

IN THE SUPREME COURT OF FLORIDA

In Re:

EX PARTE PETITION  
OF THOMAS R. SCHWARZ

Case No.

JUN 4 1987

FILED  
CLERK OF SUPREME COURT  
By \_\_\_\_\_  
DUSSEY GRAY

*See*  
*1-12*  
*Amendments*  
*Bar*  
*Rules*  
*70,702*

EX PARTE PETITION OF THOMAS R. SCHWARZ

COMES NOW THOMAS R. SCHWARZ, Florida Bar No. 129383, and respectfully petitions this Court to forthwith consider such procedures as are prayed for herein or as it otherwise deems appropriate, the amendments to the Rules Regulating The Florida Bar proposed in the Exhibits attached to this petition.

As grounds therefor, your petitioner states as follows:

1) By letters to the Executive Director of The Florida Bar on February 2, 1987 and pursuant to the provisions of Rules 2-10.1 and 2-10.2, petitioner proposed amendments to the Rules Regulating The Florida Bar. The proposal under Rule 2-10.1 is marked as Exhibit I to this petition. The proposal under Rule 2-10.2 is marked as Exhibit 11.

2) Pursuant to Rule 2-10.1, the Exhibit I proposal was directed to the Board of Governors of The Florida Bar for consideration.

3) Pursuant to Rule 2-10.2, the Exhibit II proposal was directed for consideration of the next general membership meeting of The Florida Bar.

4) The proposed amendments relate to definition and limitation of the scope and procedure for the exercise of political power by this Court's official arm, and to democratization of the Rule amendment process.

5) Upon receipt of these letters and proposed amendments, pursuant to communication by telephone and letter with the Executive Director of The Florida Bar, it was agreed that the proposal before the Board of Governors would be taken up at its May 1987 meeting - later advanced to the March 1987 meeting in Tallahassee.

The proposals were at that meeting referred to the Legislative Committee for consideration.

6) No discussion or correspondence was had by your petitioner with the Executive Director with respect to disposition of the Exhibit II proposal.

7) Your petitioner had adopted the dual-procedure approach as a courtesy to the Board of Governors, the leadership of which was on record as opposed to limitation of its political activity and democratization of voting on the amendment process.

8) At that time and to date, after some ten months, the Board of Governors has not complied with the mandate of the United States Court of Appeals for the Eleventh Circuit regarding political funding, one narrow area of the proposed amendments relating to political activity.

9) Through misunderstanding, confusion in communication, or otherwise, the proposed amendments embodied in Exhibit II have not been published in The Florida Bar News as required by Rule 2-10.2(b) nor in any official program as required by Rule 2-10.2(c). Petitioner has been deprived of his rights under the Rules to have such amendments considered at the regular meeting of The Florida Bar scheduled for June 10 - 14, 1987.

10) On May 14, 1987 the Board of Governors' meeting to consider the regular report of the Legislative Committee took the following action:

(a) Reviewed the television commercials designed to create public political support for its sales tax position in the Legislature and for court action;

(b) Considered means of coordinating and allying its actions on the sales tax exemption with other groups;

(c) Voted to take political action, among others, on various legislative proposals ranging from (i) Lien priority on vessels polluting by oil spills; (ii) Negligence standards for acts in emergencies; (iii) Service of process on corporate defendants; (iv) Insurance requirements for hospitals and physicians with respect to tort actions.

(d) These actions were urged on the basis of:

I) Ad hominem arguments including

A. Neurosurgeons were engaged in a conspiracy;

B. The Legislative Committee which had considered the matter was stacked by having on it only two representatives of the Academy of Florida Trial Lawyers, a plaintiff's organization;

C. The insurance companies providing medical malpractice coverage were gouging the public, making unconscionable profits.

11) Fatuous legal arguments

A. If the practice group of physicians at risk was too small, simply include others in the group;

B. Fixing different standards of care for acts in emergencies was unknown historically and would deny access to the courts;

(e) In each case the charade of a vote that the matter came within the "purview" of this Court's delegation of power to the Board, was taken - the charade growing out of this Court's failure by its rules to place limits or define the scope of its delegation of political power to its official arm.

(f) Took no action on the amendments proposed by your petitioner.

11) This Court has full and exclusive power to consider these amendments to its Rules as proposed by petitioner on petition or sua sponte.

12) Petitioner states that:

(a) The constitutional provisions of Articles I, 11, and III of the Florida Constitution,

(b) The provisions of Amendments I, IV, and V of the United States Constitution, and

(c) Avoidance of the scandal, impropriety, and

appearance of impropriety stemming from this Court's justices judging their own cases

all require that this Court define and limit the political activity delegated to its arm.

13) This Court, acting by and through its official arm in a claimed exercise of political power undefined as to scope, has used its funds, prestige, private lobbyists, public relations firms, and publicized specious social arguments deemed appropriate in political activity in an unsuccessful but continuing effort to persuade the Legislature to restore the exemption from sales tax on the fees of private lawyers.

14) This Court, acting by and through its official arm, is now attempting to pursue its unsuccessful political aims by using its funds, power, prestige, facilities, and personnel to initiate and prosecute a lawsuit in the Circuit Court of Leon County - a court which functions under the superintending control of this Court. The matter is ultimately to be decided in this Court.

15) The complaint in the Leon County action has **not** been published in the Florida Bar News, this Court's official publication. From general press reports your petitioner believes it is predicated in substantial part on legal principles urged against nondiscriminatory taxes which were rejected seventy-five years ago. It is consistent with the efforts of other groups to preserve special tax privileges.

16) This situation is a rerun of the political, then legal, action in connection with the 1984 Amendment 9 initiative and is an inevitable consequence of this Court's engagement in the exercise of political activity of undefined and unlimited subject matter scope. The socio-historic political arguments were as specious in 1984 as they are now, and were called to the Court's attention by letter of February 1985.

17) Your petitioner states that while the Federal courts may fashion limited and ad hoc remedies at the petition of this

of the Florida Constitution, the Code of Judicial Conduct, and such other materials and ethical principles as it may deem appropriate.

(2) To recommend to the Court the adoption of the rules herein proposed or such others if and as the independent commission may deem appropriate.

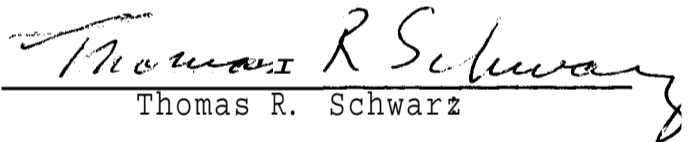
(3) To have representation on such commission of the Law Schools and Political Science Schools of the University of Florida, Florida State University, the Legislature, the Attorney General, the Court's arm, the media, your petitioner, or other parties the Court may deem interested and knowledgeable in the subject matter.

(4) And for such other and further relief as may seem meet and proper in the circumstances.

Respectfully submitted,

THOMAS R. SCHWARZ  
4561 N.W. 79th Avenue  
Lauderhill, Florida 33321  
Ph: (305) 742-6979  
(Fla. Bar # 129383)

By:

  
Thomas R. Schwarz