
MAYFLOWER STATE
REPORTS

6

2022 A.D. TERM

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CASES ADJUDGED

IN

THE SUPREME COURT

AT

2022 A.D. TERM

JANUARY 1, 2022 THROUGH DECEMBER 31, 2022

TOGETHER WITH OPINION OF INDIVIDUAL JUSTICE IN CHAMBERS

END OF TERM

WIGGY B. BOY24

REPORTER OF DECISIONS

J U S T I C E S
OF THE
SUPREME COURT

DURING THE TIME OF THESE REPORTS

BLCKITTY, CHIEF JUSTICE.
TAXESARENTAWESOME, ASSOCIATE JUSTICE.
LIAMDOSEN, ASSOCIATE JUSTICE.
PARMENIONN, ASSOCIATE JUSTICE.
TURNTABLE5000, ASSOCIATE JUSTICE.
RETired
W99F, ASSOCIATE JUSTICE.

OFFICERS OF THE COURT
VACANT, CLERK OF THE COURT.
TRICKYGAMERSQUAD1, MARSHAL OF THE COURT.
JUSTIND20, ATTORNEY GENERAL.
BARRYRUARC, SOLICITOR GENERAL

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CASES ADJUDGED
IN THE
SUPREME COURT OF MAYFLOWER
AT
2022 A.D. TERM

BLACKOUT AGENCY, ET AL., PETITIONER *v.* TACTICAL_PANCAKES

ON APPEAL FROM THE DISTRICT COURT FOR THE DISTRICT OF
NEW HAVEN COUNTY

No. 09-36. Argued January 20, 2022. Decided January 24, 2022.

On January 13, 2022, the Appellant filed for declaratory and injunctive relief with the lower court on a pre-enforcement challenge to the Racketeering Act (2022). The act incriminates those that associate with “criminal organizations” based on a declaration made by the State Governor. The inferior court ruled in favor of Appellant but only granted injunctive relief, declining to grant declaratory relief on the basis that the act just needed a slight amendment. An injunction was issued enjoining law enforcement from utilizing the provision outlined by the act. Appellant filed appeal to this Court.

Held:

(a) The judicial power extends to allow the Court to declare a specified statute or provision thereof as unconstitutional to remove it from its enforcement. To allow the inferior court to selectively choose when to use this power is to allow a court to selectively choose when to read and enforce the constitution. Pp. 2–4.

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(b) The Court is entitled to give relief in matters of constitutional significance. Pp. 4.

Judgment vacated.

TAXESARENTPAWESOME, J., delivered the opinion for a unanimous court.

JUSTICE TAXESARENTPAWESOME delivered the opinion of the court.

On January 13, 2022, the Appellant filed for declaratory and injunctive relief with the lower court on a pre-enforcement challenge to the Racketeering Act (2022). The act incriminates those that associate with “criminal organizations” based on a declaration made by the State Governor.

The inferior court ruled in favor of Appellant but only granted injunctive relief, declining to grant declaratory relief on the basis that the act needed a slight amendment. An injunction was issued enjoining law enforcement from utilizing the provisions outlined by the act.

I

When addressing the first question, the Court explored whether it is in the power of the lower court to issue relief and, if so, how to address the matter before this Court.

A

In the American Judicial system, one of the most important powers exercised by the courts is that of judicial review on statutes passed by a legislative body in which such an act goes against the supreme law that rules that jurisdiction. See *Marbury v. Madison*, 5 U. S. 137 (1803). In the case of Mayflower, that supreme law is our State Constitution. Art. XI(2) of the Mayflower State Constitution explicitly grants the judiciary the power of striking statutes that contradict its words.

In the matter before us, the Racketeering Act (2022) was

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under examination of the inferior court for violating an individual's right to freely associate. See Mayf. St. Const. Art. I(4). The act provides for the arrest of individuals associating with an organization of criminal intent, regardless of whether such individuals actually perpetrated or had any form of liability in that organization's actions.

The lower court, believing that Appellant had merit to their claim, issued injunctive relief to enjoin enforcement of the law but not declaratory relief on the same question. No reason has been provided as to the purpose of this, but rather more cause has been provided as to why such an action is highly detrimental to the upkeep of an individual's rights when faced with a statute of unconstitutional power.

The purpose of giving declaratory relief in a matter such as this is to read the statute before a court and "decide on the operation of each." *Marbury* at 137. When the lower court found enough cause to grant injunctive relief, it found enough cause to read the statute and declare the operation as defunct — which is what declaratory relief is for. Without giving an official declaration and reading of the statute, it has not completed its job. Rather, it is more akin to finding a criminal defendant not-guilty but still sentencing them to imprisonment on the charges they faced.

For this reason, the judicial power extends to allow the Court to declare a specified statute or provision thereof as unconstitutional to remove it from its enforcement. To allow the inferior court to selectively choose when to use this power is to allow a court to selectively choose when to read and enforce the constitution. The handling of this case was inappropriate and should be discouraged.

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It is important that this Court exercise restraint when it gives an opinion, as we are not here to give relief but instead to read the law and hand our opinion out. In this case, however, we are presented with a severe dilemma of activism versus restraint in which the balance tips in favor of the former. This matter is of basic constitutional defense which requires our word to be clear and unmistaken for the lower court and courts in future. Chief Justice John Marshall was criticized for his opinion in *Marbury* for exercising too much activism when bringing to life the doctrine of judicial review, we face the same issue here.

To give only an opinion in a matter that involved an authority as powerful as judicial review would be to simply opine quietly as the constitution faces attack by a pack of wolves. This Court was intended to be charged as the protectors of the State Constitution, but we cannot protect what we cannot grant relief on behalf of. This is especially given that this Court engaged in this practice in the past. See *Ex parte State of Mayflower* (“Review of EO#14”) (2018).

Because of this, we hold that this Court is entitled—if not required by its mandate—to give relief instead of simply remanding.

* * *

Therefore, the ruling of the lower court is reversed. The Court issues injunctive and declaratory relief in favor of the Petitioner, declaring the Racketeering Act (2022) to be nullified from law as unconstitutional.

Judgment vacated.

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Syllabus

IN RE IMPEACHMENT OF ALEX_ARTEMIS, DIRECTOR OF PARKS AND WILDLIFE SERVICE

ON ARTICLES OF IMPEACHMENT EXHIBITED BY THE STATE
SENATE

No. 06-06. Argued September 24, 2022. Decided September 29, 2022.

Director Alex_Artemis is the Director of the Parks and Wildlife Service. Director Artemis was impeached by the State Senate on one article of neglect of duty and another of incompetence.

Held: Director Artemis is acquitted on both articles exhibited by the State Senate. Pp. 5–12.

(a) Intention is not a necessary requirement to demonstrate incompetence but is needed to demonstrate neglect of duty for impeachment purposes. Pp. 6–7.

(b) The requirements to demonstrate neglect of duty are not the same requirements as to demonstrate neglect of duty for purposes of public recall from office. Pp. 7–8.

(c) The State Senate failed to demonstrate that the Director was personally aware, involved in, or responsible for the actions that they cited as impeachable offenses. Rather, the articles of impeachment gave a number of incidents that revolved around decisions of the department but not decisions taken by the department's director. Pp. 8–12

(d) An employee of the government cannot be terminated or face punitive action from such employment for accumulating an arrest or alleged criminal conduct without due process. Pp. 9–11.

Acquitted.

TAXESARENTAWESOME, J., delivered the opinion of the Court, in which BLCKKITTY, C.J., and PARMENIONN, JJ., joined.

JUSTICE TAXESARENTAWESOME delivered the opinion of the Court.

Trial by impeachment is an act of political removal on named grounds where the burden to demonstrate such grounds lie upon the political body that charges the public official with such offenses. The process dates back to English history in the late 14th century when the British Par-

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liament would accuse and hold trial for officials they accused of corruption and misconduct in office. In the State of Mayflower, the process adheres closely to its ancestor but with a number of changes to the fact-finding body. Instead of placing the fact-finder with the political body, the duty falls upon the Court to determine whether there is cause and truth to the accusations levied. It is important to note that there are liberties and rights associated with these processes, and that conviction is not based on public opinion or the attitude of the political body.

Respondent is the Director of the Mayflower Parks and Wildlife Service, an agency under the Government. The State Senate exercised its authority to accuse and impeach the Respondent on an article of incompetence and another on neglect of duty. These grounds are consistent with the requirement of impeachment. See Mayfl. St. Const. Art. XIII, Sec. 2.

The accusations made by the Senate were a slew of numbered events where they assert that the conduct of the Respondent was inappropriate and impeachable. Respondents made a number of legal assertions as to both the consistency of the articles themselves as well as the standards used to examine these articles. This Court is now charged to examine all those events and the evidence provided by the Senate.

I

Upon first review, it is important that we examine the legal questions presented by the Respondent on how this Court must review the facts presented and to what degree is needed.

A

Respondent asserted in their brief that the Senate must demonstrate intent on the basis that it is a deprivation of

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life and liberty and requires due process for such. We disagree.

An impeachment on incompetence need not be intentional, as incompetence itself is not an act that necessarily requires to be done intentionally for it to be accomplished. However, an impeachment on neglect of duty does require intention as neglect requires the intentional lack of reasonable action where one has a duty of care. It should be explicitly noted that impeachment is a political trial done by a body of men politically elected to their office. It is not a criminal indictment, nor should it serve as one.

When an impeachment should require a criminal act, it shall then require the criminal elements be demonstrated beyond a reasonable doubt in a court of law -- such as the first ground of impeachment on the “commission of a felony or misdemeanor by law” that directly ties into criminal law. In such impeachment, intention is required as a criminal element.

B

The State Constitution allows for a public referendum and removal of elected officials on certain grounds, which includes “neglect of duty” with a specific definition given. See *Ibid* at Art. XII, Sec. 3 (“The grounds for recall are [...] neglect of duties; which shall only apply in a situation where an official has clearly neglected a duty charged upon their office by this constitution or any other lawful document for a period of 15 days or more”). Respondent asserts that this definition is applicable to impeachment and must have all elements demonstrated by the Senate. We disagree.

The authors of the Constitution explicitly made a difference between the requirements of recall and impeachment. The definition of one does not apply to the definition

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of the other, for it is up to the Court to decide whether the Senate has enough grounds to demonstrate plain neglect of duty. The requirements imposed on recall are there because it is a removal by the People, whereas this is a removal by the legislature.

II

This Court is also charged as the fact-finding body as the court of impeachment. In the Articles of Impeachment filed in this matter, the Senate has made a number of factual allegations that must now be examined by this Court.

A

Ranger J is an employee of the Mayflower Parks and Wildlife Service that was arrested for conduct unrelated to their duties. Internal policy prohibits the arrest of employees on criminal charges. The typical penalty for such an offense would be termination of employment. The employee intended to contest the arrest and requested that they not be terminated while the arrest is disputed in court. Respondent granted this request and imposed a disciplinary action of a zero-tolerance policy on the employee. The Senate asserted that this was an act of neglecting internal policy and, by extension, their duties.

A director holds ultimate authority to operate and organize their department as they wish. This Court will not speculate as to whether such arrest was inappropriate, but will say that the Director had an appropriate reason for their actions. They believed that the arrest was illegitimate and that it should be contested, and that the termination of the employee based on the arrest would be unreasonable.

The Senate argues that the Director and the Ranger did not tell as to why they believed the arrest was illegitimate, but such a request is unreasonable to compel. This Court

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cannot place fault or determine that the arrest was appropriate simply because the Respondent did not declare their legal strategy or filing before actually filing. As long as they alleged that the arrest was inappropriate, then they gave enough reason for this matter not to be referred to internal action pending an outcome in court. Court

However, this argument falls apart when the employee admitted in a court filing that the arrest was petty and displayed regret for their actions. With the employee admitting fault to their actions, they should have faced appropriate action for their policy violations. The Senate, however, failed to demonstrate whether the Director had known about this.

B

Ranger S is an employee of the Mayflower Parks and Wildlife Service that was arrested in connection to an attempted robbery that was done unrelated to his service as a ranger. The employee, while not representing the department nor acting in such an official capacity, was arrested by a trooper of the Mayflower State Police. Internal policy prohibits the arrest of employees on criminal charges, even if such conduct that was allegedly unlawful was unrelated to their duties.

Respondent stated that the Mayflower Parks and Wildlife Service opened an internal investigation as to whether it had cause to terminate the employee on such policy. During the course of the investigation, however, the employee was given an unconditional pardon by the State Governor and all criminal charges related to the incident were dropped. The Senate argues that the Governor's pardon is irrelevant and that disciplinary action should've continued because the arrest, although pardoned, still happened.

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It is true that a pardon from the State Governor can only extend to criminal prosecution or arrest. A pardon does not excuse internal action unless it is ordered so separately by the Governor to the department's director, which is not the case we face today. However, when the internal offense relies on alleged criminal action then a pardon of such alleged actions is sufficient.

The only internal action that Ranger S could be internally tried for would be getting a criminal record while employed with the department. Once that record was pardoned, there is no more cause to be acted upon internally. The action related to the arrest was not internally prohibited, but rather the accumulation of the criminal record was.

The Senate's argument would allow for any employee to be terminated from their employment on any arrest regardless if it was pardoned or acquitted latter. In such a view, the mere act of arrest would be immediate grounds for removal. Such a policy would be strictly unconstitutional as the Government removing one's employment and substantial property interest based on a criminal accusation.

A person has an inherent right to the "enjoyment of the rewards of their own industry" under the State Constitution. See Mayf. St. Const. Art. I, Sec. 1. It is plainly obvious from such a statement that the authors of our Constitution intended for a person to have an inherent right to property. Further, one of the most important phrases permanently etched within the State Constitution upholds due process, even in executive investigations. See *Ibid* at Art I., Sec. 5 ("No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed").

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The Senate's view is offensive on two major grounds against the Constitution.

C

Ranger R was an employee of the Mayflower Parks and Wildlife Service that was arrested for an incident that neither party can recall. As this Court has repeated *ad nau-seam* throughout this opinion, internal policy prohibits employees from criminal activity and accumulating an arrest. In this situation, the department suspended the employee while the arrest was contested. However, the arrest was not contested but rather expunged. We've noted that expungement is an admission of fault in the arrest and a waiver of contesting the arrest at a later date. Based on internal policy and the admission of fault at expungement, the employee should have been terminated for criminal activity.

The Senate, however, failed to demonstrate whether the Director had known about this specific incident.

D

Ranger A was an employee of the Mayflower Parks Wildlife Service that was hired and given employment while possessing a criminal record. Respondent noted that the employee was hired as part of a program that allows individuals that hold a criminal record to seek employment within the department. The Senate did not dispute or address this at trial. Further, we have already noted previously that a director of an agency under the government has ultimate authority over their department and can administrate it to their heart's content except when given an order by the State Governor. The Senate's disagreement with this hiring decision is rooted in opinion, not lawful basis.

E

The Senate argued that the Director has shown contempt for jurisdiction rules of the department. In many of the incidents that the Senate presented, none of them demonstrate that the Director knew or had any part in the department's actions or lack thereof. In two of the incidents linked, the Director is present at the incident but acting in another capacity.

It is unreasonable for the Senate to expect the Director to handle the matter at the moment. If action is requested to be taken, then a complaint should be filed with the department instead of pinning the blame on the present director. Notably, at trial, the Senate made an argument that the Director would've acted inappropriately if they had intervened in any internal misconduct investigation and made their own conclusions.

* * *

As to the first article of incompetence charged by the Senate in their articles of impeachment, this Court *acquits* the Respondent. As to the second article of neglect of duty charged by the Senate, this Court *acquits* the Respondent. This Court orders the Respondent be *discharged* of any suspension or restraint in this matter.

It is so ordered.

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Syllabus

IN RE COMPLAINT AGAINST CHIEF JUDGE SNOW-
REVOLUTE

ON JUDICIAL ETHICS COMPLAINT

No. 6JD-01. Argued January 12, 2022. Decided January 22, 2022.

The Supreme Court received a judicial complaint against Chief Judge SnowRevolute alleging that he contravened Canons 2 and 4 of the Code of Conduct for Judges in the State of Mayflower. The Court thoroughly analyzed the complaint, the evidentiary pieces therein, and the response supplied by the Complainee.

Held: Chief Judge SnowRevolute of the District Court of the District of New Haven County is indefinitely suspended from the bench and this Court formally recommends their removal from the bench by the State Legislature. Pp. 13–14.

(a) Chief Judge SnowRevolute violated Canon 4 of the Code of Conduct for State of Mayflower Judges by practicing law in an official capacity with the Judge Advocate General's Corps while simultaneously holding a position within the District Court. Pp. 14.

(b) Chief Judge SnowRevolute did not violate the Seventh Public Servants Act by maintaining employment with the New Haven County Sheriff's Office and the Mayflower District Court. Pp. 14.

TAXESARENTPLEASE, J., delivered the opinion of the Court, in which BLCKKITTY, C.J., joined. W99F, J., took no part in the consideration of the case.

JUSTICE TAXESARENTPLEASE delivered the opinion of the Court.

Respondent is currently employed by the State of Mayflower as a representative of the Judge Advocate General's Corp for the Mayflower National Guard as well as Chief Judge of the Mayflower District Court. Respondent is also employed by the County of New Haven as the Undersheriff of the New Haven County Sheriff's Office.

On January 12th, 2022, the Court unanimously voted in favor of accepting a complaint of judicial discipline against

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Chief Judge SnowRevolute of the Mayflower District Court for the District of New Haven County. The complaint alleged that Respondent violated Canon 4 of the Code of Conduct for State of Mayflower Judges by practicing law in an official capacity with the Judge Advocate General's Corps while simultaneously holding a position within the District Court. The complaint further alleged that Respondent violated the Seventh Public Servants Act (2020) by holding employment as a Department Head within the New Haven County Sheriff's Office and the Mayflower District Courts; therefore, Respondent was alleged to be in violation of Canon 2 of the code of conduct.

* * *

On consideration of the complaint filed with the Court, the Supreme Court voted unanimously to adjudicate the complaint in favor of sustaining the allegation of violating Canon 4 of the Code of Conduct for State of Mayflower Judges; however, it will exonerate the allegation of acting in violation of Canon 2. The Court has further ordered the indefinite suspension of SnowRevolute, Seat 1 of the Mayflower District Court for the District of New Haven County, and formally recommends their impeachment from the bench to the State Legislature.

It is so ordered.

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Syllabus

IN RE COMPLAINT AGAINST CHIEF JUDGE XOLAAZ

JUDICIAL ETHICS COMPLAINT

No. 6JD-02. Argued October 29, 2022. Decided November 21, 2022.

The Supreme Court received a judicial complaint against Chief Judge Xolaaz alleging that he contravened Canons 1-3 of the Code of Conduct for Judges in the State of Mayflower. The Court thoroughly analyzed the complaint, the evidentiary pieces therein, and the response supplied by the Complainee. It is patently clear that Chief Judge Xolaaz did not contravene any of the revered judicial canons. Instead, the Complainant merely submitted a complaint full of conjecture.

Held: Chief Judge Xolaaz is cleared of any of the allegations brought against him, and no punishment is issued. Pp. 15–21.

(a) The facts of this case ultimately position Chief Judge Xolaaz into a position of safety, as his actions did not directly contravene our Judicial Canons of Ethics. Pp. 16–21.

(b) Judges, at their discretion, may message parties in an ongoing case so long as the messages do not grant either party a “procedural, substantive, or tactical advantage.” Canon 3, Code of Conduct for Mayflower State Judges. Pp. 18–19.

(c) The Supreme Court is not, and never has been, in possession of the power to *expel* inferior Judges from their bench. Such a power lies with the Legislature. Our disciplinary powers, as per Mayf. St. Const. Art XI., Sec. 6, merely levy us the ability to indefinitely *suspend* a member of the Judiciary. Pp. 19.

(d) District Court Judges, in the absence of a Court Clerk, are to continue to attach files in order to preserve the judicial economy. This does not mean that the Judges are mandated to serve at the whims of our litigants; rather, it is a voluntary duty that should typically be done at one’s earliest convenience. Chief Judge Xolaaz’s failure to attach a file to a Trello card does not contravene the canons for judicial ethics. Pp. 19–20.

TURNTABLE5000, J., delivered the opinion of a unanimous Court.

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JUSTICE TURNTABLE5000 delivered the opinion of the Court.

In this case, the Supreme Court of the State of Mayflower was presented with a judicial complaint against sitting Chief Judge Xolaaz. The question presented to us is whether Chief Judge Xolaaz violated Canons 1 – 3 of the Code of Conduct for State of Mayflower Judges. The basis for the report relies solely upon the complaint provided to the Court, with additional exhibits of evidence affixed throughout the complaint.

Under our precedents, it is absolute that prior to issuing any sort of judicial discipline, we must maintain that the adjudication of the complaint is thorough, while affording both parties opportunities to expound their claims. It is indisputable that both parties have done so here. Without constitutionally empowered mechanism—the inherent ability to “discipline any Judge in the Supreme Court and [our] inferiors as [we] see[] fit.” Mayf. St. Const. Art XI., Sec. 6. With such a potent judicial weapon, we “ought to be reluctant to approve its aggressive or extravagant use, and instead we should exercise it in a manner consistent with our history and traditions.” See *Missouri v. Jenkins*, 515 U.S. 70, 124 (1995) (citing *Chambers v. NASCO, Inc.*, 501 U.S. 32, 63–76 (1991) (KENNEDY, J., dissenting)).

Through a thorough review of all the statements, responses, and arguments, the Court has collectively decided that Chief Judge Xolaaz did not contravene any of the canons that sitting Judges are mandated to adhere to. As such, this complaint is discharged, and Chief Judge Xolaaz is absolved of any such allegations.

I

In August 2022, the Court received a judicial complaint against Chief Judge Xolaaz, alleging that he violated Can-

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ons 1 – 3 of the Code of Conduct for Judges in the State of Mayflower. Complainants listed a string of distasteful characterizations, spewing that Chief Judge Xolaaz was a “hostile, unfair, inconsiderate, disrespectful, and immoral Judge.” See Complainant’s Letter to the Supreme Court, at 1. There have been numerous accusations littered throughout the complaint, as such, the Court finds it appropriate to separate every allegation into a distinct portion of this opinion.

A

First, we acknowledge the Chief Judge’s “fail[ure] to acknowledge a recusal motion.” The Chief Judge, questionably glosses over the Plaintiff’s request for recusal, however, while redirecting the Plaintiff to the Chief Justice of the State of Mayflower. This approach is certainly inconsistent with our prioritizations of court-related matters; this does not amount to a violation of the Code of Conduct for State of Mayflower Judges. Our code serves to impugn the oblivious, and incompetent, not to discipline those over harmless procedural errors. It is typical for motions to be submitted in PDF format, while oral motions are available at the Presiding Judge’s discretion; in this matter, Plaintiff apparently did not exhaust all his methods, such as submitting a detailed PDF motion outlining why recusal is mandated in that situation. After all, “[i]t is well established that a judge may not preside over a case in which he has a direct, personal, substantial pecuniary interest.” See *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 894 (internal quotations omitted) (citing *Turney v. Ohio*, 273 U.S. 510, 523 (1927)). Situations that warrant mandatory recusal, often fall under the Due Process Clause, however, states are, and always have been, “free to adopt broader recusal rules than the Constitution re-

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quires.” *Id.*, at 896 (ROBERTS, C.J., dissenting). After all, our own Code of Conduct for State Judges is modeled after Code of Conduct for United States Judges.¹

B

Next, we turn to the next allegation that “[Chief] Judge Xolaaz produced an informal summons to the Plaintiff and felt the [...] need to express his distaste for Plaintiff Rippdan.” See Complaint, at 1, ¶3. We are presented with a screenshot which captures a conversation between Chief Judge Xolaaz, and Plaintiff rippdan. Chief Judge Xolaaz declares that “[w]e are not friends.” *Ibid.*, see image affixed. Although the messages may seem unsolicited, that alone does not merit the title of “distastefulness.” Complaint’s Letter, at 1. True distastefulness would merit far more than a simple declaration that two individuals are not friends, and this certainly does not merit any judicial discipline. Complainants also seem to confuse the situations where a Presiding Judge can message parties involved. Our own Code of Conduct clarifies that Judges “may permit ex parte communications [...] when the communication does not address substantive matters and the judge reasonably believes no party will gain a procedural, substantive, or tactical advantage.” See Canon 3, Sec. 1, ¶2. The act of summoning an individual certainly does not levy any sort of advantage; it merely serves to initiate proceedings by ordering the attendance of all relevant parties. Complainant mistakenly believes that only counsel can summon parties; this is incorrect as the Judge *may* permit counsel to summon parties, however the Judge may stamp his signature to any summons and forward it to

¹ See Code of Conduct for State of Mayflower Judges, at 1 (introduction outlining the Supreme Court’s disciplinary authority).

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all relevant parties. Afterall, the lower court is empowered to draft summons to all parties involved in civil matters. See May. Civ. P. 10.

It is patently clear that Chief Judge Xolaaz has not committed any action here that would directly contravene the Code of Conduct, therefore, we must move to the last allegation.

C

Lastly, we are presented with a series of demands from the Complainant, including a request for Chief Judge Xolaaz's "removal from the District Court." See Complainant's Letter at 1, ¶4. Such a request is impossible to grant. Justices, and Judges alike, are only permitted to hold our "[o]ffices during good behavior." Mayf. St. Const. Art XI., Sec. 1. Our disciplinary powers are solely limited to "suspend[ing] [one] from the bench for an indefinite number of days." Mayf. St. Const. Art XI., Sec. 6. We are not permitted to do anything further, as removal from the bench is something that can only be initiated by the Legislature. Mayf. St. Const. Art XIII., Sec. 11. Violating such a tenet would be an injustice levied upon our own Constitution, that cherishes and is inherently powered by the respect gathered for the separation of powers. After all, "[s]eparation of powers is in no sense a formalism." See *Nixon v. Administrator of General Services*, 433 U.S. 425, 507 (1977) (BLACKMUN, J., concurring in part and concurring in the judgment). The request for us to remove an individual from the bench is wholly incomprehensible. Next, we move on to the issue of updating the Judicial Trello. The Trello system exists to serve an equitable purpose; the judicial branch requires the organization of all cases, and documents to ensure future viability of review, as well as future studies of certain cases. The job as Chief Judge

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is inherently administrative, while the individual is still expected to function with their regular judicial duties. Here, we are presented with a situation where the Complainant seeks to add an *additional duty* to the exhaustive list already preserved for the Chief Judge. It is bizarre to suggest that the Chief Judge is obligated to serve on the whims of the parties who come before his court, when it comes to trivial matters such as the organization and filing of case documents. Such a job is already enshrined: it is reserved for the Clerk of the District Court. In cases of such absence, the District Court has typically replaced another member of the Judiciary to deal with the task as an *interim* clerk. This certainly does not mandate our Judges to strip themselves from their robes to descend down to deal with such a trivial task and serve at the beck and call of our litigants, rather they are simply to accommodate such a request at their own discretion. The Complainant is correct in his declaration that the civil complaint is an important cog in the civil apparatus, however, he is certainly mistaken when he posits such as a detrimental harm to the Plaintiff, simply due to the Chief Judge's decision to not *immediately* attach the civil complaint to the Trello card.

As such, Chief Judge Xolaaz is wholly absolved of any of the allegations brought against him. The Judge did *not* violate any of the Judicial Canons, when he failed to affix the civil complaint to the Trello card; mandating such would be a fool's decision.

II

Complainant comes before the Court with a string of errant declarations, all of which unjustly paint Chief Judge Xolaaz in a negative light; his actions certainly did not contravene the judicial canons we have implemented, as such, no disciplinary action would be just. Complain-

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ant's accusations have no backing, and it seems to contain more conjecture, rather than meritorious allegations that would mandate more severe punishment. Complainant seeks to illustrate a narrative where the Chief Judge is "genuinely disliked by attorneys and most likely other Judiciaries [sic] simply because he is a distasteful and overall unfair judge," and the Complainant empowers themselves into a position where they believe that they possess the qualifications to effectively determine whether an individual "deserve[s] to be [...] a Judge." See Complainant's Letter, at 2. Complaint is certainly erroneous in this behalf, and the Court is not here to entertain absent declarations, where such an extreme form of punishment is outwardly demanded.

III

We have determined that *no punishment* is to be issued in this disciplinary matter. The actions of Chief Judge Xo-laaz—although some may be inherently questionable—were indisputably within the boundaries set by our Code of Conduct. As such, we order that this complaint is discharged.

It is so ordered.

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Syllabus

EX PARTE SYNETHS

APPLICATION FOR ADVISORY JUDGMENT

No. 6JD-02. Decided December 8, 2022.

Governor Syneths on December 5th, 2022, approached the Court with an inquiry, invoking our advisory judgment jurisdiction, mandating us to answer a question posed by him. The Governor asked whether he could be employed in any law enforcement agencies, “secondary” agencies, or private positions simultaneously as serving as Governor, without ultimately being barred by the Prohibitions of Office Clause, in our State Constitution.

Held: The Governor of the State of Mayflower is barred from occupying and position as a law enforcement officer, excluding his constitutional duties as the commander-in-chief, any “secondary” positions—referring to departments such as the Transit Authority—and any private position that is designated as an “office,” or “position of profit,” excluding positions in a political party, whether it be a state-level party, or a county-level party. Pp. 25–33.

(a) The Supreme Court of the State of Mayflower is constitutionally mandated to issue advisory judgments, upon being sent an “important question [...] by the Governor[.]” Art. XI, Sec. 9, Mayf. St. Const.. Pp. 25–26.

(b) When interpreting our State Constitution, we are to interpret and construct it like a statute. To begin interpreting our Constitution, we must first “look [] to the language.” See *Richardson v. United States*, 526 U.S. 813, 818. Once the “language provides a clear answer, it ends there as well.” *Connecticut Nat. Bank v. Germain*, 503 U.S. 249, 254. We are to assume that the Framers used such language, so that it may “be understood in their ordinary and popular sense.” *Amoco Production Co. v. Southern Ute Tribe*, 526 U.S. 865, 873 (citing *Burke v. Southern Pacific R. Co.*, 234 U.S. 669, 679). We are also to assume that the Framers did not waste words, and that every word has meaning. *Reiter v. Sonotone Corp.*, 442 U.S. 330, 339. Pp. 27–28.

(c) The Prohibitions of Office Clause mirrors a clause in our Federal Constitution. The Federal Constitution reads that Representatives and Senators may not “hold[] an Office of Trust or Profit under the United States.” U.S. Const. art. II, §1, cl 2. In fact, our Prohibitions of Office Clause mirrors three other States’ clauses: Alaska, Hawaii, and New Jersey. P.28–29.

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(d) The term “office,” is defined as “[a]n employment on be-half of the government in any station or public trust, not merely transient, occasional, or incidental.” Black’s Law Dictionary 976 (5th ed. 1979). The Office of the Governor is included as both a position of office, and a position of profit. P. 28–29.

(e) Positions of profit are defined as any rank, or status, that provides its occupant with the “[a]ccession of good[s]; valuable results; useful consequences; avail; gain; as, an office of profit, as well as meaning the excess of returns over expenditures or the excess of income over expenditure.” Black’s Law Dictionary 1090 (5th ed. 1979); see also *United States v. Mintzes*, 304 F. Supp. 1305 (D. Md.). Pp. 29.

(f) Our Constitution refers to string “political subdivisions,” many times, and under the consistent-usage canon, we acknowledge and apply the definition put forward by the Framers; regardless of any departure of context, the meaning still remains firm as it is a special phrase defined by the Framers. See Art. III., Mayf. St. Const. Pp. 29.

(g) Serving as a law enforcement officer, whether it be a position serving the state at-large, or one of the county departments, is regardless barred from the Governor, under the Prohibitions of Office clause. Law enforcement officers do indeed serve as state actors of justice, and they are provided with a salary, deeming it to be both a position of “office,” and one of “profit.” Pp. 30–32.

(1) The Governor may perform any duties bestowed to him by our State Constitution, pursuant to his lawful duties as the “commander-in-chief of the National Guard of the State.” See Art. V, Sec. 7, Mayf. St. Const. Pp. 32.

(h) The Governor may also not possess employment in a “secondary” agency precisely because he is granted compensation for his work, thus, deeming it as a “position of profit,” and thereby unattainable by the Governor under the Prohibitions of Office Clause. Pp. 32–33.

(i) Generally speaking, as for any other position uttered by the Governor, the Court adopts a uniform metric that will determine whether a position is truly a “position of profit.” So long as the position is not: (a) a position of officer, or (b) a position of profit—one that provides the employee with a salary—only then may the Governor occupy that position. This does not include political parties, as they are granted an exemption from the Prohibitions of Office Clause. See Art. V, Sec. 2, Mayf. St. Const. P. 33.

TURNTABLE5000, J., delivered the opinion of a unanimous Court.

JUSTICE TURNTABLE5000 delivered the opinion of the Court.

Governor Syneths approached this Court on the 5th of December 2022, regarding an advisory question that was submitted to us. The inquiry revolved around the Prohibitions of Office Clause in the Mayflower State Constitution. The Governor inquired as to its constraints, and whether it limits him from a plethora of job opportunities. We hold that the Governor may not be employed in any law enforcement agencies,¹ any secondary agencies, or any private organizations, unless the private organization avoids any categorization that labels it as an “office or position of Profit.” Art. V, Sec. 2, Mayf. St. Const.

I

In December 2022, the Governor submitted an application for advisory judgment, invoking this Court’s advisory jurisdiction. We are mandated to “issue [our] opinion upon important questions when required by the Governor.” Art. XI, Sec. 9, of the Mayflower State Constitution. The Governor inquired as to whether he is prohibited “from being employed in a law enforcement agency, a secondary agency [...], any private organization[s], or anything else[,]” Governor’s Submission of an Advisory Judgment Question, under the Prohibition of Office Clause of our State Constitution.

¹ This shall not include any of the lawful duties prescribed to the Governor from our State Constitution, so long as these duties pertain to his lawful status as the “commander-in-chief of the National Guard of the State.” Art. V, Sec. 7, Mayf. St. Const. This will be expounded in a more thorough nature at Part II, Sec. B, §1-2, infra, at 7.

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Our Constitution reads that “[t]he Governor shall not hold any other office or position of profit under the State, or its political subdivisions, excluding positions within a political party.” Art. V, Sec. 2, Mayf. St. Const. Under this clause, we are to determine whether the Governor is barred from serving in any other sphere of employment, including the various ones that he named himself. We now opine that the Governor is indeed barred from the positions that he has named, with some exceptions and leeway that may be granted at the behest of our State Legislature.

II

The Prohibitions of Office Clause is one that serves to support the separation of power in our State. In some jurisdictions, the separation of powers is not as highly regarded as it is in our Federal Constitution; after all, “the concept of separation of powers embodied in the United States Constitution is not mandatory in state governments.” *Sweezy v. New Hampshire*, 354 U.S. 234, 255 (1957) (citing *Dreyer v. Illinois*, 187 U.S. 71). This does not excuse the notion entirely however, as other inconsistencies of law may still be noted, and corrected. *Sweezy*, *supra* (holding that a separation facilitated by the State of New Hampshire constituted a denial of due process of law). However, our State entirely respects the tripartite allocation of power, under the *trias politica* doctrine, as evidenced by the structure of our government. We must first analyze the constrictions bestowed upon the Governor by interpreting and setting a consistent definition for an “office or position of profit,” Art. V, Sec. 2, Mayf. St. Const, only then can we apply these positions and determine whether it complements the definition set.

A

When interpreting our State Constitution, we hold that they are to be interpreted, and constructed like statutes. Just like when we interpret a statute, “we look first to the language.” See *Richardson v. United States*, 526 U.S. 813, 818 (1999). The commencement of any statutory construction requires that we “begin[] with the language of the statute.” *Hughes Aircraft Co. v. Jacobson*, 525 U.S. 432, 438 (1999) (citing *Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 475 (1992) (internal quotations omitted)). When “[a]nd where statutory language provides a clear answer, it ends there as well.” *Ibid.*; see also *Connecticut Nat. Bank v. Germain*, 503 U.S. 249, 254 (1992). The language utilized in the Constitution is certainly practical, as such, we are to consider the verbiage “to be understood in their ordinary and popular sense.” *Amoco Production Co. v. Southern Ute Tribe*, 526 U.S. 865, 873 (1999) (citing *Burke v. Southern Pacific R. Co.*, 234 U.S. 669, 679 (1914)). In any case, absent any steadfast definition of a singular phrase, we are also to consider that the Framers “kn[ew] and adopt[ed] the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken and the meaning its use will convey to the judicial mind.” See *Morissette v. United States*, 342 U.S. 246, 263 (1952). After all, it is certainly no secret that the Framers intended for the Prohibitions of Office Clause to mirror our Federal Constitution’s clause that bars Senators, and Representatives from “holding an Office of Trust or Profit under the United States.” See U.S. Const. art. II, §1, cl 2. In fact, our Prohibitions of Office Clause is shared by three other states: Alaska, Hawaii, and New Jersey.

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Our State Constitution bars the Governor from “hold[ing] any other office or position of profit under the State, or its political subdivisions, excluding positions within a political party.” Art. V, Sec. 2, Mayf. St. Const. We are to give meaning to every word utilized in this provision. See *Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979) (citing *United States v. Menasche*, 348 U.S. 528, 538-539 (1955)). However, we must first preliminarily establish through the reading of the context, see *Holloway v. United States*, 526 U.S. 1, 7 (1999) (citation omitted), that the word “or” is constructed as a “disjunctive particle,” as it separates the word “office,” from “position of profit.” We will first construct the meaning of the word, “office.”

1

Our State Constitution refers to the word “office,” a plethoric number of times—forty-six times to be exact. As we are reading these provisions like a statute, it is foundational that we view “identical words used in different parts of the same [document]” and assume that they “have the same meaning.” *Taniguchi v. Kan Pacific Saipan, Ltd.*, 566 U.S. 560 (2012) (citing *Gustafson v. Alloyd Co.*, 513 U.S. 561, 570 (1995)). We have engaged in this tenet of statutory construction differently than we approached the construction in *In re Alex Artemis*, 6 M. S. C. 5 (2022), precisely because of the consistent-usage canon, as well as the fact that the context remained virtually unphased regardless of any departure from section to section. We read the word “office,” to be defined as “[a]n employment on behalf of the government in any station or public trust, not merely transient, occasional, or incidental.” Black’s Law Dictionary 976 (5th ed. 1979). The Prohibitions of Office Clause includes the words “any other,” which directly highlights that the position of “governor” is indeed both an

“office,” and a “position of profit.” Armed with this, our statutory construction continues as the consistent use of the word “office,” establishes this uniform meaning throughout the Constitution.

2

Next, we consider what positions are categorized as a “position of profit.” The word “position,” when placed into the context of its placement in the Constitution, is read as a “social or official rank or status.” Merriam-Webster, Position (2022). However, the word position is symbiotically affected, when brought into contact with the word “profit.” The word “profit,” is defined as the “[a]ccession of good; valuable results; useful consequences; avail; gain; as, an office of profit, as well as meaning the excess of returns over expenditures or the excess of income over expenditure.” Black’s Law Dictionary 1090 (5th ed. 1979); see also *United States v. Mintzes*, 304 F. Supp. 1305 (D. Md. 1969). With this symbiotic relationship, both the words “position,” and “profit,” simultaneously modify each other, essentially unifying the two together. Our adoption of this definition for the words “position of profit,” is not alone. By attaining any sort of compensation for the work done as a result of occupying that “position,” automatically merits itself as a “profitable” position.²

3

Lastly, to understand the full potential impact of the Prohibitions of Office Clause, we must turn our attention to the reference of “political subdivisions.” Our State Con-

² *Cheshire v. McKenney*, 182 Conn. 253, 261 n.8 (Conn. 1980) (“Th[e] term, [profit,] reasonably construed, would include any position for which compensation, including a salary, is received. See *Begich v. Jefferson*, 441 P. 2d 27 (Alaska 1968); Webster, Third New International Dictionary for definition of “profit.”)

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stitution establishes a definition to these words: “The state shall be divided by law into political subdivisions called counties.” See Art. III, Mayf. St. Const. It is patently clear that the Framers intended to define this phrase, so that it may be consistently applied throughout the rest of the Constitution. It is applied right next to the mentioning of our State, meaning that the Prohibitions of Office Clause is also applied to county positions. Our analysis ends here, so that we may proceed to consider and apply the definition of the Prohibitions of Office Clause in its entirety; through this, we may visualize how each employment opportunity that the Governor included in his question, interacts with the clause.

B

With the knowledge we have imparted from our statutory analysis, we can begin to answer the question presented to us by the Governor. The Governor inquired whether he is prohibited “from being employed in a law enforcement agency, a secondary agency [...], any private organization[s], or anything else[.]” Governor’s Submission of an Advisory Judgment Question, *supra*. We will answer each particular question separately.

1

First, we must consider whether the Governor can be employed in a law enforcement agency. Law enforcement department heads serve at the pleasure of our Governor. Art. V, Sec. 11, Mayf. St. Const. The Governor also “set[s] the budget for each principal department.” *Ibid.* Immediately, it is clear that there are severe ethical concerns, and potential conflicts of interest, with the Governor simultaneously serving as a law enforcement officer. However, the question presented to us is limited to whether the Pro-

hibitions of Office Clause bars the Governor from being employed in a law enforcement capacity. Therefore, because the “issue is not presented before us in this case, [...] we decline to address it.” *Ridgeway Parks Services v. Steking*, 1 Rid. ___, ___ n. 1 (2022) (comparing *Intel Corp. Investment Policy Comm. v. Sulyma*, 140 S. Ct. 768, 775 n. 2 (2020)).

We must first acknowledge that the restriction levied as a result of the Prohibitions of Office Clause applies to both state-level law enforcement agencies, and county-level law enforcement agencies. When an individual is inducted into a law enforcement agency, they are issued salary from whichever entity employs them. That automatically grants the employee “valuable results,” and they receive monetary gain. This compensation levied to them as a result of their work automatically designates any law enforcement position as a position of profit. The application of “office,” applies here too as indisputable that employment in a law enforcement agency, establishes that member as an actor of the government: bestowed and entrusted with the duty to enforce the law. The Governor may not serve as a law enforcement officer. This includes the Mayflower State Police, and law enforcement agencies that are located within the county, i.e., the Lander Police Department, Plymouth Police Department, and the New Haven County Sheriff’s Office. However, the Governor is constitutionally designated as the “commander-in-chief of the National Guard of the State.” See Art. V, Sec. 7, Mayf. St. Const. The Governor is constitutionally permitted to occupy this position, as it is inextricably intertwined with his position as the commander-in-chief.

We hold that the Governor cannot serve as a law enforcement officer simultaneously while he is in office.

2

Next, we must consider whether the Governor can serve in “secondary agency.” These agencies refer to a plethora of agencies: (1) Mayflower Department of Justice, (2) Mayflower Law Enforcement Training Institute, (3) Mayflower Public Broadcasting System, (4) New Haven County Transit Authority, (5) New Haven County Fire Department, (6) Mayflower Department of Parks and Wildlife, (7) Department of State, and (8) Mayflower National Guard.

We have already established that the Governor is constitutionally permitted to retain his position as the commander-in-chief of the Mayflower State Guard. As for the other positions, however, it is indisputable that profit is garnered, and monetary benefits are levied upon the employee. Reapplying our consistent definition of “profit,” garners us the exact same result that we perceive here. The employee is entitled to a salary upon their induction to every single one of these “secondary” agencies. The monetary gain that accumulates as a result of these positions immediately bars the Governor from serving in all of these, with a previously mentioned exception granted to the Mayflower National Guard.

3

Next, we turn to look at whether or not the Governor can entertain any position in a “private organization, or anything else[.]” Governor’s Submission of an Advisory Judgment Question, *supra*. The Court has decided to combine these two sections of the question into one, for their complementary nature.

Few private organizations in our state pay their employees through a systemic salary-based dispersion sys-

tem. If the Governor does not receive any “profit,” from his work in any of these private organizations, he may work for them. He may occupy these positions, however, if the position levies him any sort of “profit,” he may not be able to “work” here. These private organizations are not considered as “offices,” as per our Constitution, however, they may be designated as “positions of profit.” So long as there is no profit gained as a result of working at a private establishment, the Governor shall be free to work there.

As for the “anything else,” that the Governor mentioned, the Court recommends the exact metric used above. If the position is not—(1) a position of Office, or (2) a position that garners the employee any profit—only then can the Governor truly be employed there. However, there remains an exception to this rule: “[P]ositions within a political party.” Art. V, Sec. 2, Mayf. St. Const. This applies to both county-level political parties, and state-registered political parties.

III

For the abovementioned reasons, this Court finds that the Governor cannot be employed in any law enforcement agencies, with an exception to any of his constitutional duties that are granted to him pursuant to his lawful authority as the commander-in-chief, any “secondary” agencies, or other places of employment that constitute themselves as a position of “office,” or as a “position of profit.”

It is so ordered.

2022 A.D. TERM

Syllabus

ITALIAN-AMERICAN CIVIL RIGHTS LEAGUE
EX RELS. ANTHONYPANCI, ET AL., PETITIONER *v.*
NEW HAVEN COUNTY SHERIFF'S OFFICE, ET AL.

ON APPEAL FROM THE DISTRICT COURT FOR THE DISTRICT OF
NEW HAVEN COUNTY

No. 06-08. Argued December 6, 2022. Decided December 10, 2022.

The Italian-American Civil Rights League brought forth a suit on behalf of three plaintiffs, two of which were tourists, against the New Haven County Sheriff's Office, and the Plymouth Police Department, alleging that the departments violated a string of rights that are secured by every person in our state. The Appellants submitted a motion to recuse to the presiding judge, alleging that there was a strong possibility of bias. The presiding judge denied the motion citing that there was not a strong possibility of bias. Appellants then submitted a notice of appeal, and a jurisdictional statement to this Court invoking our automatic review, pursuant to the appeal by right mechanism located in our state Constitution.

Held: The presiding judge in the lower court was constitutionally required to recuse from the action. Pp. 1–7.

(a) The right to a fair trial, with a fair and neutral arbiter presiding, is engrained into the Due Process Clause. Pp. 2–3.

(b) A judge is constitutionally required to recuse from a case under the Due Process Clause in any situation where they have “a direct, personal, substantial, pecuniary interest,” *Tumey v. Ohio*, 273 U.S. 510, 523, in the disposition of a case; or where “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U.S. 35, 47. Determining whether a situation meets the constitutional level of intolerance is something that must be decided on a case-by-case basis. There need not be any actual bias, rather, the mere probability of such is enough. *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868. Pp. 4.

(c) The language of the Non-Civilian Equipment and Gavel Possession Act is not constitutionally offensive as too ambiguous to be enforced within the bounds of the Fourteenth Amendment. Under the ordinary person test, the language is sufficient to clearly state which conduct is prohibited under the statute. Pp. 5.

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(d) The comments made by the presiding judge in the lower court indisputably met the constitutional level of intolerance. The disparaging comments targeted a class *en masse*, accompanied by the various legal declarations that he made, creates a strong possibility where the partiality of the presiding judge may be reasonably questioned, and the mere appearance of such cannot be tolerated. Pp. 5–7.

CV-67032-22, reversed and remanded.

TURNTABLE5000, J., delivered the opinion for a unanimous court. PAR-MENIONN, J., filed a concurring opinion.

JUSTICE TURNTABLE5000 delivered the opinion of the Court.

Arbiters of the law swear an oath prior to assuming the duties of their respective office: it is our emphatic duty to “hold no prejudice and administer justice irrespective of the persons before [us],” Art. XIV, Mayf. St. Const, and we are obligated to “impartially discharge the duties of our office.” *Ibid.* Such is the manifest duty of the arbiters of law; this recognition is what has placed the foundations of what we now recognize as the various Due Process protections levied upon the masses.

Our federal Constitution, and our state Constitution both address the Due Process Clause. With the Due Process Clause, a plethora of protections are granted to everyone in the country. One of these protections include the right to have a fair arbiter preside over a trial. After all, “[i]t is axiomatic that [a] fair trial in a fair tribunal is a basic requirement of due process.” *Caperton v. AT Massey Coal Co., Inc.*,

556 U.S. 868, 876 (2009) (internal quotation marks omitted) (citing *In re Murchison*, 349 U.S. 133, 136 (1955)). And “[n]o man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity.” *Ibid.*, (citing The Federalist No. 10, p. 59 (J. Cooke ed.1961) (J. Madi-

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son)).

We are presented with a case where the presiding judge in the lower court denied a motion for his recusal. Appellants submitted a jurisdictional statement, invoking our automatic review of any case, so long as it meets the stringent standards located in our state Constitution. Art. XI, Sec. 3, Mayf. St. Const.

We noted probable jurisdiction to determine whether the judge was constitutionally required to recuse under the Due Process Clause. We hold that he was.

I

In October 18, Appellants initiated a lawsuit against two departments: the New Haven County Sheriff's Office, and the Plymouth Police Department. Appellants alleged a string of grievances, targeted towards two law enforcement officers being sued in their official capacity. Appellants claimed that the Defendants utilized excessive force, engaged in an arbitrary arrest, and that they ultimately deprived the Appellants of their rights.

The Italian-American Civil Rights League brought an *ex rel* suit, on behalf of three Plaintiffs; two of the three were tourists. The Appellants submitted a motion for the presiding judge to recuse from the action, on October 20, citing that that presiding judge, *inter alia*, has made disparaging comments towards tourists en masse. The Presiding Judge then denied the motion for his recusal, citing that he was not constitutionally required to recuse from the action.

Appellants submitted their notice of appeal, and their jurisdictional statement asserting that their situation qualifies for automatic review pursuant to the appeal by right clause of our state Constitution. We agree that a motion for a judge's recusal may be brought to this Court in the

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form of an interlocutory appeal. As such, we noted probable jurisdiction to consider whether the presiding judge was constitutionally required to recuse from the matter under the Due Process Clause.

II

We must first consider the expansive nature of the constitutional requirement to recuse from an action, prior to applying it to the actions exhibited by the presiding judge in the lower court.

Receiving a fair trial is one of the most fundamental protections that the Due Process Clause guarantees to the people. A trial cannot truly be fair with a partial arbiter, one with their duties and obligations elsewhere. The Framers noted this, and it is patently clear that judges are to constitutionally recuse themselves from any action where their impartiality may be reasonably questioned.

Initially, the Supreme Court adopted a stringent standard that required a judge to recuse from a case when they have “a direct, personal, substantial, pecuniary interest” in the disposition of a case. *Tumey v. Ohio*, 273 U.S. 510, 523 (1927). However, the Court has since then expanded the Due Process Clause to require a judge to recuse when “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). By considering the mere probability of actual bias, the Supreme Court noted that there need not be any *actual* bias.

But what factors contribute to the rise of such probability? When does the probability rise to a standard that is constitutionally intolerable? Each case presents distinct facts, which is precisely why it is so hard to pinpoint a steadfast principle that all arbiters can turn to; there is no one-size-fits-all approach here, rather, this unconstitution-

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al probability of bias “cannot be defined with precision.” *Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 822 (1986) (quoting *Murchison*, *supra*, at 136). This is precisely why it will require the Court to analyze the facts uniquely, and delicately on a case-by-case basis, to ultimately determine whether the probability has risen to a level of constitutional intolerance. The essence of these facts comports with the constitutional standards that this Court has supported thus far, and it is vital for it to be adhered to.

But once more, there need not be *actual* bias. The mere probability of such is enough. The simple fact remains that “[d]ue process may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.” *Caperton*, 556 U.S., at 886 (quoting *Murchison*, 349 U.S., at 136). Failure to recuse when one is constitutionally required to do so, indisputably trudges deep into a dangerous territory. It would label itself as a violation of due process, which is precisely why our state Constitution outlines the failure to recuse as one of the *six* situations where an individual may appeal *by right*, directly to this Court meriting its automatic review. Extreme cases where the circumstances likely cross into constitutional limits demands “this Court’s intervention and formulation of objective standards.” *Caperton*, *supra*, at 887.

Nonetheless, there are two situations where a judge is constitutionally required to recuse himself from an action: (1) the judge must have a financial interest in the outcome of a case; or (2) there must be a strong *possibility* that the judge’s decision will be partial. *Caperton v. AT Massey Coal Co., Inc.*, 556 U.S. 868 (2009). We are bound to follow the ruling produced by the Supreme Court, and it is binding on this land without a doubt.

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The issue that has percolated in the lower court primarily revolves around the second situation where a judge is constitutionally required to recuse under the Due Process Clause. We will not consider the first situation, as that matter is not before us, therefore, we will not expand on it incessantly. *Ex Parte Syneths*, 6 M. S. C. 21, 30 (2022).

III

With a firm standard in mind, we can move to analyze the actions taken in the lower court. Appellants in the lower court alleged that the presiding judge exhibited behavior that would indeed invite reasonable uncertainty as to the judge's impartiality. We agree.

The presiding judge made numerous comments that were indisputably disparaging to the class of non-citizens. It is evident that the presiding judge attempted to substantiate these claims as he verbally stated that tourists are not protected by the Privileges and Immunities Clause of the Fourteenth Amendment. Such a legal declaration absent any case would indisputably create uncertainty in the mind of a reasonable person. Ordinarily, if such a claim was substantiated through "opinions formed by the judge on the basis of facts introduced or events occurring in the course of . . . prior proceedings," *Liteky v. United States*, 510 U. S. 540, 555 (1994), only then would it not constitute as the basis for recusal. However, here we are presented with a series of statements, most of them unprovoked, where the presiding judge has openly shared such disparaging comments that would indisputably be presented in a future case, and that case has arrived here.

The possession of standing is one of the most vital components of a case. By making numerous statements regarding the validity of a tourist's ability to seek redressal and remedy from the judicial system, the presiding judge

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has virtually made it intolerable for him to preside over any case that directly involves a tourist's ability to litigate. Such a topic is certainly not settled law in our State, and it is still ripe for fierce debate; nonetheless, the presiding judge's comments have raised the probability of bias to a level of constitutional intolerance.

Regarding the order refusing to recuse from the case, the presiding judge noted that these comments were "simply made for the gag." See Order Denying Recusal. It certainly does not appear this way. A reasonable person can peruse through the context, and they will inevitably be led to the same conclusion: the presiding judge has made bold claims, substantiated by legal arguments furthered by him, and a large amount of these statements were unprompted. A contextual analysis does not yield fruitful results in favor of the presiding judge, instead it does quite the opposite. The guise of a gag cannot be asserted to cloak situations where the messages sent indubitably mark the presiding judge in a position where his decision and impartiality may be questioned. In this instance, there is certainly a strong possibility present, therefore, the presiding judge is constitutionally required to recuse from the action.

IV

This decision today revolves around an ancient tenet revered by scholars, and analysts alike: the constitutional standard of recusal under the Due Process Clause. It is reserved for the very two situations that we have reiterated above; for anything else, the state may adopt stricter standards of recusal. *In Re Xolaaz*, 6 M. S. C. 15 (2022).

The situation before us is one that must be decided in an interlocutory appeal, as it is vital for the arbiter to remain neutral and disjunct from all forms of partiality. In this

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matter, the presiding judge failed to recuse when he was constitutionally required to do so, as such, the Court has taken the proper measures to remedy the error. This is a situation that should very rarely find itself on our docket, the constitutional implications of the Due Process Clause will solely revolve around the situations we have noted above here.

The presiding judge's disparaging comments create a strong possibility of bias against tourists *en masse*, due to his open declarations that cannot reasonably be defended under any claim of them being mere jests. The sanctity of the judiciary is paramount. We have "always carried a special duty to 'jealously guar[d]' the Constitution's promise of judicial independence." *Kisor v. Wilkie*, 139 S. Ct. 2400, 2438 (2019) (ROBERTS, C.J., concurring) (citing *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 60, 102 S.Ct. 2858, 73 L.Ed.2d 598 (1982) (plurality opinion)). After all, "[i]t is the design of the law to maintain the purity and impartiality of the courts." *McCloughry v. Deming*, 186 U.S. 49, 67 (1902). There are only so many steps that we can take, to ensure the impartiality and the paramount nature of the judicial branch; judges must recuse when they are constitutionally required to do so, and failure to do so indisputably stains the image of our impartiality, and the very oath that we swore prior to wearing our robes.

* * *

The judgment of the Mayflower District Court for the New Haven District is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

PARMENIONN, J., concurring in the judgment

JUSTICE PARMENIONN, concurring in the judgment.

I concur with my colleagues on the Court entirely. I write separately to only voice on one topic: an interlocutory appeal. This method of appeal has never been opined on in our Court's history. I wish to write separately on this topic alone to bring light to it, so it is at the forefront of our legal community.

I

The Supreme Court of the United States opined that an appeal may be made during the proceedings of a court case if it satisfied three prongs—(1) the matter appealed was conclusive on the issue presented; (2) the matter appealed was collateral to the merits; and (3) the matter appealed would be effectively unreviewable if immediate appeal were not allowed. See *Lauro Lines s.r.l. v. Chasser*, 490 U.S. 495 (1989). The prongs in the cited case comes out of a federal statute—one which is not applicable in our courts, Title 28, section 1291 of the United States Code. While the code is not applicable in our courts, for we are not a federal court; we are a state one—we are still able to apply *Chasser* to our legal affairs. For our purposes, we consider a final judgment as “a decision by the district court that ‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’” *Van Cauwenberghe v. Biard*, 486 U.S. 517, 521 (1988), quoting *Catlin v. United States*, 324 U.S. 229, 233 (1945). Therefore, when a party feels as though a judge has erred along the way—on the basis of a constitutional, statutory, or procedural matter—they may appeal, given the “narrow exception to the normal application of the final judgment rule [that] has come to be known as the collateral order doctrine.” *Midland Asphalt Corp. v. United States*,

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489 U.S. 794, 798 (1989). That exception is for a “small class” of prejudgment orders that “finally determine claims of right separable from, and collateral to, rights asserted in the action, [and that are] too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated.” *Cohen, supra*, at 546. Our colleagues on the esteemed and highest Court of the land have said that for one “to fall within the *Cohen* exception, an order must satisfy at least three conditions: ‘It must ‘conclusively determine the disputed question,’ ‘resolve an important issue completely separate from the merits of the action,’ and ‘be effectively unreviewable on appeal from a final judgment.’” See *Lauro Lines s.r.l. v. Chasser*, 490 U.S. 495 (1989), quoting *Richardson-Merrell Inc. v. Koller*, 472 U.S. 424, 431 (1985) and *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 468 (1978).

For present purposes, I need not go into exploring these three prongs; the majority already does so in a swiftly fashion.

It was reiterated that the “general rule” of an order is “effectively unreviewable” only “where the order at issue involves ‘an asserted right the legal and practical value of which would be destroyed if it were not vindicated before trial.’” *Midland Asphalt Corp., supra*, at 798, quoting *United States v. MacDonald*, 435 U.S. 850, 860 (1978). In civil cases, it has been held that the denial of a motion to dismiss based upon a claim of a motion to dismiss based upon a claim of absolute immunity is immediately appeal prior to final judgment, *Nixon v. Fitzgerald*, 457 U.S. 731, 742-743 (1982), “for the essence of absolute immunity is its possessor’s entitlement not to have to answer for his conduct in a civil damages action,” *Mitchell v. Forsyth*, 472

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U.S. 511, 525 (1985). And claims of qualified immunity may be pursued by immediate appeal, because qualified immunity “is an immunity from suit.” *Id.*, at 526. Similarly, in criminal cases, it has been held that the deprivation of a right not to be tried is effectively unreviewable after final judgment and is immediately appealable. *Helstoski v. Meanor*, 442 U.S. 500 (1979) (denial of motion to dismiss under the Speech or Debate clause); *Abney v. United States*, 431 U.S. 651 (1977) (denial of motion to dismiss on double jeopardy grounds). See *Midland Asphalt Corp.*, *supra*, at 801 (“A right not to be tried in the sense relevant to the Cohen exception rests upon an explicit statutory or constitutional guarantee *that trial will not occur*”) (emphasis added).

On the other hand, the collateral order doctrine has not been decided whether it is applicable in situations where a district court has denied a claim, not that the defendant has a right not to be sued at all, but that the suit against the defendant is not properly before the particular court because it lacks jurisdiction. In *Van Cauwenverghe v. Biard*, 486 U.S. 517 (1988), a civil defendant moved for dismissal on the ground that he had been immune from service of process because his presence in the United States had been compelled by extradition to face criminal charges. It was noted that, after *Mitchell*, “[t]he critical question. . . is whether ‘the essence’ of the claimed right is a right not to stand trial,” 486 U.S., at 524, and held that the immunity from service of process defendant asserted did not amount to an immunity from suit—even though service was essential to the trial court’s jurisdiction over the defendant. See also *Catlin v. United States*, 324 U.S., at 236 (order denying motion to dismiss petition for condemnation of land not immediately appealable, “even when

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the motion is based upon jurisdictional grounds").

When first formulating the doctrine in *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949), we said that it permits interlocutory appeal of final determinations of claims that are not only "separable from, and collateral to, rights asserted in the action," but also, it was immediately added, "too important to be denied review." *Id.*, at 546 (emphasis added). Later cases have retained this significant requirement. For example, in *Abney v. United States*, 431 U.S. 651 (1977), in order to qualify for immediate appeal, the order must involve "an *important* right which would be 'lost, probably irreparably,' if review had to await final judgment." *Id.*, at 658 (emphasis added), quoting *Cohen, supra*, at 546. And in *Coopers & Lybrand v. Livesay*, 437 U.S. 463 (1978), the order must "resolve an *important* issue completely separate from the merits of the action." *Id.*, at 468 (emphasis added). See also *Van Cauwenberghe v. Biard*, 486 U.S. 517, 522–527 (1988); *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 276–277 (1988); *Richardson-Merrell Inc. v. Koller*, 472 U.S. 424, 431 (1985); *Moses H. Cone Memorial Hospital v. Mercury Construction Corp.*, 460 U.S. 1, 12 (1983); *Nixon v. Fitzgerald*, 457 U.S. 731, 742 (1982).

Nevertheless, the same judgment applies—if anything, *a fortiori*—when the right has been created by private agreement. See *Lauro Lines s.r.l. v. Chasser*, 490 U.S. 495 (1989) (SCALIA, J., concurring).

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ALEX_ARTEMIS, PETITIONER *v.* STATE OF
MAYFLOWER.

ON CERTIORARI TO THE DISTRICT COURT FOR THE DISTRICT OF
NEW HAVEN COUNTY

No. 06-08. Argued December 6, 2022. Decided December 10, 2022.

Alex_Artemis was searched and arrested for possessing state-issued equipment related to his position as the Director of the Parks and Wildlife Service while they were not on-duty. They were charged for violating the Non-Civilian Equipment and Gavel Possession Act and for 3 M. C. C. § 4. In the lower court, Mr. Artemis moved to dismiss the possession charge for ambiguous grounds in the statute's language and that the act allows them to possess the equipment since they are a law enforcement officer, albeit off-duty. The Grand Theft charge was challenged that the Government could not value the state's equipment since it is dispensed and made free-of-charge and, therefore, could not exceed the minimum monetary value requirement to be charged. The same charge was also disputed with a claim that Mr. Artemis had legal ability to retain the equipment, even while not performing his official duties. The lower court rejected the motion.

Held: The language of the Non-Civilian Equipment and Gavel Possession Act is upheld, and the statutory construction proposed by Mr. Artemis is rejected. Pp. 1-7.

(a) When constructing a statute's language, it is important to read it in context of the surrounding statements and clauses as opposed to isolated from the meaning of the rest of the document. The context of these statements can be used to demonstrate and outline the state legislature's intent when passing the bill, which shall dictate how it is to be enforced. Pp. 2-3.

(b) The Rule of Lenity compels that a statutory construction be resolved in favor of a criminal defendant when there exists "no satisfactory construction." *Lockhart v. United States*, 577 U.S. 347, 361. This does not apply in reading the Non-Civilian Equipment and Gavel Possession Act as there does exist a satisfactory construction while maintaining the legislature's intent. Pp. 4.

(c) The language of the Non-Civilian Equipment and Gavel Possession Act is not constitutionally offensive as too ambiguous to be enforced within the bounds of the Fourteenth Amendment. Under the ordinary

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person test, the language is sufficient to clearly state which conduct is prohibited under the statute. Pp. 5.

(d) A motion for dismissal is an inappropriate medium to raise factual dispute against an information and the lower court was correct to reject the challenge. This Court will not decide whether the Grand Theft charge was appropriate in this application because both grounds of dispute are on matters of fact, which the lower court has not had a chance to hear. Pp. 5–7.

Judgment affirmed.

TAXESARENTHASOME, J., delivered the opinion of the Court, in which PARMENTER and LIAMDOSEN, JJ., joined, in which TURNTABLE5000, J., and BLCVLCI, C. J. joined as to all but Part III. TURNTABLE5000, J., filed an opinion dissenting in part, in which BLCVLCI, C. J., joined.

JUSTICE TAXESARENTHASOME delivered the opinion of the Court.

The Government has a substantial interest in retaining its equipment given to state employees in the performance of their duties. In the past, the State of Mayflower has been faced with an endemic of its equipment being retained for purposes unrelated to the performance of a government employee's duties. Because of that, the state legislature enacted a statute to specifically target state employees that unlawfully possess the equipment they are entrusted with. This case concerns whether a criminal defendant that is found in possession of certain types of such equipment while not actively performing their duties can be charged under the Non-Civilian Equipment and Gavel Possession Act and for a separate charge of Grand Theft.

We hold that a charge of possessing state equipment unrelated to the performance of one's duties is proper in this case but will decline to comment on the charge of Grand Theft as it is a question that is not ripe to be answered yet in this matter.

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Alex_Artemis was found in possession of several police-issued equipment while they were off-duty from their position as the Director of the Parks and Wildlife Department, which is a law enforcement agency of the state. They were charged with violating the Non-Civilian Equipment and Gavel Possession Act and 3 M.C.C. § 4. The Non-Civilian Equipment and Gavel Possession Act makes it unlawful for a person to possess certain types of police equipment under circumstances. However, its language is authored in a way to exclude enforcement on those that are using it in the performance of their duties.

In the lower court, Mr. Artemis moved for the case against them to be dismissed on the grounds that the act they were charged under for possessing the equipment is ambiguous, that they were permitted to carry the equipment by the same act that they were charged under, and that the equipment has no economical value to be measured to exceed the monetary value minimum required to be charged with Grand Theft. The lower court denied the motion. Artemis petitioned this Court for certiorari to review the lower court's ruling, which we granted.

II

In reviewing the possession charge that the Government sought after against Mr. Artemis, we must first review both the constitutional deficiencies alleged against the language of the statute that criminalized the conduct.

A

Mr. Artemis argued that the language of the provision of the Non-Civilian Equipment and Gavel Possession Act which criminalizes possession of non-civilian equipment in this matter is ambiguous and constitutionally offensive. The lower court upheld the statute and found that the pro-

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vision is clear in that it criminalizes possession to all except those that are on the team which received the equipment that is possessed.

The specific provision that draws ire by Mr. Artemis reads that it criminalizes those that “possesses a [...] cone and does not hold one of the above listed positions.” The subsection ends with a reference to the section just above, which encompasses Mr. Artemis’ position as a law enforcement officer. However, the section that holds the reference to Mr. Artemis’ position also reads that it requires that the possession be done “while on duty of the specific team that the equipment was dispensed upon” for it to qualify for the exception at the end of the first mentioned provision.

The question as to how to read this statute is whether the enforcement mechanism that only requires that a person hold the listed office to be excused is at-all affected by the clause above that which imposes the additional requirement of the person being on-duty of the team associated with the equipment. Our determination is that this is the case.

The statutory interpretation put forward by Mr. Artemis asserts that we answer this question in the negative, that this Court disregard the first provision that imposes the requirement that the person be on-duty as it is not backed by the enforcement mechanism below. Further, that this interpretation would be affirmed if we were to apply the rule of lenity. See Brief for Petitioner 5.

To disregard the context of which the enforcement mechanism clause was written into is an inappropriate manner of reading a statute. The purpose of the statute is to be read in its entirety, not as “a series of unrelated and isolated provisions.” *Gustafson v. Alloyd Co.*, 513 U.S. 561, 570 (1995).

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Lenity is used to resolve dispute “in favor of the defendant only at the end of the process of construing what [the legislature] has expressed when the ordinary canons of statutory construction have revealed no satisfactory construction” *Lockhart v. United States*, 577 U.S. 347, 361 (2016) (internal quotation marks omitted) (citing *Callanan v. United States*, 364 U.S. 587, 596 (1961)).

A key flaw present when introducing *Lockhart* is whether there is a “satisfactory construction” present. Is it referencing a construction satisfactory to the state? To the Defendant? To the legislature which enacted the statute? We are faced with several parties that have an interest in constructing any given criminal statute, we are now tasked with determining who has the satisfactory construction.

Lockhart only compels us to apply lenity after trying to construe what the legislature intended. *Ibid.* This practice is established as a standard statutory construction process that “the intention of the legislature must govern in the construction [...] and they are not to be construed so strictly as to defeat the obvious intention of the legislature.” *Johnson v. Southern Pacific Company*, 196 U.S. 1, 17-18 (1904) (internal quotation mark omitted) (citing *United States v. Lacher*, 134 U.S. 624, 628 (1890)).

In applying *Johnson* to the case before us, we find that the legislature’s intent is made evident and clear by the naming of this act and the provision that Mr. Artemis asked this Court to disregard. We now find that there is a satisfactory construction present in the statute before us. *Lockhart* is only to be used as a last resort when there is no satisfactory end to the normal canons of statutory interpretation.

Because of this, we cannot find that there exists enough ambiguity that would compel us to side with Mr. Artemis’

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reading of the statute.

B

The language of the statute is also contested in this case on the grounds of being too ambiguous to be enforced within the constitutional confines of the Fourteenth Amendment. See Pet. for Cert. 6. The lower court disagreed and found that the statute was clear in its language of making unlawful the possession of certain grades of equipment by unauthorized parties.

It is critical that a statute that criminalizes any form of conduct is written with language that “ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.” *Kolender v. Lawson*, 461 U. S. 352, 357 (1982). Any statute that does not follow these procedures may find themselves unenforceable within the standards of the Fourteenth Amendment.

In consideration of the Non-Civilian Equipment and Gavel Possession Act, the language is clear for the ordinary person in that it would prohibit a person from possessing state equipment while acting in a private capacity. The lower court agreed with this interpretation and so have the many other countless defendants arrested or sentenced under this statute.

III

In the lower court, Mr. Artemis moved that the charge of Grand Theft be dismissed because of the inability of the Government to demonstrate that the equipment retained had any monetary value to exceed the minimum requirement needed for a person to be charged with 3 M.C.C. § 4. Further, Mr. Artemis argued that the charge was inappropriately applied to him since he was authorized to retain the equipment and cannot be considered stolen. The

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lower court denied the request.

This case, as it currently stands, is an interlocutory appeal before a judgment has been rendered on the factual allegations made by the Government. Both grounds that are being argued to regarding the review of the Grand Theft charge are factual allegations that have not been preserved for review since it hasn't had a chance to be heard at trial yet.

A motion for dismissal is an inappropriate medium to make factual allegations against a complaint or pleading unless it too uses factual statements from the complaint or pleading that it is pitted against. Regarding criminal matters, an information charging a defendant is "sufficient" if it describes the offense "in plain and intelligible words" among other things. Mayfl. R. Crim. P. 2(2). To adjudge the stature of an information on other grounds is not keeping to the purpose of a dismissal challenge nor to the law.

When an information meets the guidelines imposed by our procedural rules, it is impervious to dismissal unless it can be demonstrated to the contrary that it does not follow the prescribed rules. A challenge on factual basis is inappropriate and not a prerequisite to be demonstrated at the stage of which an information is presented. These are standards adopted by the federal courts in a similar fashion. See *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

The lower court was correct to reject the dismissal challenge against the Grand Theft charge (although ruling so for the incorrect reasons). It has not had a chance to hear the factual allegations before it and cannot make a ruling on a challenge to those allegations. Questions and assertions of fact are to be heard at trial, not through a pretrial document in the absence of trial to present witnesses be-

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fore an open court.

Now, we are asked to hear the question posed to the lower court again under the same circumstances of the absence of a trial. We cannot answer the question on fact because the lower court hasn't done so since it hasn't had a chance to do so in a proper setting.

Our ability to review extends as "final appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make." Art. XI., Sec. 2., Mayf St. Const. We find such an exception here given that there is no factual ruling for us to review since the medium it was brought up in is inappropriate. We are compelled to "give deference to the factual findings of the District Court, recognizing its comparative advantage in understanding the specific context in which the events of this case occurred." *Varsity Corp v. Howe*, 516 U. S. 489, 498 (1996). Without the lower court being given a chance to give its factual findings, we are unable to proceed. This standard is critical to enforce to avoid usurping the power of the lower courts by forcing all questions upwards unnecessarily.

We refuse to make a ruling on whether the Government's allegation of Grand Theft was properly applied here as this case is not an appropriate vehicle to hear considerations of monetary valuation of state-issued equipment as well as a determination of whether an employee holds consent from the state to retain their equipment in a private capacity.

* * *

Accordingly, we affirm the judgment of the lower court as to the possession charge.

It is so ordered.

TURNTABLE5000, J., dissenting in part

JUSTICE TURNTABLE5000, with whom THE CHIEF JUSTICE joins, dissenting in part.

I join the opinion of the Court insofar it holds that the District Court's statutory analysis survives muster, as lenity does not apply in favor of the Appellant. It is axiomatic that every statute is vague in some form, and “[t]he simple existence of statutory ambiguity, however, is not sufficient to warrant application of [the rule of lenity].” *Muscarello v. United States*, 524 U.S. 125, 138 (1998). Simply put, the Appellant wishes for us to “engraft an illogical requirement to [the statute],” *Salinas v. United States*, 522 U.S. 52, 66 (1997), and that is something we simply cannot do. The Non-Civilian Equipment and Gavel Possession Act is upheld and is deemed to be statutorily sound. However, I disagree with the Court’s analysis of the Grand Theft charge, and their erroneous decision to deny review of it at this juncture.

The Court hastily dismisses the inappropriate nature of charging a law enforcement officer with Grand Theft. Grand Theft criminalizes the “[s]tealing [of] another's property with a value of over \$200, including local, county, or state issued equipment to public services.” 3 M. C. C. § 4. We are indeed a Court of “review, not of first view.” *Adarand Constructors, Inc. v. Mineta*, 534 U.S. 103, 110 (2001); *Cutter v. Wilkinson*, 544 U.S. 709, 718 n. 7 (2005). However, determining whether the Grand Theft charge can survive legal scrutiny in the eyes of its applicatory manner, is a legal question; “[D]ecisions on questions of law are reviewable de novo,” *Highmark Inc. v. Allcare Health Management*, 134 S. Ct. 1744, 1748 (2014) (internal quotation marks omitted) (citing *Pierce v. Underwood*, 487 U.S. 552, 558 (1988)), and that is precisely the standard that this Court has rejected employing.

TURNTABLE5000, J., dissenting in part

At this juncture, it remains a legal impossibility for any Court to quantify the value of a piece non-civilian equipment. There are simply no production costs affixed to any piece of non-civilian equipment, in essence it magically appears at the click of a button. It is true that the existing pool of non-civilian equipment increases with each successive press, but it is also true that it cannot be quantified, as it is also not readily available for sale at any distributor. With the absence of any production costs, no Court can quantify the value of these tools. The Court attempts to fend off viable attacks through their assertion of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). But this is unfounded and erroneous; to engage in such an absent-minded maneuver denigrates our purpose. The majority failed to engage in a de novo review of the legal matter at hand, one that primarily revolves around the legal impossibility of quantification. When such an impossibility revolves around a mandatory prong, the charge is wholly inapplicable, but this Court has instead—acquainted with this holier-than-thou attitude as it attempts to elevate its position through this erroneous move—denies review and sets the lower court up for an inevitable failure. Failure to dispose of this matter now will indisputably come back to bite us. It would be in the best interests of the “judicial economy and the avoidance of delay, rather than being hindered, would be best served by resolving the issue.” *Pennsylvania v. Ritchie*, 480 U.S. 39, 50 n. 8 (1987) (comparing *Cox Broadcasting Corp. v. Cohn*, 420 U.S., 469, 477-478 (1975)) (exceptions to finality doctrine justified in part by need to avoid economic waste and judicial delay).

Many judicially erected principles solely derived from the necessity of preserving our judicial economy. *Wirtz v. Laborers*, 389 U.S. 477, 480 (1968) (“The interests of judi-

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cial economy are therefore best served if we proceed to resolve this important question now”); *Christianson v. Colt Industries Operating Corp.*, 486 U. S. 800, 816 (1988) (This rule of practice promotes the finality and efficiency of the judicial process by ‘protecting against the agitation of settled issues.’”) (citing 1B J. Moore, J. Lucas, & T. Currier, *Moore’s Federal Practice ¶ 0.404[1]*, p. 118 (1984)); 28 U.S.C. §1291; *Cobbedick v. United States*, 309 U. S. 323, 324-326 (1940) (holding that §1291 ultimately promotes judicial efficiency); *United States v. Nixon*, 418 U. S. 683 (1974) (applying *Cobbedick*). By failing to accommodate such a request at this juncture, it will inevitably bounce back on appeal; a legal impossibility of this grandness, it is a fool’s move to dismiss it so hastily.

I frown upon this Court’s decision to not adequately review the Grand Theft charge, as it is a matter of legality, and not a factual approach that we must approach. By failing to employ the proper de novo standard, we have failed to properly review the claims brought before us. And in this matter, de novo review is certainly compelled, and we are bound to review it under that standard as “no form of appellate deference is acceptable.” *Salve Regina College v. Russell*, 499 U. S. 225, 238 (1991). It is patently clear that there is a current legal impossibility regarding the quantification of a piece of non-civilian equipment, that much is true. The failure to appropriately deal with this matter at this juncture is erroneous.

For the foregoing reasons, I join the opinion of the Court insofar as it discusses the inapplicability of the rule of leniency for the premier charge, but I dissent in this Court’s refusal to answer whether the Grand Theft charge is sound and appropriate in this matter. It wholeheartedly is not, and the legal impossibility will certainly plague the lower

TURNTABLE5000, J., dissenting in part

court in its decision. I therefore respectfully dissent from the Court's decision with respect to Part III.

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IN RE COMPLAINT AGAINST JUDGE JASONDELUCA

JUDICIAL ETHICS COMPLAINT

No. 6JD-02. Argued December 18, 2022. Decided December 28, 2022.

Judge JasonDeLuca is a Judge of the Mayflower District Court for the District of New Haven County, who was presiding over a civil matter in which an individual was suing a county law enforcement agency on deprivation of rights for an employment dispute. After trial, the Plaintiff made a motion for mistrial and for Judge DeLuca to recuse from the matter. The motion outlined that the Plaintiff was entitled to mandatory recusal under the Fourteenth Amendment's Due Process Clause because Judge DeLuca could not impartially preside over a case involving the Plaintiff since they had threatened legal action against DeLuca, who was a high-ranking official for a local police department, for another employment-related issue in a past rendition of Mayflower. The Government argued that Judge DeLuca had no recollection of the incident and was unlikely to be biased in proceedings, and that the timing of the motion was inappropriate to raise any ethical concerns. The Government also argued that the Plaintiff's interpretation of the Fourteenth Amendment would allow any litigant to threaten frivolous litigation against a person and be automatically entitled to recusal of any presiding judge that they do not favor. Judge DeLuca ruled that the Fourteenth Amendment does compel recusal in cases where there exists "a direct, personal, substantial, pecuniary interest" that may interfere with a Judge's ability to remain impartial. *Tumey v. Ohio*, 273 U.S. 510, 523. However, they ultimately rejected the request for recusal, citing that they did not have a personally vested interest that would interfere with their ability to preside impartially because they were acting in their official capacity for the interests of the department and not in a personal capacity that would require them to recuse under the requirements promulgated in *Tumey*. Plaintiff appealed the judgment and filed a complaint to the Court alleging that Judge DeLuca violated Canon 1-3 of the Code of Conduct for State of Mayflower Judges. This Court noted sufficient grounds to proceed to disciplinary proceedings on the complaint.

Held: On consideration of the complaint filed to the Court, Judge JasonDeLuca of the Mayflower District Court for the District of New Haven County is absolved of all allegations made. The case is disposed of from the Court's docket with no action being taken. Pp. 1-7.

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(a) The purposes of judicial discipline being to “impugn the oblivious and incompetent” requires us to limit review in matters similar to this to only the most extreme of cases. *In re Xolaaz*, 6 M. S. C. 15, 17. For a ruling to be reviewed and actionable under judicial ethics and disciplinary rules, it must: (1) be egregiously absurd in the view of the law; (2) must be made without attempt of legal justification; and (3) politically, personally, or financially beneficial to the judge, or a party close to the judge, that made the ruling. Pp. 2–3.

(b) Judge JasonDeLuca’s ruling on October 30th does not meet our standards of determining incompetence that jeopardizes integrity in a given ruling. Pp. 4.

TAXESARENTAWESOME, J., DELIVERED THE OPINION OF THE COURT, IN WHICH BLCVLCI, C.J., AND TURNTABLE5000, LIAMDOSEN, JJ., JOINED. PARMENIONN, J., TOOK NO PART IN THE CONSIDERATION OR DECISION OF THIS CASE.

JUSTICE TAXESARENTAWESOME delivered the opinion of the Court.

The power of a judge to give rulings is one that must be treated appropriately to respect the judicial practice. There exist limits to these powers, however. In the performance of our duties, we must “carefully abstain from exercising any power that is not strictly judicial in its character.” *Muskrat v. United States*, 219 U.S. 346, 355 (1911). In this case, we are faced with determining the extent of those boundaries and where it is possible for a Judge to face discipline for a judicial action made in the course of their duties. To answer this question, we must also seek to determine what grounds are necessary to hold a judge to discipline for an official action related to their duties.

This Court holds “the right to discipline any Judge in the Supreme Court and its inferiors as it sees fit” as well as any investigations related to such discipline. Mayf St. Const. Art. XI, Sec. 6. We received a judicial complaint

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related to Judge JasonDeLuca of the Mayflower District Court for the New Haven District. The complaint was filed alleging that Judge DeLuca contravened Canons 1-3 of the Code of Conduct for State of Mayflower Judges. We noted sufficient grounds to proceed to judicial disciplinary considerations.

I

In October 2022, Judge JasonDeLuca of the Mayflower District Court for the District of New Haven was presiding over a civil case involving a litigant suing a county law enforcement agency over alleged deprivation of rights related to an employment dispute. A post-trial motion requesting recusal, mistrial, and retrial was filed regarding previous conduct between Judge DeLuca and the Plaintiff.

In their motion, the Plaintiff requested recusal by questioning the impartiality of Judge DeLuca after another employment-related dispute in another rendition of Mayflower where the Plaintiff threatened to sue Judge DeLuca, who was a high-ranking officer at a local police department at the time. The motion noted that no lawsuit was filed but a threat to do so was made against Judge DeLuca's capacity, which still constituted a conflicted interest in the view of the Plaintiff.

The Government argued that Judge DeLuca had no recollection of the incident referenced by the Plaintiff and that the alleged dispute took place over a year ago. Allowing a litigant to be entitled to recusal simply for threatening a lawsuit would not be in the best interest of judicial administration. The theory proposed by the Plaintiff would allow any litigant to frivolously threaten legal action against any person to seek recusal. Further, the Government noted that the request to recusal came after trial instead of towards the beginning of the matter. The ability

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to object to Judge DeLuca's alleged conflicted interest should've been exercised before trial.

In their ruling, Judge DeLuca rejected the recusal request, noting that there does exist a constitutional requirement to recuse in matters where there exist a "strong possibility that the judge's decision will be biased." See Lower Court's Ruling on Motion for Mistrial, Retrial, and Recusal. However, Judge DeLuca did not agree that the prerequisites necessary for mandatory recusal were present. The ruling noted that Judge DeLuca "was acting in the official capacity... [and] in the interests of the department... there lacks a direct, personal, substantial, pecuniary interest in this case, and there is a lack of probability of actual bias on part of the judge since there was no personal relationship or bias against the Plaintiff." *Ibid.* The request for recusal was ultimately rejected. Plaintiff appealed the judgment to this Court. That matter is ongoing.

Alongside the appeal, Plaintiff filed a written complaint to the Court alleging that Judge DeLuca's refusal to recuse was contradictory to Canons 1, 2, and 3 of the Code of Conduct for State of Mayflower Judges. This Court noted sufficient grounds to hear the complaint.

II

This Court is required to ensure "that the adjudication of the complaint is thorough, while affording both parties opportunities to expound their claims." *In re Xolaaz*, 6 M. S. C. 15, 16 (2022). Because of this, we have undertaken a thorough examination of the complaint and have summarized the substantive allegations. We are now faced with questions of how to proceed with this complaint.

Typically, the need for judicial discipline arises from actions within the courtroom that are extrajudicial in their

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nature. These proceedings are especially to “impugn the oblivious, and incompetent.” *Ibid* at 2. But a ruling related to a motion raised by a litigant in a case before a judge is an exercise of judicial power that is proper, except when it is to the contrary of the law. Other states have adopted similar standards. See *In re Brown*, 879 S.W.2d 801 (Tenn. 1994); *In re Adams*, 494 Mich. 162 (Mich. 2013).

However, simply making a ruling that is contrary to law cannot be sufficient ground to allow for judicial discipline. Such a standard would not be inline with the purposes of judicial discipline outlined in *Xolaaz* and would surely capture innocent judges making mistake in their duties. Mistakes of law, even some of the more absurd ones, do not denote a judge that lacks integrity to be disciplined on the bench, especially given that these mistakes are actions that can easily be rectified upon appeal.

We must balance a standard that captures incompetence while also ensuring that we do not spawn a fear of action for making rulings that, while interesting, are still within an interpretation of law. Adopting a strict standard would certainly victimize an innocent judge and empower us with a weapon that could easily be abused in the wrong hands; while adopting a limiting standard would also allow true evil to fester on the bench. The purposes of discipline are to punish incompetence, not those simply want to be bold, which is a trait we wish to encourage. See *Xolaaz*.

To capture the ignorantly inept, it is important that we aim our sights towards those who lack regard for their duties to interpret law as well as those that possess evil intent to propel themselves using their position. The best standard that we can apply here, for a ruling made pursuant to law to be reviewed and actionable under judicial ethics and disciplinary rules, would require that the act

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must: (1) be egregiously absurd in the view of the law; (2) must be made without attempt of legal justification; and (3) politically, personally, or financially beneficial to the judge, or a party close to the judge, that made the ruling.

III

In applying the standards that we have crafted in this opinion, we find that the established actions of Judge DeLuca fall short of nearly all requirements to establish a lack of integrity present in an allegedly incompetent ruling. The complaint asserts that Judge DeLuca fits the description of evil that the standard we apply requires, we disagree with that assessment. However, this shall not be construed to mean that this Court endorses the ruling made that was assessed under this standard, it merely means that we cannot find that it was made with evil intent.

To the first prong, the appeal of this ruling is still ongoing, and we cannot comment as to whether it is egregiously absurd to the view of the law yet. The determination of whether a ruling is lawfully invalid must come from appellate review. Other states, namely those that have separate disciplinary boards, have similar requirements. See Schofield Discipline Case, 362 Pa. 201, 204-205 (Pa. 1949) (citing *Klensin v. Board of Governance of the Pennsylvania Bar*, 312 Pa. 564, 575, 168 A. 474, 478 (1933)) (“The judicial review is at our hands, not the Board”). For us to opine at this stage as to whether the ruling was absurd would risk us rendering appeals as a lesser version of requesting discipline on a judge for a ruling they make. In future, we recommend that any litigant that wishes to seek disciplinary action because of an action done in an official capacity by a judge seek appeal before making complaint to the Court.

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To the second prong, we find that Judge DeLuca exercised more than enough attempt to justify their ruling and interpretation of law. As this Court has outlined in *Xolaaz*, we are here to stop those who have lost regard or competence to hold their position. Judge DeLuca's ruling cannot be described as this. The ruling reviewed the arguments proposed by the Plaintiff and provided an interpretation of the requirements of *Tumey v. Ohio*, 273 U.S. 510 (1927). This is a trait that would not be found in a judge liable to be held under as incompetent in their judgments.

To the third prong, we cannot find any substantial evidence that can be used to find that Judge DeLuca personally benefited from their order to remain to hear the case. Neither was anything recovered that can find that the ruling was intended to do so. In the lower court, the Government argued that Judge DeLuca had not even remembered the incident where the Plaintiff had threatened legal action. We find this sufficient to note that there was no malintent.

The actions and ruling made by Judge DeLuca on October 30th fail to meet any of the requirements to be liable for judicial discipline.

* * *

On consideration of the complaint filed to the Court, Judge JasonDeLuca of the Mayflower District Court for the District of New Haven County is absolved of all allegations made. The case is disposed of from the Court's docket with no action being taken.

It is so ordered.

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AWSOMEPIAYS, PETITIONER, *v.* NEW HAVEN
COUNTY SHERIFF'S OFFICE, ET AL

ON APPEAL FROM THE DISTRICT COURT FOR THE DISTRICT OF
NEW HAVEN COUNTY

No. 06-10. Argued December 10, 2022. Decided December 28, 2022.

AwesomePIays brought forth a lawsuit against the New Haven County Sheriff's Office, alleging a string of violations while invoking three other individuals in their official capacity, and joining them to the lawsuit. JasonDeLuca, a District Court Judge, was the presiding judge over the matter. Appellant, AwesomePIays submitted a motion for his recusal, citing an interaction that they both shared over a year ago. During this interaction, the Appellant threatened litigation against the presiding judge. The presiding judge denied the motion for his recusal. Appellant then submitted a notice of appeal triggering our appeal "by right" jurisdiction pursuant to our state Constitution.

Held: District Court Judge JasonDeLuca was not constitutionally required to recuse from the action, under the Due Process Clause of our state and federal Constitution. Pp. 1–8.

(a) Our appellate jurisdiction is forked into two categories: (1) discretionary appellate jurisdiction; and (2) mandatory appellate jurisdiction. This matter was brought forth under our "mandatory" appellate jurisdiction that revolves around the appeal "by right" clause in our Constitution. Art XI., Sec. 3, Mayf. St. Const. Our appeal "by right" jurisdiction is limited to the questions where we noted probable jurisdiction. Any other question that does not interact well with the situations in Art. XI., Sec. 3, of our state Constitution must be filed under a writ of certiorari and fall under the category of our discretionary appellate jurisdiction. Pp 2–4.

(b) In determining whether a judge is constitutionally required to recuse from an action, we have already established that it must be reviewed on a case-by-case basis. *Italian-American Civil Rights League v. New Haven County Sheriff's Office*, 6 M. S. C. 33. We have decided to add an extra step that was previously glossed over: one where we employ the "average" judge as a pincushion model that is designed to face the exact circumstances that the presiding judge endured in the lower court. Pp. 5–8.

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(1) The “average” judge is one of commitment and dedication. They are poised and held to the oath that they swore prior to putting on their robes. They are certainly no dullard, and they are armed with a judicial arsenal; one filled with tools that they are well-versed with. Pp. 6–7.

(2) The average judge is also expected to withstand the most menial attacks on their characteristics and their ability to interpret the law. They are hardened individuals who stick true to their word. Pp. 7–8.

(c) The mere threat of litigation does not rise to a level of “constitutional intolerance,” *Withrow v. Larkin*, 421 U.S. 35, 47, and we cannot require a judge to recuse because of it. The “average” judge would likely remain impartial under the threat of litigation, and the circumstances before us do not indicate otherwise. The probability of any sort of bias is effectively null. The precedent we set in *Italian-American Civil Rights League v. New Haven County Sheriff's Office*, 6 M.S.C. 33, is reaffirmed. Pp. 4–8.

Judgment affirmed

TURNTABLE5000, J., delivered the opinion of the Court, in which BlcVlCl, C.J., and LIAMDOSEN, TAXESARENTAWESOME, JJ., joined. PARMENIONN, J., took no part in the consideration or decision of this case.

JUSTICE TURNTABLE5000 delivered the opinion of the Court.

Once more, we are presented with a case that discusses the topic of judicial disqualification; this matter requires more dissection, as it involves a niche subsection of the law that invokes the constitutional standard, where judges must recuse under a subset of standards. We noted probable jurisdiction to solely review the lower court’s decision to deny the motion for his recusal.

In the past, we have analyzed the constitutional standard of recusal, and we have clarified that a judge must recuse when “the likelihood of bias on the part of the judge is too high to be constitutionally tolerable.” *Williams v. Pennsylvania*, 136 S. Ct. 1899, 1903 (2016) (internal quotation marks omitted) (citing *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 872 (2009); *Italian-American Civil Rights*

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League v. New Haven County Sheriff's Office, 6 M.S.C. 33 (2022).

In this matter, we hold that the presiding judge in the lower court did not err in his decision to deny the motion for his recusal. After applying the standards from past Court precedent, we affirm the lower court's decision.

I

On September 27, Appellant initiated a lawsuit against the New Haven County Sheriff's Office, and simultaneously named three separate employees of the Sheriff's Office in their official capacity. Appellant alleged that he was arbitrarily dismissed from the Sheriff's Office, and that such an action constituted as a deprivation of his liberties.

Appellant then submitted a motion for the presiding judge's recusal, citing a string of cases that established the constitutional requirement, that judges are bound to adhere to, cf. *Caperton, supra*. The presiding judge then denied the motion for his recusal, citing that the circumstances did not make it evident that there was any strong possibility for his decisions to be partial. Appellant then approached this Court, invoking our appeal "by right" jurisdiction pursuant to the State Constitution. Art. XI, Sec. 3, Mayf. St. Const.

We noted probable jurisdiction solely to remedy and clarify the issues surrounding when a judge is constitutionally required to recuse from an action. In this matter, we hold that he was not.

II

There were many extraneous matters that were briefed on during this case. Namely the issue revolving around the disqualification of opposing counsel in the lower court, and the request for a mistrial. Under the State Constitution, our jurisdiction is set into three separate categories: (1)

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original jurisdiction; (2) discretionary appellate jurisdiction; and (3) mandatory appellate jurisdiction.[The word “mandatory” is used here in a way to differentiate our standards of discretionary review. For our “mandatory” review, we are obligated to note probable jurisdiction in matters where it discusses one of the six situations discussed, *infra*.]

The topic of appeal “by right,” most often falls under the ambit of the third set of our cumulative jurisdiction. It is mandatory in the sense that we must note probable jurisdiction when a matter is being appealed, and that very matter involves one of the six different factors, where at least one must be satisfied prior to a party’s wish to approach the Court. Our State Constitution names a total of six situations where a case may be directly appealed to Supreme Court, some of which include interlocutory orders which has been expanded upon before under our precedents. E.g., *Italian-American Civil Rights League v. New Haven County Sheriff’s Office*, 6 M.S.C. 33 (2022) (PARMENIONN, J., concurring). In short, an appeal may be pursued directly to the Supreme Court, so long as one of the six situations are the same as the one the Petitioner is currently in:

- “(1) from an interlocutory or final order or judgment deciding a constitution question;
- (2) from a final judgment exceeding \$3,000 in monetary damage; (3) from a final judgment of a sentence exceeding two hours in prison; (4) from an interlocutory or final order directing a government official perform a duty; (5) from a final judgment deciding a question of false arrest; or

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(6) from an order refusing to recuse from an action." Art. XI, Sec. 3, Mayf. St. Const.

The Petitioner has approached this Court under the guise of the sixth situation in our State Constitution that permits an appeal "by right." See Petitioner's Notice of Appeal. We solely noted probable jurisdiction for the question of whether the presiding judge should have recused from the action. We did not recognize the other two questions. Simply put, "[w]e do not address [an issue that] falls outside the questions on which we [noted probable jurisdiction]." *Lexecon Inc. v. Milberg Weis Bershad Hynes & Lerach*, 523 U.S. 26, 42 n. 5 (1998); *Brown v. Socialist Workers '74 Campaign Comm. (Ohio)*, 459 U.S. 87, 103 (1982); *Mayor v. Educational Equality League*, 415 U.S. 605, 623 (1974). There are notable exceptions to such a rule, however, we decline to address them at this juncture.

We will not be answering whether the presiding judge in the lower court erred in denying the motion for the disqualification of opposing counsel and whether the presiding judge erred in denying the motion for a mistrial. Our appeal "by right" jurisdiction solely confines us to answer whether the presiding judge erred in denying the motion for his recusal.

III

There is an exigent importance that is embedded into our Due Process Clause: the right to have "[a] fair trial in a fair tribunal." *In re Murchison*, 349 U.S. 133, 136 (1955). Such a right has been expounded upon ever the Supreme Court's analysis in *Tumey v. Ohio*, 273 U.S. 510 (1927). Under our own precedent, we have established that a judge is constitutionally required to recuse himself from

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an action when one of the two situations are satisfied: “(1) the judge must have a financial interest in the outcome of a case; or (2) there must be a strong possibility that the judge’s decision will be partial.” *Italian-American Civil Rights League v. New Haven County Sheriff’s Office*, 6 M. S. C. 33 (2022) (citing *Caperton, supra*).

Firstly, the motion for the judge’s recusal solely revolved around the “strong possibility” situation of recusal, and not the former that requires a financial interest embedded in the case. It is axiomatic that a judge recuses himself from an action when “the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.” *Withrow v. Larkin*, 421 U. S. 35, 47 (1975). We have previously held that such a determination is reviewed “on a case-by-case basis, to ultimately determine whether the probability has risen to a level of constitutional intolerance.” *Italian-American Civil Rights League, supra*. To pinpoint such a level of intolerance would be imprudent, as it “cannot be defined with precision.” *Aetna Life Ins. Co. v. Lavoie*, 475 U. S. 813, 822 (1986) (quoting *Murchison, supra*, at 136).

In this matter, we are presented with a situation where the Petitioner alleges that there is an ambivalent relationship between themselves and the presiding judge. The Petitioner threatened to initiate litigation against the presiding judge a year ago, in the original Mayflower created by KarlXYZ.[In this matter, it should be noted that only the threat of litigation was passed around. No case was ever filed against the presiding judge.] It is true that there need only be a strong possibility of bias, and there need not be any actual bias, for a judge to be constitutionally required to recuse from an action. *Lavoie, supra*, at 825. The Supreme Court has employed a different method of

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review, that revolves around a “model” figure—the “average” judge. *Williams v. Pennsylvania*, 579 U.S. ___, ___ (2016) (“The Court asks not whether a judge harbors an actual, subjective bias, but instead whether, as an objective matter, the average judge in his position is likely to be neutral, or whether there is an unconstitutional potential for bias”) (internal quotation marks omitted)). For this matter, we have chosen to employ such a standard. Under common circumstances, “most matters relating to judicial disqualification does not rise to a constitutional level.” *FTC v. Cement Institute*, 333 U.S. 683, 702 (1948). However, the case before us contains a series of allegations that revolve around the Due Process Clause.

A

We must cumulatively consider all factors in this matter, and then turn to whether it can be labelled as a point of constitutional intolerance. In all matters, there is a presumption of impartiality, “honesty[,] and integrity in those serving as adjudicators.” *Withrow, supra*, at 47. We trust the “average” judge to stay true to their oath, and so that they will apply the law impartially, absent any form of external bias. *Republican Party of Minn. v. White*, 536 U.S. 765, 796 (2002) (KENNEDY, J., concurring). Nonetheless, the average judge is no dullard, and he is presumed to be acquainted with the law.

B

Now that we have employed an accurate representation of the “average judge,” we may now move to consider whether the “model,” *inter alia*, would have been neutral in lieu of the presiding judge in the lower court when assigned with the exact same circumstances.

Litigation is certainly an attack on an individual, however, it primarily revolves around the target of litigation.

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There is a significant reason as to why capacities are invoked in a lawsuit, as well as the “personal” sector of litigation. It is important to note that “not every attack on a judge...disqualifies him from sitting.” *Mayberry v. Pennsylvania*, 400 U.S. 455, 465 (1971); *Ungar v. Sarafite*, 376 U.S. 575, 584 (1964) (holding that an attorney’s “disruptive, recalcitrant and disagreeable commentary” was not “an insulting attack upon the integrity of the judge,” therefore, the judge was not required to recuse). The *Caperton* Court also employed an “objective” inquiry that revolved around the “average” judge, and whether they would likely be neutral in a similar situation.

The capacity of a lawsuit certainly matters, however, in this instance we will express no opinion as to whether the decision would have resulted differently, if a lawsuit as actually filed against the presiding judge in KarlXYZ’s Mayflower. E.g., *United States v. Mechanik*, 475 U.S. 66 (1986) (declining to comment on what the remedy would be if circumstances were different). In this matter, the mere threat of litigation is not enough to constitute itself as “a strong possibility that the judge’s decision will be partial.” *Italian-American Civil Rights League, supra* (citing *Caperton, supra*).

The threat of litigation is not enough to constitute itself as “an insulting attack upon the integrity of a judge,” *Ungar, supra*, at 584. To hold the opposite would unduly open the floodgate for several litigants who wish to subvert the system and reach their ideal judge simply by threatening litigation. The “average” judge model in this instance would likely remain impartial, and there is not an unconstitutional potential for bias. We cannot continually extend the Due Process Clause to satisfy the whims of the litigants when ordinary circumstances do not support their

requests.

IV

One of the many central tenets of our jurisprudence revolve around the “impartiality of [our] judges in fact and appearance.” *Liteky v. United States*, 510 U.S. 540, 558 (1994). The Due Process Clause is not an endless book of remedies, it too, has its limitations. Under our precedent, we cannot continually extend its protections outside of what it is ordained to protect. In this matter, the average judge would likely remain impartial under the mere threat of litigation. The judgment of the lower court is affirmed.

Affirmed.

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IPADPUPPYDOGDUDE1ALT, PETITIONER, *v.* MAYFLOWER DEPARTMENT OF STATE

ON SUBMISSION THROUGH ORIGINAL JURISDICTION

No. 06-11. Argued December 19, 2022. Decided December 29, 2022.

The Mayflower Department of State was entering into a variety of treaties with foreign nations. As a result of the entrance into a foreign entity, Petitioner ultimately was terminated from his role in the Mayflower Department of State due to ongoing conflicts with the aforementioned foreign entities. Petitioner qualifies for standing to bring such matter to our Court, through a submission of original jurisdiction. See Art. XI, sec. 5 of the Mayflower Constitution We find that the termination was unlawful as the attempts—whether successful or in the midst of—were unconstitutional. See Art. 1, sec. 11 of the Mayflower Constitution; see also Art. 1, sec. 10, cl. 1 of the United States Constitution (“[n]o State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder; ex post facto Law; or Law impairing the Obligation of Contracts, or grant any Title of Nobility.”).

Held: The attempts to join a United Nations or enter into any treaty with a foreign sovereignty, institution, or organization is unconstitutional. Pp. 1–3.

(a) The Petitioner satisfies our constitutionally required necessity of achieving standing to bring forth this case. Pp. 4–6.

(b) The Petitioner’s termination from the Department of State was unconstitutional. Pp. 5–6.

Judgment affirmed

PARMENIONN, J., delivered the opinion of the Court, in which BLCVLCL, C.J., and TURNTABLE5000, J., joined. TURNTABLE5000, J., filed a concurring opinion. TAXESARENTAWESOME, J., filed an opinion, dissenting in part, in which LIAMDOSEN, J., joined.

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JUSTICE PARMENIONN delivered the opinion of the Court.

“No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder; *ex post facto* Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.” Art. 1, sec. 10, cl. 1 of the United States Constitution. This is a provision of the United States Constitution that the State is ready to ignore to pursue a political agenda. While it was understood early on in Ro-Nations that if your government was a member of the United Nations, you were considered the legitimate version of that government—and all other versions were deemed knock-offs or copycats. It is irrelevant here, however. But that does not stop the government.

They are prepared, at all costs, to ignore the Constitution, which is “the Supreme Law of the Land.” See *Shelley v. Kramer*, 334 U. S. 836 (1948). They ignore the Supreme Law of the Land when they argue that “the Constitution explicitly gives the states the power to ‘enter into any Agreement or Compact with another State.’” See Respondent’s Merits Brief, p. 4, quoting Art. 1, sec. 10, cl. 3. Now, I am not sure if they thought we would not read that clause in its entirety, but we are not that gullible to follow the blatant disregard for the Constitution’s text. The entirety of the clause would be that “No State shall, without the Consent of Congress, ... enter into any Agreement or Compact with another State.” *Ibid.* Yes, there is no Congress for the State of Mayflower to receive consent from, so we may hopefully achieve the goal of entering and being admitted into Member Status of the United Nations. That said, it is also not the place of the Supreme Court to rewrite the Constitution—especially when it is the Federal

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Constitution, one that affects all states of the union.

I

In our own State's Constitution, Art. 1, sec. 11 reads, “[t]he State of Mayflower shall never secede, and forever remain a member of the United States America; the people thereof are part of the Union.” As my colleague wisely said, “[w]hen interpreting our State Constitution, we hold that [it is] to be interpreted, [sic] and construed like statutes.” See *Ex parte Syneths*, 6 M.S.C._ (2022). Our State, within its current legal ecosystem, has no means to obtain membership in the United Nations. It would have to require the language of our Constitution to change if the State wanted to be a member of the Union and the United Nations concurrently.

Even if we were to assume, however, contrary to all reason, that every constitutional claim is *ipso facto* more worthy, and every statutory claim less worthy, of judicial review, there would be no basis for writing that preference into a statute that makes no distinction between the two. The view has been rejected of rewriting legislation even in the more appealing situation where particular applications of a statute are not merely less desirable but in fact raise “grave constitutional doubts.” That, it has been said, only permits us to adopt one rather than another permissible reading of the statute, but not, by altering its terms, to “ignore the legislative will in order to avoid constitutional adjudication.” See *Webster v. Doe*, 486 U.S. 592, 619 (SCALIA, J., dissenting). With this sense of textualism established, we ought to revisit the debated clause, “[n]o State shall enter into any Treaty, Alliance, or Confederation.” *Ibid.* While our being a State is not disputed, it is imperative to understand the direct objects—Treaty, Alliance, or Confederation. The word “treaty” in this context

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would be understood as “a contract in writing between two or more political authorities (such as states or sovereigns) formally signed by representatives duly authorized and usually ratified by the lawmaking authority of the state.” See Merriam-Webster Dictionary. The only one, per our Constitution, to engage in foreign affairs and the conjoined policy would be the Governor of the State of Mayflower. See Art. V, sec. 3, cl. 3 (“[t]he Governor shall communicate with other states, foreign powers, and accredits, remove, receive, expel ambassadors, and diplomats.”); see also Art. V, sec. 3, cl. 2 (“[t]he Governor shall have the power, with two-thirds of the Senate, to make treaties.”).

However, we exclude the latter clause from consideration because of our understanding with the word “treaty.” With the word “alliance,” we understand that to mean “a group of countries, political parties, or people who work together because of shared interests or aims, or the act of forming such a group.” See Cambridge Dictionary. This context would never find merit in our purposes in relation to this case; we are not a country. Therefore, we could not be party to a group of countries. The same can be said for our understanding of “confederation,” which means to be “united in a league.” The Respondents are at a loss; they have no means to challenge the soft meaning of the “alliance” component. “[T]he act of forming such a group” “because of shared interests,” *ibid*, the Respondents hold no merit to prove Petitioners wrong.

The question of whether Petitioners maintained standing to pursue a case of this calibration was also brought before our Court.

Respondents initially argue that Petitioners lack standing because they have suffered no injury, or at least no injury that will be remedied by a decision in their favor. See *Spokeo, Inc. v. Robins*, 578 U.S. ___, ___ (2016)

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(slip op., at 6) (explaining that, for Article III standing, a plaintiff must have “(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision”).

A

The “law of Art. III standing is built on a single basic idea—the idea of separation of powers.” *Raines v. Byrd*, 521 U. S. 811, 820 (1997) (internal quotation marks omitted). The judicial power is limited to “Cases” and “Controversies.” There must be a controversy for the plaintiff to have “personal stake” in the case. We refer to this a standing. *Raines*, 521 U. S., at 819. To demonstrate their personal question: “What’s it to you?” Scalia, The Doctrine of Standing as an Essential Element of the Separation of Powers, 17 Suffolk U. L. Rev. 881, 882 (1983).

To answer that question in a sufficient way to establish standing, a plaintiff must show (i) that he suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury was likely caused by the defendant; (iii) that the injury would likely be redressed by judicial relief. *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 560–561 (1992). If “the plaintiff does not claim to have suffered an injury that the defendant does not claim to have suffered an injury that the defendant caused and the court can remedy, there is no case or controversy for the courts to resolve.” *Casillas v. Madison Avenue Assocs., Inc.*, 926 U. S. F. 3d 329, 333 (CA7 2019) (Barrett, J.).

Requiring a plaintiff to demonstrate a concrete and particularized injury caused by the defendant and redressable by the court ensures that courts decide only “the rights of individuals,” *Marbury v. Madison*, 1 Cranch 137, 170 (1803), and that the courts exercise “their proper function

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in a limited and separated government, Roberts Article III Limits on Statutory Understanding, 42 Duke L. J. 1219, 1224 (1993). Courts do not adjudicate hypothetical or abstract disputes. Courts do not possess a roving commission to publicly opine on every legal question. Courts do not exercise general legal oversight of the Legislative and Executive Branches, or of private entities. As Madison explained in Philadelphia, courts instead decide only matters “of a Judiciary Nature.” 2 Records of the Federal Convention of 1787, p. 430 (M. Farrand ed. 1966).

A court may resolve only “a real controversy with real impact on real persons.” *American Legion v. American Humanist Assn.*, 588 U.S. ___, ___ (2019) (GORSCUCH, J., concurring in judgment) (slip op., at 10).

As a general matter, the Supreme Court has explained that “history and tradition offer a meaningful guide to the types of cases that empowers courts to consider.” *Sprint Communications Co. v. APCC Services, Inc.*, 554 U.S. 269, 274 (2008); see also *Steel Co. v. Citizens for Better Environment*, 523 U.S. 83, 102 (1998). And with respect to the concrete-harm requirement in particular, the Court’s opinion in *Spokeo v. Robins* indicated that courts should assess whether the alleged injury to the plaintiff has a “close relationship” to harm “traditionally” recognized as providing a basis for a lawsuit in American courts. 578 U.S., at 341. That inquiry asks whether plaintiffs have identified a close historical or common-law analogue for their asserted injury. *Spokeo* does not require an exact duplicate in American history and tradition. But *Spokeo* is not an open-minded invitation for courts to loosen their jurisdiction based on contemporary, evolving beliefs about what kinds of suits should be heard in courts.

As *Spokeo* also explained, certain harms readily qualify as concrete injury as well under our Constitution. The

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most obvious are traditional intangible harms—physical or monetary.

Various intangible harms can also be concrete. There are potential injuries with a close relationship to harms previously recognized as providing a basis for lawsuits in American courts. *Id.*, at 340–341. Those include, for example, reputational harms, disclosure of private information, and intrusion upon seclusion. See, e.g., *Meese v. Keene*, 481 U. S. 465, 473 (1987) (reputational harms); *Davis v. Federal Election Comm'n*, 554 U. S. 724, 733 (2008) (disclosure of private information); see also *Gadelhak v. AT&T Services, Inc.*, 950 F. 3d 458, 462 (CA7 2020) (Barrett, J.) (intrusion upon seclusion).

With this background and history of standing, it is very well true and valid that Petitioner maintained standing. The Department of State engaged in an unconstitutional agreement with the foreign and international community. Given the “ongoing conflicts with the aforementioned foreign entities,” see Petitioner’s Merits Brief, p. 6, Petitioner was “fired,” *ibid.*

* * *

The attempts and successful efforts of interacting with the international community is deemed unconstitutional under current law.

It is so ordered.

JUSTICE TURNTABLE5000, concurring in judgment.

I agree with the Court’s opinion and join it in full, but I write separately to highlight the glaring inadequacies forwarded by the dissent. On first glance, one may think that the dissent is purportedly fighting for a just cause; when in reality, they are merely dumbfounded and indisputably erroneous in their judgment. The dissent would have us

TURNTABLE5000, J., concurring in judgment

subvert the very document that enhanced the ability of the Union, and in doing so, its sustenance was replenished.

The supremacy of the federal government is a steadfast tenet that has been respected and adhered to since the infancy of our judicial system in the United States. We, as a member of the Union, are bound to the federal Constitution. In fact, we acknowledge this in our own state Constitution. Art. I, Sec. 11, Mayf. St. Const. (“The State of Mayflower shall never secede, and forever remain a member of the United States of America; the people thereof are part of the Union”). We are bound to the contents of our federal Constitution, to stray from that would be a grave error.

The dissent is correct in stating that we are “the protectors of this Constitution.” *Post*, at 85 (TAXESARENTAWESOME, J., dissenting in part). But when our own Constitution acknowledges, and recognizes its master, who are we to declare that the state Constitution reigns supreme above that of our *federal* government? To strike away at the skeletal structure that has upheld our government heretofore is an atrocious view. Nothing can be more deplorable than the ideology that the dissent is pushing forward. To claim that it is sometimes acceptable to disregard the federal Constitution is unheard of in the judicial sphere.

It has always been our duty “to say what the law is.” *Marbury v. Madison*, 1 Cranch, 137, 177 (1803). We have a “limited role to read and apply the law,” *Romag Fasteners, Inc. v. Fossil, Inc.*, 140 S. Ct. 1492, 1497 (2020), and that is precisely what the dissent fails to understand. The dissent seeks “an unprecedented expansion of judicial power.” *Rucho v. Common Cause*, 139 S. Ct. 2484, 2507 (2019). We cannot hold our state Constitution above that of our federal Constitution, doing so would disregard the supremacy of our Union. The very Union that we have sworn

TURNTABLE5000, J., concurring in judgment

our fealty to. “Our duty is to apply the law, not to make it,” *Pine Grove v. Talcott*, 86 U.S. 666, 677 (1874), we cannot disregard the supremacy of our federal Constitution simply because it “would do more harm than has been caused in this case.” *Post*, at 86. This is an absurd metric that can never feasibly be entertained; to employ a judicial strait-jacket that prevents us from interpreting and acknowledging the supremacy of our federal Constitution, simply because of these dumbfounded claims would be erroneous.

The dissent would also have us disregard the supremacy of our federal Constitution, because of the lack of a federal government. This is an extremely dangerous proposition that cannot seek refuge in this Court. It is emphatically our duty to acknowledge and adhere to the Supremacy Clause of our federal Constitution. We have no power to abrogate its supremacy, but the dissent misplaces their logic in an area of law that is abhorrent. “We live under a Constitution which is the supreme law of the land.” *French v. Barber Asphalt Paving Co.*, 181 U.S. 324, 367 (1901). We cannot cherry-pick provisions of our federal Constitution that “best” suit the acclimated situation; we also cannot act as catalysts that are delicately arranged in a manner that “activates” certain provisions of our federal Constitution while disregarding other key portions that ultimately impact us. “Our duty is to declare the law, not to modify it.” *Bein v. Heath*, 47 U.S. 228 (1848). We are in no position to disregard our federal Constitution—the ultimate document that we can trace our survival to.

The dissent would have us disregard the document that has held the Union together in times of dire need. Justice TaxesArentAwesome repeatedly mentions the tangible “harms,” that will arise out of the Court’s position on this matter. *Post*, at 85 (TaxesArentAwesome, J., dissenting in

TURNTABLE5000, J., concurring in judgment

part) (“We have released a power and have made ourselves vulnerable to the overarching hand of federal bureaucracy and rule”); *Ibid.*, (“This ruling would constrict a necessary power in a manner that would do more harm than has been caused in this case”). The dissent seems to have misplaced the duties of the judiciary and swapped it with the mind of a policymaker. The penultimate harm here would be their blatant disregard for the federal Constitution, but the only thing that ranks superior to their feigned stature would be that of our duty to adhere to the legion of precedents that bind us to the whims of our federal Government. It certainly isn’t our role to disregard the correct interpretation in lieu of one that better suits the general climate. *Department of Homeland Sec. v. MacLean*, 135 S. Ct. 913 (2015). After all, we “do[] not sit to satisfy a scholarly interest in such issues,” nor we “sit for the benefit of the particular litigants,” *Rice v. Sioux City Memorial Park Cemetery, Inc.*, 349 U.S. 70 (1955). “We are a court of law, not policymakers of last resort,” *Arizona v. Mayorkas*, 598 U.S. ___, ___ (2022) (GOR-SUCH, J., joined by JACKSON, J., dissenting from grant of stay), and the dissent would have us act as something that we inherently are not.

We are the ultimate “protectors of this Constitution.” Art. XI, Sec. 2, Mayf. St. Const. And when our state Constitution acknowledges the supremacy of the Union, and wishes to enter the Union, the implications and the constraints of our federal Constitution wholeheartedly apply. Through a thorough analysis of the text of both our federal and state Constitution, we yield the correct answer, and it is not the one forwarded by the dissent. After all, “[t]he evidence that does exist points in the opposite direction and provides ample support for today’s decision.” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819

TURNTABLE5000, J., concurring in judgment

(1995) (THOMAS, J., concurring).

JUSTICE TAXESARENTAWESOME, with whom JUSTICE LIAMDOSEN joins, dissenting in part.

It has long been practice that the State of Mayflower has participated in foreign engagements and agreements involving other nations and states. In this case, the Mayflower Department of State applied and was registered as a signatory to an international organization between many foreign powers. The results of this agreement led to countless enemies of the state declaring a state of war existing by the lack of caution displayed by the State Department. We are now presented with this case, brought through extraordinary writ for review, to determine whether the original act of entering into the agreement was within the bounds of the state.

The majority held that “no state shall enter into any treaty” nor “enter into any agreement or compact with another state, or with a foreign power” as a prohibition applied by the U. S. Constitution. U. S. Const. art. X, § 10. The application of the U.S. Constitution in this matter would require us to find that the Mayflower Department of State lacked authority to enter an international organization on behalf of the state. This is factual, concrete, and a true application of the law. There is no dispute that the actions of the Mayflower Department of State were unlawful under the provisions of the federal government. However, I do not agree that we are bound under such in the absence of a federal government.

I

The Constitution is the founding contract that outlines the ability between the government and the governed. It is

TAXESARENTAWESOME, J., dissenting in part

an important document that must be read with due regard to the effect of the decisions we make. As part of the union, we are also bound by the U.S. Constitution and the precedents that come along with its reading. However, an issue arises as the State of Mayflower is a fictitious state on the Roblox platform that does not actually have a federal government to be subordinate to.

It is true that the U.S. Constitution prohibits states from carrying out their own foreign envoys and interacting with international organizations. This is a power that is reserved solely to the federal government. That is not the dispute that I raise here. But the analysis of our State Constitution is, for a lack of a better term, shortsighted and not thorough enough to consider the long-lasting damages that we are imposing to our state as a result of this decision made. The ability to have international and interstate trade, as well as other agreements that are necessary, is a power that must be executed by someone to have the basics of a civilization. While we may be at an impasse between our Constitution and the U.S. Constitution, we must tread carefully to ensure that the choice we make is proper.

A

It is important to see that we operate with the absence of a federal government. We face various constraints associated with the Roblox platform, such as a significantly low population compared to other states. These constraints require that we have limited government abilities compared to other real-life states that have thousands of employees working for the state. We cannot have this.

Our duty is to apply the law of the United States and of our own jurisdiction in a manner that makes sense with the constraints that we are given. The field of law on this

TAXESARENTPAWESOME, J., dissenting in part

Roblox platform has been doing this for ages. This Court has even been doing so for long time. See *Clifford2 v. Tactical_pancakes*, 6 M. S. C. __ (2022) (TaxesArentAwesome, J., in-chambers opinion); *Ex parte State of Mayflower* (“Review on EO#13”) (2018). We have been entrusted with this duty to apply the law on Roblox as best as we can. The words inscribed into our sacred Constitution empower us to act as the “protectors of this Constitution” and no other Constitution. Mayf St. Const. art. XI., § 2.

In this case, the majority has refused this mandate and has placed its allegiance towards a government that does not exist. This ruling opens the Court’s doors to nullifying so many aspects of our government that are conflicting with federal law. We have released a power and have made ourselves vulnerable to the overarching hand of federal bureaucracy and rule.

B

The Framers of our State Constitution knew what they were doing when they explicitly prescribed the power of making treaties with the Governor. This was a power they fully intended to have even if it does not fit with the Federal Constitution. We must assume that they “kn[ew] and adopt[ed] the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken and the meaning its use will convey to the judicial mind.” *Ex parte Syneths*, 6 M. S. C. 22, 26 (2022) (citing *Morissette v. United States*, 342 U.S. 246, 263 (1952)). This was not an implied power that was conjured because of some far-reach interpretation of law, it is an explicit power that is written in stone on our Constitution. They absolutely knew what they were doing when they wrote that provision in and intended on its effects entirely.

TAXESARENТАWESOME, J., dissenting in part

II

However, I do not entirely disagree with the decision made today. The majority correctly notes that our State Constitution only entrusts the power of presenting foreign diplomatic agreements to the Governor, with advice and consent from the Senate. In the case before us, this was not done. Instead, the Mayflower Department of State joined into alliance without the permission of the Governor nor the consent of the Senate. That is why I concur in the judgment.

* * *

The majority has not taken into consideration of the consequence of their actions. This ruling would constrict a necessary power in a manner that would do more harm than has been caused in this case. I respectfully dissent.

ORDERS FOR JANUARY 1 THROUGH
DECEMBER 31, 2022

JANUARY 12, 2022

Administrative Orders

No. 6JD01. SNOWREVOLUTE, IN RE. Pursuant to Mayfl. S. Ct. 8.40.1, the Court has entered an order suspending the State District Court Judge for an indefinite amount of time pending disciplinary proceedings.

JANUARY 17, 2022

Probable Jurisdiction Noted

No. 6-04. BLACKOUT AGENCY v. TACTICAL_PANCAKES. Transcripts in the above matter are ordered to be submitted by the inferior court by January 19th, 2022 at 11:59 PM ET. Pursuant to Rule 12, the Appellant must submit their brief by January 19th, 2022 at 11:59 PM ET. Pursuant to Rule 13, the Appellee must submit their brief by January 21st, 2022 at 11:59 PM ET. Any briefs submitted per Rule 14 must be submitted by January 24th, 2022 at 11:59 PM ET.

Cases Decided

No. 6-03. CIFFORD2 v. TACTICAL_PANCAKES. The Motion for Preliminary Injunction has been granted. The enforcement of the order has been denied at the request of the Central Authority.

August 25, 2022

AUGUST 25, 2022

Cases Decided

No. 6JD02. XOLAAZ, IN RE. The Court accepts the filed complaint as containing enough grounds to allow the matter to proceed to disciplinary hearing. Respondent is ordered to submit a written statement to the Court on August 30 at 11:59 PM ET, in which they shall plead true or false on the following questions and present their case: (1) Did the Respondent violate Canon 1 of the Code of Conduct for Mayflower State Judges? (2) Did the Respondent violate Canon 2 of the Code of Conduct for Mayflower State Judges? (3) Did the Respondent violate Canon 3 of the Code of Conduct for Mayflower State Judges?

AUGUST 31, 2022

Judicial Disciplinary Matters

No. 6JD02. XOLAAZ, IN RE. Pursuant to Mayfl. S. Ct. 38.1, the Court has entered an order for a disciplinary hearing.

SEPTEMBER 4, 2022

Cases Docketed

No. 6-05. XOLAAZ II, IN RE; and

No. 6-06. ALEX_ARTEMIS, IN RE. The Articles of Impeachment have been received and docketed by the Court. Notices of Appearance are ordered to be filed by 09/11/2022. The Senate shall be ordered to produce resolution appointing impeachment managers on behalf of the chamber. Answer to the Articles of Impeachment are ordered to be filed by 09/13/2022.

September 15, 2022

SEPTEMBER 15, 2022

Cases Docketed

No. 6-05. XOLAAZ II, IN RE. The impeachment is dismissed as abandoned.

OCTOBER 13, 2022

Certiorari Denied

No. 6-07. DEROGATORYYY v. STATE OF MAYFLOWER. The petition for writ of certiorari is denied.

Certiorari Denied

No. 6-08. ALEX_ARTEMIS v. STATE OF MAYFLOWER. The petition for writ of certiorari is granted. Transcripts are ordered to be submitted by 10/15/2022 in the above matters, by the inferior courts. Rule 12 & 13 Briefs ordered to be filed by 10/17/2022 at 6:00 pm Eastern Time. Rule 14 & 27 Briefs ordered to be filed by 10/19/2022 at 6:00 pm Eastern Time.

JUSTICE TAXESARENTAWESOME, dissenting.

Petitioner is a state trooper that was arrested for possession of four cones and a Hawthorn 500 shotgun that was issued to him by the Mayflower State Police while off-duty in his individual capacity. On arraignment, Petitioner was charged with violating 3 M.C.C. § 3 Grand Theft and 1 M.C.C. § 20 Unlicensed Possession of Non-civilian Equipment, to which he pled not-guilty to. Petitioner filed a motion to dismiss on the basis that the statute that criminalizes possession of non-civilian equipment is unconstitutionally vague and that Petitioner had authorization to carry the equipment as related to their duties as a state trooper. The lower court denied the motion.

Petitioner requested certiorari from this Court to review the dismissal on the grounds that the lower court

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erred in denying the motion and that a state-certified officer is authorized by statute to carry their equipment off-duty. This Court granted certiorari to review the lower court's judgment.

I

The constitutional grounds of attack in this regard have been hammered dry by the federal courts many times. A statute that criminalizes conduct is offensive to a suspect's Fourteenth Amendment right to due process under the law if it is unconstitutionally vague to where a person can have "no ascertainable standard of guilt." See *Connally v. General Const. Co.*, 269 U.S. 385, 390 (1926). For a statute to be upheld, it must be authored "with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." See *Kolender, Chief of Police of San Diego, et al. v. Lawson*, 461 U.S. 352, 357 (1982).

In this matter, Petitioner asserted in the lower court that 1 M.C.C. § 20 Unlicensed Possession of Non-civilian Equipment is unconstitutionally vague because the statute allows any certified peace officer to retain their equipment, even if it is not actively being used. The basis of this argument lies within the terms "state certified" and "on duty" which is used in the penal offense. The text of the criminal offense reads as follows:

"Any person who possesses non-civilian equipment who is not an on duty state certified peace officer, national guardsman, firefighter, park ranger, or transit authority operator..." is guilty of a misdemeanor and shall be imprisoned for a period

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around twenty-minutes or be fined no more than \$300.

The lower court found that police equipment “can only be possessed by state certified peace officers while on duty of the specific team the equipment is dispensed upon.” See Lower Court’s Ruling on Pre-Trial Motion to Dismiss. The basis of the lower court’s ruling are outlined in the statute that criminalized the offense itself. See Pub. L. 9-07 Non-Civilian Equipment and Gavel Possession Act. On superficial reading, it is clear that the offense does not give exemption to peace officers that are off duty, or actively not conducting their duties.

In the lower court, Petitioner made argument that the term “state-certified” is vague because the statute was written in a period of time where law enforcement officers retained accreditation with a state agency. Such a process has been suspended and is not in practice. Even such, it is not undefined to an extent that does not explicitly state the conduct that is prohibited. The statute is clear in its language that the possession of equipment afforded by the state is unlawful unless it is for a peace officer certified by the state to execute and carry out the duties of a law enforcement officer. Whether the manner of such certification is changed is irrelevant and does not constitute enough vagueness to be struck as offensive to the constitution.

Petitioner’s request for certiorari does not address the lower court’s ruling, introduce any new argument, or make any other assertions. Rather, it is a mere restatement of the claims made in the lower court. This Court does not have enough cause to grant review given that the lower court appropriately applied the law.

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II

In defense of her citizens, the State of Mayflower has given specific authorization to state certified peace officers to possess her equipment, resources, and ammunitions. This authorization is enshrined in statute and common tradition. However, her consent is not absolute and can be explicitly withdrawn in certain regards. Mostly, it can be explicitly withdrawn in the form of statute or internal practice by an agency under the state.

In the matter before us, Petitioner was allegedly in possession of equipment owned by the state while in his private capacity. This is made evident by how the legislature has adopted a statute that prohibits possession of the equipment of those that are not on-duty. See *Ibid*. The lower court agreed on this rationale regarding consent, stating that the state's consent to possessing her equipment on-duty "does not necessarily mean the defendant had permission to keep the firearms while off-duty." See *Alex_Artemis*. Petitioner's request for certiorari did not address much of the lower court's rationale and why the party believes the lower court erred. Rather, it was more akin to a duplicate of the motion to dismiss that was ruled upon in the lower court.

With no additional grounds or arguments being noted, this Court cannot take a duplicate of the case unless it notes extreme abuse of discretion – which this case did not argue but did hint.

* * *

Petitioner has not demonstrated enough cause to demonstrate that the lower court misinterpreted or inappropriately applied the law; nor have they demonstrated that the law that was applied is conflicting with the values

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of our constitution. Certiorari in this matter is inappropriate. I respectfully dissent.

OCTOBER 24, 2022

Miscellaneous Orders

No. 6-08. ALEX_ARTEMIS v. STATE OF MAYFLOWER. The application for stay of the mandate presented to the Chief Justice and by her referred to the Court is granted.

Administrative Orders

It is ordered that BarryRurac be appointed Director of the State Bar Association by this Court, effective 10/14/2022.

NOVEMBER 3, 2022

Certiorari Granted

No. 6-11. IPADPUPPYDOGDUDE1ALT v. DEPARTMENT OF STATE. The petition for writ of certiorari is granted.

Appeals Docketed

No. 6-09. ITALIAN-AMERICAN CIVIL RIGHTS LEAGUE v. NEW HAVEN COUNTY SHERIFF'S OFFICE, ET AL. Probable jurisdiction is noted in the above case.

No. 6-10. AWESOMEPIAYS v. NEW HAVEN COUNTY SHERIFF'S OFFICE, ET AL. Probable jurisdiction is noted in the above case as to Question 2 limited to the recusal motion presented in the Notice of Appeal. Transcripts are ordered to be submitted by 11/05/2022 in the above matters, by the inferior courts. Rule 12 & 13 Briefs ordered to be filed by 11/07/2022 at 6:00 pm Eastern Time. Rule 14 & 27 Briefs ordered to be filed by 11/09/2022 at 6:00 pm Eastern Time.

November 3, 2022

Judicial Discipline Matters

No. 6JD03. JASONDELUCA, IN RE; and,

No. 6JD04. STICKZA, IN RE. The complaints filed to the Court have been received and docketed.

Miscellaneous Orders

No. 6-10. AWESOMEPIAYS v. NEW HAVEN COUNTY SHERIFF'S OFFICE. The petition for stay presented to The Chief Justice and by her referred to the Court is granted.

No. 6JD04. JASONDELUCA, IN RE. The motion to disqualify counsel presented to the Court is denied.

NOVEMBER 8, 2022

Application for Stay Granted

No. 6-13. PLYMOUTH POLICE DEPARTMENT, ET AL. V. ANDYSOFUN. The emergency application for stay presented to Justice TaxesArentAwesome is granted in part, limited to reinstatement of the Plaintiff as a police officer with the Palmer Police Department.

JUSTICE TAXESAENTAWESOME, granting the application for stay.

Applicant is Palmer Police Department, a defendant in a civil action against the Government for assorted reasons. The Court gave instruction that an answer to the complaint was to be filed within four days of a given date. However, before the date given by the Court had expired, the Plaintiff made motion for default judgment on the basis that the Court's instruction was incorrect and that an answer could only be made within a lesser amount of time. The lower court granted the motion.

The relief imposed were: (1) reinstatement of employment as a law enforcement officer; (2) a letter of apology; (3) a purging of all former disciplinary records; (4) agree-

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ment by the plaintiff not to impose disciplinary action; (5) prohibition of the agency from preventing career advancement; and (6) monetary compensation in the form of \$5,000. Applicant appealed and requested stay of the order to fulfill judgment.

A stay of proceedings pending appeal is a judgment well documented in other cases. It is a function much needed to limit damages that cannot be recovered while appeal continues. However, it is not encompassing all proceedings. This Court's empowerment to issue writs and stays are similar to the United States', therefore this Court will refer to their standards, even if such is not exactly legally compelled by federal incorporation to the states. The standards of relief of stay require: (1) a reasonable demonstration that the matter will be taken up to appeal; (2) a "fair prospect that a majority of the Court will conclude that the decision below was erroneous" for appeal; (3) a demonstration that "irreparable harm is likely to result" in absence of a stay; and (4) in close cases, balancing equities to explore all harm to both parties and the general public in the absence of stay. See *Rostker v. Goldberg*, 448 U.S. 1306, 1308 (1980) (Brennen, J., in-chambers opinion).

Under the standards I've mentioned before it is my duty to apply such to this matter and determine whether stay is appropriate. As to the first requirement, I believe that there is reasonable demonstration that this matter warrants review as to whether the Plaintiff preserved the ability to object to the Court's instruction. The first requirement is satisfied to my belief. To the second requirement, I believe that a majority of the Court will review and determine that the Plaintiff did not preserve the ability to object, and that, even if they did, the Court's in-

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struction was made and cannot be reversed in a manner that impedes or misleads the ability of a proper defense. The second requirement is satisfied.

I do not believe that there is enough cause to satisfy the third requirement for stay for all reliefs that are requested to be stayed in the application. The relief requested to be stayed can be summarized as a monetary judgment and reinstatement of the Plaintiff as a police officer.

As to the monetary and apology relief, I cannot find that the Palmer Police Department will suffer irreparable harm in awarding such relief. If such appeal finds to reverse judgment, the letter can later be rebuked and the monetary relief returned at the order of the Court.

I am torn on whether the reinstatement of a police officer is considered irreparable to the extent that it warrants stay. The position of a state actor is very dangerous, especially one that is armed and tasked with the law enforcement of this state. The fourth standard of stay requires that I balance the general public's interest and risk of harm in the absence of stay.

The position of a law enforcement officer is one that comes with many dangers, both to the general public and to the department, if its powers are entrusted into the wrong hands. There is no concrete harm suffered by the department if a person goes rogue, merely damage to the department's reputation — but there is harm sustained in the community. In this matter, the plaintiff is alleged to have employed excessive force and was terminated as a result of an internal misconduct investigation. There exists great possibility of harm in allowing a possibly dangerous person to return as a state law enforcement officer with a history of alleged abuse and excessive force.

In balancing the interest of the general public, I find that the third requirement of demonstrating irreparable

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harm is made limited to the employment reinstatement relief requested.

NOVEMBER 19, 2022

Certiorari Granted

No. 6-13. PLYMOUTH POLICE DEPARTMENT, ET AL. V.

ANDYSOFUN. The petition for writ of certiorari is granted. Transcripts are ordered to be submitted by 11/20/2022 in the above matter, by the inferior court. Briefs are limited to the following questions proposed by the Appellant: 1, 2, 3, 5, and 6. The Court demands additional briefing on “Whether the Defendant-Appellant preserved their ability to object to the Court’s order in a timely fashion?” Rule 12 & 13 Briefs are ordered to be filed by 11/22/2022 at 6:00 PM Eastern Time. Rule 14 & 27 Briefs are ordered to be filed by 11/24/2022 at 6:00 PM Eastern Time.

NOVEMBER 29, 2022

Administrative Orders

It is ordered that Hecxtro be appointed Director of the State Bar Association by this Court, effective 11/29/2022.