

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Supreme Court Case
No. SC20-1602

Complainant,

v.

Florida Bar File

BRUCE JACOBS,

No. 2019-70, 188 (11 H)

No. 2019-70,358 (11H)

Respondent.

No. 2020-70,056 (11 H)

**RESPONDENT'S MOTION TO RELINQUISH CASE TO BAR REFEREE
TO CONSIDER NEWLY DISCOVERED EVIDENCE IN SUPPORT OF
SELECTIVE PROSECUTION DEFENSE**

Respondent, Bruce Jacobs, Esq., by and through undersigned counsel, files this Motion to Relinquish Case to Bar Referee to Consider Newly Discovered Evidence in Support of Selective Prosecution Defense, and in support states:

This appeal involves only 3 of 13 bar complaints filed in the past four years against Bruce Jacobs, Esq. ("Jacobs"), a former Miami Prosecutor, the current Chairman of the Miami-Dade Bar Association Foreclosure Committee, and a nationally recognized foreclosure defense attorney. There are no complaints that Jacobs stole money, injured a client, or committed a criminal act that normally results in an emergency disbarment. Yet, The Florida Bar attempted to disbar Jacobs on an emergency basis

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anyway.

On May 5, 2022, this Honorable Court disapproved of The Florida Bar's emergency petition to disbar Jacobs by a 5-2 vote and granted him an opportunity to be heard. Jacobs respectfully submits that there are essentially three waves of bar complaints that all evidence this is a bad faith, biased, selective prosecution.

This Honorable Court struck Jacobs' motion to dismiss these proceedings as a violation of Florida's Anti-SLAPP Statute, his First Amendment rights, the selective prosecution doctrine, the federal and Florida fair housing act whistleblower protections, and the Ku Klux Klan Act of 1871, as procedurally unavailable under the rules of appellate procedure.

The Honorable Court also denied Jacobs' motion to consolidate the 10 additional bar complaints against him that all involve the same defenses. Four bar case numbers were created near the time of the bar trial. 2021-70,413 (11H), 2021-70,443 (11H), 2021-70,447 (11H), 2021-70,190 (11H). Jacobs responded to three of these complaints in July of 2021, and the fourth in December of 2021. To date, there are no findings of probable cause.

In April and May of 2022, The Florida Bar investigated Jacobs and initiated six additional bar complaints without any indication that anyone filed a formal complaint under case numbers 2022-70,335 (11H), 2022-70,336 (11H), 2022-70,337 (11H), 2022-70,402 (11H), 2022-70,490 (11H), and 2022-70,018 (11H). There has been no probable cause determination on any of these 6 new complaints, or the four prior complaints pending since 2021.

Jacobs respectfully submits these 10 additional bar complaints support his affirmative defense of selective prosecution to the first 3 disciplinary actions. Mr. Jacobs asserts The Florida Bar prosecuted him in bad faith with the ulterior motive to violate his First Amendment rights. *Thompson v. The Florida Bar*, 526 F. Supp. 2d 1264 (S.D. Fla. 2007).

Jacobs' position is that the additional evidence would show The Florida Bar and the Third DCA took no action against bank lawyers who impugned the integrity of a judge who initiated criminal contempt charges for their lack of candor soon after the trial and that The Florida Bar and the Third DCA have evidence of misconduct by lawyers in Jacobs' cases and refuse to prosecute that misconduct.

Jacobs' believes that these 10 additional bar complaints are all

evidence of selective prosecution in that (1) the Bar prosecuted a demonstrably weak case against Mr. Jacobs under Rule 4-3.3 for lack of candor¹ and Rule 4-8.2 for impugning the integrity of the judge, (2) the Bar declined to prosecute a much stronger case for the same rule violations against these Bank attorneys despite orders initiating criminal contempt against them for fraud upon the court, and (3) the prosecution seeks to silence Mr. Jacobs so he cannot continue to practice law, expose systemic fraud, or question whether certain courts are denying his clients due process in violation of his First Amendment rights.

Jacobs respectfully submits this Honorable Court should allow him to develop his record to prove he has been selectively singled out and targeted for discipline by the Bar.

Jacobs is obligated by the Bar rules to report unethical conduct by attorneys and judges. Jacobs cannot zealously represent homeowners without exercising his constitutional right to speak out about fraud and misconduct in the course of his duty to provide effective representation.

It is Mr. Jacobs' right and obligation as a member of the Bar to speak out about constitutional violations involving fraud. That is the underpinning

¹The lack of candor charge was so specious that Mr. Jacobs was found not guilty by a directed verdict.

of a selective prosecution claim as described in *State v. A.R.S.*, 684 So. 2d 1383 (Fla. 1st DCA 1996) (selective prosecution based on impermissible considerations including exercise of constitutional rights).

Jacobs argues that the Bar is not prosecuting all attorneys involved in serious misconduct that lack candor equally. The Bar is only trying to silence Jacobs so he cannot expose that misconduct and lack of candor.

The Florida Bar should not punish Jacobs for statements made in court filings in furtherance of zealous advocacy on behalf of his many clients (paid and *pro bono*) and their due process rights. The same judges who accused Jacobs of criticizing them prosecuted him for that criticism, and then asked The Florida Bar to prosecute him further. Jacobs' statements in motions to disqualify raised objective reasons to question the impartiality of certain judges. In all the cases, Jacobs presented evidence that banks and their lawyers had unclean hands and that they presented false evidence to obtain the equitable relief of foreclosure in violation of his client's due process rights.

RELIEF REQUESTED

WHEREFORE, Respondent Bruce Jacobs, Esq. respectfully requests this Honorable Court relinquish jurisdiction to the Bar Referee to consider additional evidence of selective prosecution from Florida Bar case numbers 2021-70,413 (11H), 2021-70,443 (11H) and 2021-70,447 (11H), 2021-70,190 (11H), 2022-70,335 (11H), 2022-70,336 (11H), 2022-70,337 (11H), 2022-70,402 (11H), 2022-70,490 (11H), and 2022-70,018 (11H), and any further relief deemed mete and just.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically via the Florida Courts E-filing Portal upon all parties listed on the Service List for this case on this 3rd day of June, 2022.

Respectfully submitted,

/davidjwinker/

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