson Raymond R. Behan, No. 08-61-GA, August 10, 2010, Published

The decision, Attorney Discipline Board, *Grievance Administrator v. Beverley Nettles-Nickerson* is reported as an Order Denying Stay of Discipline and Petition for Review as Untimely, issued by Chairperson William J. Danhof, No. 08-61-GA, October 13, 2010. Published

The decision, Attorney Discipline Board, Hearing Panel #1, In The Matter of the Reinstatement Petition of Beverley Nettles, P 37191, reported as a Report, Granting Reinstatement, record open 60 days to allow Nettles to voluntarily produce suggested evidence, it is not fatal to reinstatement, perhaps with conditions, issued by Chairperson Nancy A. Wonch, No. 13-122-RP, August 28, 2014. Published

The decision, Attorney Discipline Board, Hearing Panel #1, In The Matter of the Reinstatement Petition of Beverley Nettles, P 37191, is reported as a Supplemental Report, Denying Reinstatement, Itemization of Costs, \$529.86, issued by Chairperson Nancy A. Wonch, No. 13-122-RP, November 13 2014, Published

The decision, Attorney Discipline Board, Hearing Panel #1, In The Matter of the Reinstatement Petition of Beverley Nettles, P 37191, is reported as Order Granting Motion for Immediate Consideration, Order Denying Motion for Rehearing/Reconsideration, Order For Payment Of Costs, \$529.86, issued by Chairperson Nancy A. Wonch, No. 13-122-RP, January 27, 2015, Published

The decision, Attorney Discipline Board, In The Matter of the Reinstatement Petition of Beverley Nettles, is reported as an Order Affirming Hearing Panel Order Denying Petition For Reinstatement, Order of Costs, \$108.84 issued by Chairperson Lawrence G. Campbell, No. 13-122,-RP, November 5, 2015, Published

The discretionary decision of the Michigan Supreme Court, *In The Matter of the Reinstatement Petition of Beverley Nettles*, is reported as Denying Nettles Application for Leave to Appeal the Attorney Discipline Board Order as Untimely, issued by Michigan Supreme Court Clerk Larry S. Royster, ADB No. 13-000122-RP, March 3, 2016, Unpublished.



JURISDICTION

Petitioner seeks review of the decision of the United States Court of Appeals For the Sixth Circuit entered January 14, 2019. This Court's jurisdiction rests under 28 U.S.C. § 1254(1)



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C. § 1983 provides, in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . .



INTRODUCTION

This Court recently granted certiorari in *Fane Lozman v. City of Riviera Beach, Florida*, 585 U.S. ___ (2018) to resolve a conflict dividing federal courts. The applicable precedent that governs First Amendment retaliatory arrest claims. *Mt Healthy City Bd. of Ed. v. Doyle*, 429 U.S. 274, 285-287 (1977) or *Hartman v. Moore*, 547 U.S. 250, 265-266 (2006). Under *Mt. Healthy* a two-prong test is applied. First, a person must prove a retaliatory injury is the direct result of their protected activity then the burden shifts to prove the injury is the direct result of unprotected activity. Under *Hartman*, a person must plead and prove a lack of probable cause as an element of a First Amendment retaliatory-prosecution claim as a matter of law. If probable cause does not exist the *Mt. Healthy* test is applicable.

This Court decided *Lozman* based on a preexisting enforced official policy motivated by retaliation depriving *Lozman* of his First Amendment right to protected speech and petition, one of the highest liberty protections. Therefore, notwithstanding probable cause, *Lozman's* retaliatory arrest claims under 42 U.S.C. § 1983 is not barred. This Court granted certiorari in *Nieves v. Bartlett*, 17-1174, to determine an applicable standard to govern First Amendment retaliatory arrest claims based on police *ad hoc* instance decision to arrest. In *Lozman*, Justice Thomas states in his dissenting opinion this Court should have answered the question presented pursuant to the facts. Thus, a person must plead and prove a lack of probable cause as

an element of a First Amendment retaliatory-arrest claim. This Court granted certiorari in *Reichle v. Howards*, 566 U.S. 658, 688 (2012) to address this conflict. Under *Hartman* probable cause *is a bar to* First Amendment retaliation-prosecution claims as a matter of law. Justice Thomas held *Reichle* is entitled to invoke qualified immunity which disposed of the case. However, Justice Thomas analysis recognized, this Court did not clearly established with particularity that a retaliatory-arrest supported by probable cause violated the First Amendment. Further, *Reichle* qualified immunity is not an indication that *Hartman's* retaliatory-prosecution claim is extended to retaliatory-arrest, due to unique causation issues concerning retaliatory prosecution. In addition *Whren v. United States*, 517 U.S. 806 (1996) did not clearly establish with any particularity that an officer selectively enforcing traffic violations based on race supported by probable cause bar a First Amendment retaliatory-arrest per the Equal Protection Clause. The existing federal conflict regarding probable cause in relation to a person's prior constitutional right, retaliatory based claim and the doctrine of qualified immunity.

Nettles statement of facts reference below is intended to set forth injury sustained by *respondents*, a custom, policy or procedure used to procure a decision, which is the causal link to Nettles ongoing retaliatory claims. Motivated by her prior exercise of protected free speech and assembly and repeated violations of the Fourteenth Amendment right to due process an equal protection. Confronted with intimidation from

powerful governmental entities, officials or an employee with threat of one's liberty and privileges has a chilling effect to suppress meritorious constitutional claims. This case is ripe to examine fundamental principles of tort law, qualified immunity, and probable cause in the context of a constitutional retaliation-based claim.

◆

STATEMENT OF THE CASE

On January 4, 2017, *Petitioner*, Beverley R. Nettles (Nettles) an African-American, female, former Circuit Court judge (Nettles-Nickerson) and licensed attorney, filed a civil right complaint, under 42 U.S.C. § 1983 and § 1985 Nettles' seeks an award of damages and equitable relief to vindicate her federal constitutional rights, violated by state and local governmental entities, officials or employee's for deprivation of her right while acting "under color of state law". *Respondent's* retaliation against Nettles-Nickerson is ongoing for exercising her prior First Amendment right to protected speech, to file a civil right complaint and assembly as an elected official on matters of public concern.

At the onset of Nettles tenure Chief Judge William E. Collette (Collette) offered assistance, guidance and support. Insofar, as Nettles adhere to his instructions. Over time as Nettles-Nickerson attempted to operate her court room without Collette's influence, without justification Collette interfered in the operation of

Nettles court room. Nettles attended seminars at the State Court Administrative office regarding docket control, the right to speedy trials, no progress cases and Court of Claims assigned only to Ingham County Circuit Judges.

Ingham County policy and procedure a judge may interview court reporters, if selected they are considered part of that judges' staff. This is an issue, whereby Nettles-Nickerson is treated differently by not having authority regarding her court reporter, hours, time to record cases, vacations, etc. App. 37

Approximately, August 2004, Collette's repeated undue interference creates a hostile stressful work environment. Nettles did request guidance and/or assistance from the former State Court Administrator, and the Michigan Civil Rights Department.

The civil rights department conducted an investigation approximately four months, to determine if probable cause exist that Nettles is subjected to disparate treatment by Collette. Nettles-Nickerson officially filed a civil right complaint on January **16, 2006**.

On **January 27, 2006**, Nettles received a letter from Michigan Supreme Court (MSC) for Chief Justice Clifford Taylor stating he is authorize to appoint an informal fact- finder, Retired Family Court judge, Clinton County, Marvin Robertson.¹ The charge is to look into

¹ *Tamera and Chadwic Smith v. Hon Pezzetti, Hon. Marvin Robertson, et al.*, 344 F. Supp. 2d 1030 (2003), is a family adoption case filed in federal court, eastern district. The court held Robertson's order denying plaintiffs, as the legal adoptive parents,

Nettles and Collette's dispute concerning 30th Circuit Court administration, and informally report back to the MSC. App. 25

On **March 8, 2006**, former State Court Administrator, Carl Gromek, (Gromek) copied Nettles on a letter, addressed to Fischer, JTC, requesting a judicial misconduct investigation against Nettles pursuant to Robertson's **undisclosed** report. Gromek informed Fischer that Robertson "found no evidence of racism on Judge Collette's part. "Although the allegation of racism has been disposed of, complaints exist about Judge Nettles-Nickerson's behavior and judgment." App. 26

On **May 16, 2007**, Fisher filed a partial Petition for Interim Suspension and Formal complaint. A Petition for interim suspension may not be filed the same day as a Formal Complaint and only for extraordinary circumstances. MCR 9.209(B)(1) Fischer, JTC and MSC intentionally violated JTC statutory rules, the documents are published the following day in the Lansing State Journal, violating nondisclosure rules. App. 33 MCR 9.209. During this period, Collette and John R. McGlinchey refused to represent Nettles-Nickerson, with the other judges" in a false Whistleblower complaint. McGlinchey negotiated a settlement by committing fraud upon the court by asserting Nettles-Nickerson is his client and consents to the settlement.

notice and an opportunity to be heard before terminating the Smith right and allowing another couple to adopt the children. Thus, Robertson is denied the right to invoke judicial or qualified immunity.

The wrongful discharge count is dismissed at the JTC hearing. App. 35

On **May 18, 2007**, Fischer filed a Motion for Immediate Consideration which is not provided within the JTC statutory provisions.² On **May 18, 2007**, Fischer, JTC, served Attorney Debuc, with a partial Petition for Interim Suspension³, Formal Complaint and Motion for Immediate consideration taped to Attorney Debuc's office door. Nettles' is ordered by the MSC to file a response to the Petition and Motion within **one hour**. App. 28

On **April 30, 2007** Nettles filed a Federal Complaint, Eastern District, to plead and prove a lack of probable cause for to request an investigation pursuant to the findings of an informal fact-finder undisclosed report. Jurisdiction is proper in federal court, no abstention issues. App. 37

Nettles JTC hearing commenced, September 18, 2007. The Master refused Nettles right to assert any federal constitutional claims or subpoena Robertson. Nettles filed a Supplemental Affidavit on the Due Process issue to alert Judge Borman the Master said the issue of racism is decided by the informal fact-finder undisclosed report. Judge Borman granted Fischer's

² In 2016, the MSC via an administrative request solicited input to revise, amend or delete JTC statutory rules. A motion for Immediate Consideration is considered and denied inclusion. Thus, in 2007, Nettles right to notice and due process are violated.

³ A Petition for Interim suspension shall be for extraordinary reasons supported by a transcript and Affidavit. Fischer's part petition did not comply with statutory rules.

motion to dismiss on February 17, 2008. A day before the Master filed the findings of fact and conclusion of law. Collette therein started stating Nettles is playing the race card. As if racism is a game!



REASONS FOR GRANTING THE PETITION

- 1. A state of last resort and a federal appellate court decided Important federal question in a way that has so far departed from the accepted and usual course of judicial proceedings, review and sanctions as to call for this Court to exercise supervisory power to prevent irreparable ongoing injury, deprivation of liberty interest and manifest injustice.**

On January 17, 2019, three days after the Panel issued its order, Nettles receives a tax bill, from the Ingham County Treasurer, stating Nettles owed taxes in the amount of \$1,806.85 due upon receipt for receiving a homestead exemption 2017. App. 44 Nettles is advised the tax bill is sent because it is brought to the treasurer's attention per "court order" Nettles is "a Nevada" resident. Nettles is a Michigan resident.

Normally, a person is entitled to a hearing before the treasury/meridian township assessor assumes Nettles committed perjury to receive a tax break and send a bill. Nettles' ongoing injury is the *respondent's* custom or practice, used in order to first, preclude Nettles from adjudicating lack of probable cause for a

subsequent adverse action, and second, automatic bar of Nettles retaliatory claim.

In the usual course of judicial proceedings Nettles retaliatory-base claim is governed by *Hartman or Mt. Healthy*. Complete denial of Nettles right to prove lack of probable cause to assert a First Amendment retaliatory claim as a matter of law or denial to apply the two prong test under *Mt. Healthy* prove a causal link of respondents retaliatory animus.

Nettles assert suspension of her law license for over 10 years for one finding of misconduct, is an adverse action for the purposes of punishment and chilling future protected speech. *Crawford-el v. Britton*, 523 U.S. 574, 578, 588 n.10 (1998) *Board of Cty. Comm'rs v. Umbehr*, 518 U.S. 668, 685 (1996)

Respondents are not entitled to invoke quasi-judicial immunity or judicial immunity for actions under color of state law. Collette's discretionary authority as Chief Judge is outside his judicial jurisdiction to wrongfully terminate an employee to avoid an EEOC complaint and blame termination on falsifying Nettles signature. This is retaliatory animus for Nettles filing a civil rights act against Collette. *Respondent's* state government entities give such actions the "color" of state authority and liable for damages for deprivation of Nettles liberty interest in her law license. In addition, this Court's supervisory power to grant equitable relief and reinstate Nettles license to practice law in Michigan.

The Sixth Circuit panel and federal lower court, ignore Nettles allegations concerning the cause of her ongoing injury. Advising Nettles to petition for reinstatement before Bullington, AGC or a different Hearing Panel in Ingham County is pointless, costly and no right to appeal. In addition, the MSC in the usual course of judicial proceedings should have recluse as the final decision maker, removing Nettles from the bench to avoid the appearance of impropriety. The MSC appointed an informal-fact-finder and privy to information in the undisclosed report. Likewise, the MSC removal of Nettles from the bench two days after oral argument, Ensures Nettles is denied the incumbency designation. Therein proves retaliatory animus on the part of Robertson, Fischer, JTC, Bullington, AGC and ADB.

The Sixth Circuit panel and federal court, usual accepted judicial proceeding is to allow Nettles to respond to Bullington's motion to dismiss, further Bullington attached cases not included in the record but considered by the court. The Sixth Circuit and lower federal court did not issue an opinion, but a recitation of facts to conclude Nettles seeks to "re-litigate event pre-dating her removal from judicial office in 2008" App. 2, pg 1, ¶1. If there is validity to the federal courts claim, why did Nettles bring an action sooner? Viewing the totality of circumstances, the process to procure removal, denying petition for reinstatement and length of suspension, sanctions and intentional delay causal link is established for Nettles ongoing injury in retaliation for the exercise of protected speech and

assembly. The lower court states to survive a 12(b)(6) motion to dismiss a plaintiff must allege facts that, if accepted as true . . . ” App.2, pg2, ¶3. Nettles asserts a 12(b)(6) motion, the court is to construe the complaint in a light most favorable to the plaintiff and accept all allegations as true. *Keys v. Humana, Inc.*, 684 F.3d 605, 608 (6th Cir. 2012) Then plaintiff’s facts should allow a court to draw a reasonable inference that defendant is liable. *id*, *Iqbal* at 678 (2009) The lower court state Nettles law license issue is “arguably timely” App. 2, pg 5, ¶ 3.

However, abstention is warranted because, licensure is a state action, and state review is with the MSC. The Sixth Circuit panel and federal court rely on *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923.) Nettles state assertions’ of injury that do not implicate state-court judgments are beyond the purview of the *Rooker-Feldman* doctrine. *McCormick v Braverman*, 451 F. 3d 382, 392-93 (6th Cir.) held the plaintiff in that case asserted independent claims that those state court judgments were [improperly] procured by the opposing party. Nettles rely on *McCormick*

The federal court does not analyze disparate treatment which is within their jurisdiction. The Sixth Circuit and federal court did not find the facts asserted SHOCKING TO ONE’S CONSCIENCE IN SUPPORT OF A MISCARRIAGE OF JUSTICE CLAIM.

2. **A United States court of appeals, Sixth Circuit entered a decision in federal court, western district in conflict with the decision in the federal court, eastern district on the same important Fourteenth Amendment violation asserted in each complaint by members of a protected class.**

The Sixth Circuit Judges reverse the Federal Court, Eastern District dismissal of James Fourteenth Amendment equal protection claim under 42 U.S.C. § 1983 in *James v Hampton*, 14-1151, (2005)

The Sixth Circuit held that James under *McDonnell Douglas Corp v Green*, 411 U.S. 792, 802 (1973) “a plaintiff may prove disparate treatment either by direct evidence of disparate treatment either by direct evidence of discriminatory motive or through circumstantial evidence based on a prima facie showing of discrimination.”

McDonnell Douglas is an evidentiary standard not a pleading requirement. *Swierkiewica v. Sorma* N.A. 534 U.S. 506, 510 (2002)

The plaintiff must show that 1) she was a member of a protected class; 2) she suffered an adverse employment action; 3) she was qualified for the job; and 4) she was treated differently from similarly situated employees who were not members of the protected class. *Perry v McGinnis*, 209 F. 3d 597, 601 (6th Cir. 2000)

The Sixth Circuit Panel found Nettles complaint contained no allegations that supported her claims

that she had been denied due process and equal protection.

Nettles established the requirements under *McDonnell Douglas* in her civil rights complaint in the Federal Court, Western District. 42 U.S.C. § 1983. *McDonnell* sets an evidentiary not a pleading standard. The lower court dismissed Nettles claims before Nettles had an opportunity to respond to Bullington's motion. Nettles in the accepted course of judicial proceedings should be able to discover any additional proofs to meet her burden of discrimination.

1) Nettles, is African-American, female, a member of a protected class; 2) Nettles, suffered an adverse employment action; 3) Nettles was qualified for the job; 4) Nettles is treated differently from similarly situated employees who were not members of the protected class. *White v. Baxter Healthcare Corp.*, 533 F.3d 381, 391 (6th Cir. 2008) shifts the burden to *respondents* to prove Nettles removal from the bench for perjury is sanctioned accordingly to other judges and lawyers with similar conduct. *White v. Baxter Healthcare Corp.*, 533 F.3d 381, 391 (6th Cir. 2008) shifts the burden to *respondents* to prove Nettles removal from the bench for perjury is sanctioned accordingly to other judges and lawyers with similar conduct. Nettles submits the MSC's own admission indicate little guidance in terms of a judge or lawyer found responsible for perjury

Count X: Race and racism.

The Master and JTC cleverly divided the Count into four sections A-D so as to appear Count X is not a violation of Nettles First Amendment right The Master found Nettles violated A, B, D.

- A. Nettles played the race card,
- B. Nettles called Collette and Hughes racist.
- C. Spurious complaint with the civil rights commission. Nettles has a right to file a civil rights complaint, regardless of good faith
- D. Nettles further Press Release (assembly) unsubstantiated allegations of racial discrimination. Are authorized by the JTC in retaliation of Nettles civil right complaint and exposing an investigation to punish Nettles has a chilling effect.

The JTC recommends removal and costs totaling \$128,861.26 which included retaining an outside private counsel to prosecute Nettles. This action is unwarranted, and unprecedented. The JTC order included payment of \$70,882.92 private counsels; \$7,062.00 for the Master's research attorney. The Master billed for 32 days of hearing, 289.71 per day. The Master conducting proceeding on average three to four hours per day resulted in a 32 day hearing.

ADB HEARING PANEL #2 (2010) (HP#2)

On May 26, 2010, ADB, HP#2, dismissed all the counts including Count 1, perjury, which per the MSC mandates removal. except Count II, submitting an obvious fabricated email in support of taking one extra vacation day. On August 26, 2010, the ADB, HP2, suspended Nettles law license two years and 11 months, starting September 17, 2010 no credit for time serve, costs, \$3,580.47, no credit for time served. The ADB denied Nettles Petition for review as untimely because Nettles Attorney filed via email.

JUDGE DENENFELD OPINION AND ORDER

In 2009, during an Evidentiary Hearing, Nickerson, an attorney, Nettles former husband admitted perjury by recanting his prior testimony before the JTC. Judge Denenfeld, denied Nickerson's Motion to set aside the Judgment of Divorce.

Nettles request relief under Federal Rule 60, Relief from Judgment or Order, or under Federal Rule 60(d) as an independent cause of action to prevent a grave miscarriage of justice. Two reasonable entities dismissed the perjury count within the tort law three year statute of limitations. Nettles seek equitable relief to remove this misconduct from her record, and no longer rely on *In Re Nettles-Nickerson* as a judge that committed perjury.

Nettles removal should be considered a retirement, with all benefits thereto as a form of relief. The MSC should give guidance not confusion.

The Sixth Circuit affirmed dismissal of this claim because Nettles did not develop her independent-action claim . . . in any meaning way.

ADB REINSTATEMENT HEARING PANEL #1 (HP#1) (2013).

On September 26, 2013, Nettles timely filed a Petition for Reinstatement.

On August 28, 2014, a report is filed to hold the record open another 60 days for additional evidence but clearly state the panel does not see Nettles failure to produce the suggested evidence to be fatal to her reinstatement claim. HP#2, Supplemental Report and Order denied Nettles Petition for Reinstatement, costs \$529.86 pursuant to Bullinton's reply to Nettles submission.

Bullington served Nettles at her old address a clear error. Thus, Nettles did not have notice or opportunity to be heard.

On November 5, 2015, the ADB affirmed HP#2 denial for reinstatement, and ordered costs \$ 108.84.

MSC DISCRETIONARY REVIEW

There is no appeal of right to the MSC. Nettles file a late (10 days) Petition for review, with attached

affidavit and exhibits. Nettles petition is untimely due to improper service by the ADB of the Boards final decision. The ADB case manager, informs Nettles the board decision is sent via regular and certified mail.

Nettles request a copy of the certified receipt forward to the Okemos supervisor for review. The USPS Okemos supervisor states in writing the letter was not sent to an address in Okemos, MI where Nettles resides. Further, per the internal tracking system, the item was addressed to 535 Griswold ST 17, Detroit, MI 48826, delivered to that address and signed for on November 9, 2015. MSC, Clerk Royster stated via letter, March 16, 2016, the ADB Final Order was properly served, per MCR 2.107(C)(3), by ordinary mail.

Nettles respectfully submit the following disparate treatment in the initiation, prosecution and discipline stage.

Attorney Discipline Board v James R. Lancaster, Case Nos. 09-117-JC, 15-79-JC (2016) has been before the ADB from 2010 – 2016.

– All misconduct involved drinking and driving. Lancaster (Collette's former campaign manager) April 5, 2010 No. 09-117-JC,

Lancaster, Notice of Reprimand with conditions (by consent) costs \$811.76, signed by John Van Bolt;

Lancaster, Notice of Reprimand (by consent) No. 14-3-JC, July 21, 2014, costs \$768.93;

Lancaster, – Notice of Automatic Interim Suspension, No. 15-65-AI effective June 10, 2015.

Lanscaster, license suspended 179 days effective June 10, 2015.signed by Wendy A. Neeley

Lancaster, pleads guilty to Operating while intoxicated. Per guilty plea license is automatically suspended. Signed by Wendy A. Neeley;

Lancaster, Notice of Automatic Interim Suspension, No. 15-65-AI effective June 10, 2015. Lancaster pleads guilty to Operating while intoxicated. Per guilty plea license is automatically suspended. Signed by Wendy A. Neeley;

Lancaster, Notice of Suspension with conditions (by Consent) Respondent plead guilty operating while intoxicated 3rd offence, felony. Suspension 179 days., costs \$859.24, Automatic Reinstatement Case Nos. 15-65-AL; 15-79-JCFebruary 19, 2016.

Attorney Discipline Board v. Mark H. Canady,
before the ADB 6 times 2010-2012
Alcohol related incidents and perjury
Case Nos 08-143-GA, 12-89-GA

Canady, Disbarred, for misappropriating
a minor child with a disability funds
Restitution \$50,000
Costs 1,996.67
Case No SC: 141721, December 27, 2012

In re Church, SC 152830, Nos. 2014-021034, 2014-021209 (2016)

Approximately, 20 misconduct violations

Judge permitted to meet informally before JTC for resolution,

120 suspensions without pay, public censure.

Nettles request to meet informally to discuss health issues and resolution is denied.

– *In re Susan R. Chranowski*, 400 Mich 469 (1977)

Lied to Police, about romantic relationship with married court appoint attorney.

License suspended 90 days, costs \$874.39

Credit time served.

Assigned Court Appointed Counsel over \$50,000 additional representation, having affair with married attorney Attorney convicted of killing wife and unborn child Credit time served.

Attorney Nader W. Nassif, No. 14-58-AL 2014

No contest ples of felonious assault-notice

June 11, 2014

Suspension by consent 2015

180 days costs \$841,25

Attorney Nader W. Nassif, No. 17-137-GA 2018

Ex-parta communications with person friend

Former District Judge, attempt to influence Judge

Suspension by consent 179 days, cost \$1080.22

Attorney Vicky L. Smith, No. 08-157-JC 2009

Convicted of eavesdropping/divulging information

Suspension, 179 days, costs \$911.66



CONCLUSION

For all these reasons, this Court should grant the petition.

Respectfully submitted,

BEVERLEY R. NETTLES
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